

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, March 24, 2021
9 a.m. -- State Capitol, Room 4202

Chief Consultant
Lawrence Lingbloom

Principal Consultant
Elizabeth MacMillan

Senior Consultant
Michael Jarred

Committee Secretary
Sue Fischbach

ADOPTION OF COMMITTEE RULES

BILLS HEARD IN FILE ORDER

**** = Bills Proposed for Consent**

- | | | | |
|-----|------------------------|-------------------|--|
| 1. | Aguiar-Curry | AB 1086 | Organic waste: implementation strategy. |
| 2. | Arambula | AB 559 | San Joaquin River Conservancy: governing board. |
| 3. | Bauer-Kahan | AB 21 | Forestry: electrical transmission and distribution lines: clearance: penalties. |
| 4. | Bauer-Kahan | AB 426 | Toxic air contaminants. |
| 5. | Bennett | AB 896 | Oil and gas wells: hazardous or idle-deserted wells and facilities: liens: collections unit. |
| 6. | Boerner Horvath | AB 66 | Coastal resources: research: landslides and erosion: early warning system: County of San Diego. |
| 7. | Carrillo | AB 1276 | Single-use food accessories and service ware. |
| 8. | Lorena Gonzalez | AB 881 | Plastic waste: diversion: recycling: export. |
| 9. | Levine | AB 819 | California Environmental Quality Act: notices and documents: electronic filing and posting. |
| 10. | Mayes | **AB 442 | Surface Mining and Reclamation Act of 1975: exemption: Metropolitan Water District of Southern California: single master reclamation plan. |
| 11. | Patterson | **AB 431 | Forestry: timber harvesting plans: defensible space: exemptions. |

12.	Robert Rivas	AB 284	California Global Warming Solutions Act of 2006: climate goal: natural and working lands.
13.	Ting	AB 1201	Solid waste: plastic products: labeling: compostability and biodegradability.
14.	Valladares	AB 267	California Environmental Quality Act: exemption: prescribed fire, thinning, and fuel reduction projects.
15.	Chau	AB 697	Forest resources: national forest lands: Good Neighbor Authority Fund: ecological restoration and fire resiliency projects.
16.	Friedman	AB 642	Wildfires.
17.	Cristina Garcia	AJR 4	Basel Convention: ratification.
18.	McCarty	**AB 504	Solid waste: commercial and organic waste: recycling bins.
19.	Luz Rivas	AB 585	Climate change: Extreme Heat and Community Resilience Program.
20.	Luz Rivas	AB 976	Resilient Economies and Community Health Pilot Program.

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 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.

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz M. Rivas, Chair

Legislative Office Building, Room 164

(916) 319-2092

COMMITTEE RULES 2021-22 Legislative Session

The committee will operate under the Joint Rules of the Senate and Assembly and the Standing Rules of the Assembly. The following committee procedures and guidelines are designed to further expedite the conduct of committee business.

1. MEETING AND QUORUM

- a) Quorum: A majority of the committee shall constitute a quorum.
- b) Commencement of Hearing: The Chairperson shall promptly call all meetings to order at the time and place designated in the Assembly Daily File. If a quorum is not present, the Chairperson may commence the hearing as a subcommittee subject to both Assembly and Joint Rules, may receive testimony, and may recommend action on an issue to the majority of the committee.
- c) Presiding: In the absence of the Chair, or at the delegation of the Chair, or during consideration of a bill of which the Chair is the author (other than a committee bill), the Vice Chair shall preside. In the absence of both the Chair and Vice Chair, another member designated by the Chair shall preside.

2. SETTING OF BILLS

- a) Initial Referral to Committee: Bills referred to the committee may be set for hearing by the Chair at a time most convenient for the committee. To the extent practicable, bills may be set for hearing on the same day as other bills that relate to the same subject matter.
- b) Worksheet: When a bill is referred to the committee, the Committee Secretary shall forward to the author a worksheet to be returned within 5 working days, to aid in the preparation of a committee analysis. The Chair may withhold the setting of a bill for hearing until the worksheet is completed and returned to the committee. The worksheet shall require specific facts or examples to demonstrate the need for the bill and other background information, as specified by the Chair.
- c) Notice: Notice of a hearing on a bill by the committee shall be published in the Assembly Daily File at least four calendar days prior to the hearing, unless such notice is waived by a majority vote of the Assembly. A bill being heard by a second policy committee must be file noticed for two calendar days.

- d) Three sets: A bill may be set for hearing in the committee only three times. A bill is "set" for the purposes of this subsection whenever notice of the hearing has been published in the file for one or more days. If a bill is set for hearing and the committee, on its own initiative and not the author's, postpones the hearing on the bill or adjourns the hearing while testimony is being taken, such hearing shall not be counted as one of the three times a bill may be set. If the hearing notice in the file specifically indicates that "testimony only" will be taken, such hearing shall not be counted as one of the three times a bill may be set.

3. AUTHOR'S AMENDMENTS

- a) An author may, subject to the Joint Rules, amend a bill at any time prior to the hearing provided that all amendments are in Legislative Counsel form and are submitted to the Committee Secretary no later than seven calendar days prior to the committee hearing at which the bill has been set. Amendments must be hand-delivered to the Committee Secretary at the committee office by noon on the Monday prior to the following Monday's hearing. Amendments can also be submitted electronically to the Committee Secretary.
- b) The Committee Chair shall have discretion to suspend committee Rule 3(a) upon a showing of good cause. The Committee Chair shall determine whether or not an amendment is "substantive" within the meaning of subsection (a).
- c) For a non-substantive bill pending referral which the author anticipates will be referred to this Committee, the author must provide the Committee with author's amendments when they are provided to the Rules Committee. Failure to do so may result in a bill not being set for hearing.

4. COMMITTEE ANALYSES

- a) Committee staff analyses of bills scheduled for hearing shall be made available to the public at least one working day prior to the day of the committee hearing. In the case of special hearings, the analyses need not be made available one working day prior to the hearing, but shall be made available to the public at the time of the hearing and prior to any testimony being taken on the bill.
- b) A copy of the analysis shall be sent to the bill's author and to members of the committee prior to its general distribution to the public.

5. ORDER OF AGENDA

- a) Bills set for hearing shall be heard in sign-in order, except as otherwise determined by the Chair.
- b) Bills authored by committee members shall be heard last, unless there are no other authors present in the room, or except as otherwise determined by the Chair.

6. CONSENT CALENDAR

- a) A proposed consent calendar will be sent to committee members, authors and the public with the regular package of bill analyses.

- b) Any committee members may withdraw any bill from the proposed consent calendar at any time. Committee members may notify the committee's staff before the hearing or withdraw a bill at the hearing. The committee's staff will notify the bill's author.
- c) A bill is eligible for the committee's consent calendar only if it:
 - 1) Has no recorded opposition; and
 - 2) Does not pose a major policy question.

7. TESTIMONY AT HEARINGS

- a) The Chair may limit duplicative testimony on a bill, may limit the number of witnesses appearing on behalf of or in support or opposition to a bill, and may limit the time allotted authors and witnesses testifying on behalf of or in support or opposition to a bill.
- b) In special circumstances, if the author is unable to present a bill, a member of the Legislature or a member of the author's staff may, under a prior arrangement with the Chair, and upon submission of written authorization by the author, present the bill for that author. A lobbyist, sponsor, or supporter shall not present a bill before the committee under any circumstances.

8. VOTING

- a) Bill in print: Subject to 8(b) below, a vote on passage of any bill shall be made only when the bill, in the form being considered by the committee, is in print.
- b) Amended Bills not in Print: A vote on passage of an amended bill, when the amended form of the bill is not in print, shall be taken only if the committee determines that the amendment can be readily understood by all of the members present at the hearing. Any member may require that such an amendment be in writing at the time of its adoption.
- c) Majority Vote: A majority of the committee membership is required to pass a bill from the committee. With the presence of a quorum, a majority of those voting is sufficient to recommend the adoption of committee amendments.
- d) Actions: A recorded roll call vote shall be taken on all of the following actions of the committee:
 - 1) An action which constitutes the committee's final action on a bill, Constitutional Amendment, or resolution.
 - 2) Committee amendments taken up in committee, whether adopted or not.
 - 3) Motions to reconsider committee actions.
 - 4) Recommendations to the Assembly Floor relating to Executive Reorganization Plans.

- e) Substitution of Prior Roll Call: A roll call vote on a previous bill may be substituted by unanimous consent, provided that the members whose votes are substituted are present at the time of substitution.
- f) Call of the Committee:
 - 1) The Chair may, at any time, order a "call of the committee."
 - 2) At the request of the author or at the request of any member of the committee, the Chair shall order a call.
 - 3) When a bill is on call, a member may vote on the bill only when the call is lifted. However, when a bill has already received a majority vote of the committee membership, or has failed passage, a member shall be allowed to add their vote to the roll, provided that their vote will not affect the passage or failure of the bill.
- g) In all other respects, committee voting will be governed by the provisions of Assembly Rule 58.5 and Joint Rule 62.

9. RECONSIDERATION

- a) After a bill has been voted upon, reconsideration may be granted only once. A vote on a motion to reconsider shall be made within 15 legislative days of the defeat of the bill or prior to the interim study joint recess, whichever comes first.
- b) If reconsideration is granted, the committee may vote on the bill immediately or may postpone the vote until the next regular hearing. If the motion for reconsideration fails, the bill shall be returned to the Chief Clerk.
- c) An author seeking reconsideration of a bill that has failed passage shall notify the Committee Secretary within sufficient time to meet the requirements of Assembly Rule 57.1. A bill which has been approved for reconsideration by the committee may only be reconsidered while the author is present and prior to the adjournment of the committee hearing on that day.

10. SUBCOMMITTEES

- a) The Chair may, subject to the approval of the Speaker, create subcommittees for the in-depth study of particular subject matter or bills. Bills may be assigned to the subcommittees as deemed proper by the Chair. A subcommittee shall hear a bill assigned pursuant to this provision within a reasonable amount of time in order to allow the full committee sufficient time to hear the bill. A subcommittee shall report the bill to the full committee with either a recommendation of "do pass" or "hold in committee." A subcommittee shall not have the authority to hold a bill in subcommittee.
- b) Subcommittees shall operate under the same rules as the full committee.

11. EXECUTIVE REORGANIZATION PLANS

- a) Pursuant to Section 12080.2 of the Government Code, Executive Reorganization Plans referred to the committee pursuant to Section 12080 of the Government Code shall be considered in the same manner as a bill.
- b) Pursuant to Section 12080.2 of the Government Code, after consideration, and at least 10 days prior to the end of the 60-day period specified in Section 12080.5 of the Government Code, the committee shall forward a report to the Assembly Floor which may include the committee's recommendation on whether or not to allow the plan to take effect.
- c) Pursuant to Section 12080.2 of the Government Code and Assembly Rule 55, possible committee actions with respect to a reorganization plan include the following:
 - 1) Recommend that the Assembly take no action, thus permitting the plan to take effect.
 - 2) Recommend that the Assembly adopt a resolution disapproving of the plan and preventing it from taking effect.
 - 3) Make no recommendation.

12. REVIEW OF ADMINISTRATIVE REGULATIONS

- a) The committee staff may review all proposed administrative rules and regulations which are contained in the Notice Supplement of the California Administrative Register and which pertain to agencies and programs within the scope of the committee's jurisdiction.
- b) The committee staff may review each administrative rule or regulation for conformity with the enabling statutes and with legislative intent. Rules or regulations which do not appear to be based on statutory authority or which do not appear to be consistent with legislative intent may be placed on the committee's agenda for appropriate action.

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 1086 (Aguiar-Curry) – As Introduced February 18, 2021

SUBJECT: Organic waste: implementation strategy

SUMMARY: Requires, on or before January 1, 2023, the Natural Resources Agency (NRA) to create an implementation strategy for the state to meet its organic waste management mandates, goals, and targets.

EXISTING LAW:

- 1) Pursuant to the Integrated Waste Management Act:
 - a) Establishes a state recycling goal of 75% of solid waste generated be diverted from landfill disposal by 2020 through source reduction, recycling, and composting.
 - b) Requires generators of specified amounts of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material.
 - c) Establishes methane emission reduction goals that include targets to reduce the landfill disposal of organic waste 50% by 2020 and 75% by 2025 from the 2014 level. Requires the Department of Resources Recycling and Recovery (CalRecycle), in consultation with the Air Resources Board (ARB), to adopt regulations to achieve the organics reduction targets, which go into effect in 2022.
- 2) Requires ARB to approve and implement the comprehensive short-lived climate pollutant (SLCP) strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases (HFCs), and a 50% reduction in anthropogenic black carbon, by 2030.
- 3) Requires ARB, in consultation with the Department of Forestry and Fire Protection (CAL FIRE), to develop all of the following:
 - a) A standardized system to quantifying the direct carbon emissions and decay from the fuel reduction activities for purposes of meeting the accounting requirements for the Greenhouse Gas Reduction Fund (GGRF) expenditures. Authorizes the standardized approach to include standardized lookup tables by forest stand type;
 - b) A historic baseline of greenhouse gas (GHG) emissions from California's natural fire regime, reflecting conditions before modern fire suppression, on or before December 31, 2020; and,
 - c) A report every five years that assesses GHG emissions associated with wildfire and forest management activities.
- 4) Establishes eligible fuels and feedstocks from forest materials for 125 megawatts of biomass facilities in the state under five-year procurement contracts, establishes monthly and annual fuel reporting requirements for those facilities, and allows for extended biomass contracts for

plants that follow fuelstock requirements and are not in severe or extreme non-attainment areas.

- 5) Requires, on or before July 1, 2020, the Forest Health Task Force pursuant to Executive Order B-52-18 or its successor entity, in consultation with the Governor's Office of Business Development, the Joint Institute for Wood Products Innovation in the Board of Forestry and Fire Protection, private industry, investors, and other stakeholders it deems appropriate, to develop recommendations for siting of additional wood product manufacturing facilities in the state.

THIS BILL:

- 1) By January 1, 2023, requires the NRA, in coordination with the California Environmental Protection Agency, the Department of Food and Agriculture (CDFA), and CAL FIRE, and in consultation with stakeholders and relevant permitting agencies, to prepare and submit to the Legislature a report that provides an implementation strategy that identifies the specific measures needed to achieve the state's organic waste, and related climate change and air quality mandates, goals, and targets.
- 2) Specifies that the report:
 - a) Include a science-based assessment of the benefits and impacts of different end uses of organic waste;
 - b) Identify regulatory conflicts or barriers that need to be addressed to accelerate the beneficial reuse of organic waste; and,
 - c) Specify potential funding sources and incentives, opportunities for regional and cross-sector coordination, and other measures needed to meet the state's organic waste goals with interagency support and coordination.
- 3) To the extent feasible, requires that the report reflect input from, and consider the recommendations of, NRA, CAL FIRE, CalRecycle, and CDFA.
- 4) Requires NRA to hold at least one public meeting to consider public comments.
- 5) Requires the implementation strategy to include, but not be limited to:
 - a) Recommendations on policy and funding support for the beneficial reuse of organic waste, as specified;
 - b) Consideration of the beneficial uses of organic waste in comparison to the alternative fate of the organic waste, as specified;
 - c) Identification of obstacles to the beneficial reuse or organic waste management; and,
 - d) Activities undertaken by the private and public sectors to address the obstacles identified.
- 6) Defines "organic waste" to include:

- a) Food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste;
- b) 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;
- c) Biosolids, as specified; and,
- d) Livestock waste.

7) States related legislative findings.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's statement:

AB 1086 requires the Natural Resources Agency to recommend a coordinated strategy for reducing emissions associated with organic waste across sectors. This strategic plan will be data-informed and require interagency input. The end result should reduce conflict among state policies intended to reduce net air and climate pollution while balancing the immediate needs of local communities disproportionately exposed to environmental health hazards, including wildfire smoke.

- 2) **Organic recycling goals.** CalRecycle is tasked with diverting at least 75% of solid waste statewide by 2020. Organic materials make up over half of the waste stream (54.8%); food continues to be the greatest single item disposed, comprising approximately 18% of materials landfilled. Leaves, grass, prunings, and trimmings represent just under 7% of the total waste stream.

Local governments are required to submit Source Reduction and Recycling Elements and comprehensive annual reports to CalRecycle to identify the programs and plans to ensure they meet the state's 50% diversion requirement for local jurisdictions and to assist CalRecycle in meeting the state's 75% diversion goal. Pursuant to AB 341 (Chesbro), Chapter 476, Statutes of 2011, generators are required to arrange for recycling services and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste from businesses. AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires generators of specified amounts of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material.

Organic waste is primarily recycled using anaerobic digestion or composting. Anaerobic digestion is the controlled breakdown of organic matter without air, used to manage waste and/or to release energy. It is a biological process that produces an energy-rich biogas, which is used as a fuel. This technology has been used in the United States for decades in wastewater treatment facilities and dairy manure

digesters. It is increasingly being used to manage the state's organic waste stream, including food waste, to generate clean energy. Digestate, the material left over at the end of the process, is similar to compost and can be composted with other material or used alone as a soil amendment. Composting is the aerobic controlled decomposition of organic material, such as leaves, twigs, grass clippings, and food scraps to produce compost, which can be used as a soil amendment and for slope stabilization.

Woody waste, such as the material removed in forest thinning projects, can be processed into mulch, which is used to control weeds or erosion, retain moisture in soil, and insulate soil from cold weather. Other materials commonly used for mulch include wood chips, ground up landscape trimmings, shredded bark, coarse compost material, straw, and shredded paper.

Compost and similar soil amendments have been shown to provide numerous benefits, including preserving topsoil and preventing erosion, increasing the water retention capacity of soil, reducing and improving the water quality of stormwater runoff, increasing the number of beneficial microorganisms, providing stable, slow-release nutrients, and enhancing soil carbon sequestration. Compost used in natural environments should meet the United States Environmental Protection Agency's requirements of a "process to further reduce pathogens." This process requires that the compost meet specific time and temperature requirements to destroy pathogens that may be present in the organic material prior to composting.

- 3) **Biomass utilization.** 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. When conducting mechanical vegetation management, the material removed from the forest is usually small diameter material, including surface fuels and ladder fuels, as well as dead trees. This material often does not have much value or uses and has negative air quality impacts when pile burned in the forest. There have been various efforts to develop markets for biomass removed for fuel reduction purposes. SB 859 (Committee on Budget and Fiscal Review), Chapter 368, Statutes of 2016, directed the NRA to, "...establish a working group on expanding wood product markets that can utilize woody biomass, especially biomass that is removed from high hazard zones. The report's findings are focused on strategies to accomplish three main goals: 1) utilizing material removed from high hazard zones; 2) promoting forest health and carbon sequestration; and 3) promoting rural economic development. To promote these goals, the report suggests a number of approaches including increasing wood product demand and promoting localized manufacturing of mass timber and other innovative forest products. To aid in the development of the capacity to handle these products, the group recommends three core strategies: 1) remove barriers to market and create pathways for success; 2) promote innovation; and 3) invest in human capital. Innovative wood products and mass timber can offer new ways to use material that currently is either pile burned, shredded and left on the forest floor or sent to a landfill or to a biomass energy facility.

Research has shown that biomass facilities with emissions control technology have much lower criteria pollutant air emissions than pile burning and somewhat lower GHG emissions. There are also laws that support biomass energy facilities taking fuel reduction material. SB 901 (Dodd), Chapter 626, Statutes of 2018, directed utilities to extend contracts by five years for biomass facilities that accept at least 80% of the feedstock of an eligible facility, on an

annual basis, that is a byproduct of sustainable forestry management and at least 60% of this feedstock shall be from CAL FIRE's Tree Mortality Tier 1 and Tier 2 high hazard zones. There is also Bioenergy Feed-in Tariff Program or the Bioenergy Market Adjusting Tariff (BioMAT) a feed-in tariff program for small bioenergy renewable generators less than 5 MW in size and includes bioenergy using byproducts of sustainable forest management. As additional acres are treated in California, there will be more material that will be available for utilization.

- 4) **This bill.** California has adopted some of the most progressive climate change, air quality, water quality, and waste reduction policies in the nation. However, with regard to the management of organic materials, California's agencies have not worked together effectively. For example, the requirements associated with siting and operating compost facilities do not take into consideration the significant air and GHG emissions benefits of these facilities over other management options and add significant costs that stifle their development. This bill directs NRA to develop a strategy with all of the relevant state entities to achieve the state's organic management goals.
- 5) **Suggested amendments.** The *committee may wish to amend the bill* to require the NRA to coordinate with CalRecycle in developing the strategy, given CalRecycle's extensive role in the management of organic waste and meeting the state's organic waste recycling goals. The *committee may also wish to amend the bill* to correct a drafting error.
- 6) **Previous legislation.** AB 144 (Aguiar-Curry, 2019) would have required, on or before December 31, 2020, the Strategic Growth Council to create a scoping plan for the state to meet its organic waste management mandates, goals, and targets. This bill was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Bioenergy Association of California
Californians Against Waste
Resource Recovery Coalition of California
RethinkWaste
TSS Consultants

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 559 (Arambula) – As Amended March 17, 2021

SUBJECT: San Joaquin River Conservancy: governing board.

SUMMARY: Revises and expands the governing board of the San Joaquin River Conservancy (SJRC).

EXISTING LAW:

- 1) Creates the SJRC to acquire and manage public lands within the San Joaquin River Parkway (Parkway), which consists of the San Joaquin River and approximately 5,900 acres on both sides of the river between Friant Dam and the Highway 99 crossing.
- 2) Requires the SJRC to acquire and manage lands in the Parkway to provide a harmonious combination of low-impact recreational and educational uses and wildlife protection through the preservation of the San Joaquin River, existing publicly owned lands, the wildlife corridor, and natural reserves.
- 3) Requires the SJRC to be responsible for operation and maintenance of the Parkway.
- 4) Requires the SJRC to close to the public any lands or facilities that it is unable to maintain in a clean and safe manner and to adequately protect the wildlife and rights of adjacent property owners from the public.
- 5) Prohibits the SJRC from levying a tax, regulating land use, or exercising the power of eminent domain.
- 6) Authorizes the SJRC to adopt and enforce regulations governing: a) the use of parkway lands and activities within the parkway; b) the protection and management of native riparian vegetation, wildlife, and other natural resources on parkway lands; and, c) the protection of archaeological sites.
- 7) Requires that the SJRC governing board consist of 15 voting members, as prescribed, including, among others, one resident of Fresno County and one resident of Madera County appointed by the Governor from a list of candidates provided by the boards of supervisors of these counties, based on a list submitted by environmental organizations and property owners of their counties pursuant to a rotating appointment qualification requirement.
- 8) Requires the SJRC governing board chair to rotate every two years among the Mayor or designated council member of the City of Fresno, the member of the Board of Supervisors of Madera County, and the member of the Board of Supervisors of Fresno County.
- 9) Provides that SJRC governing board meetings are subject to the Ralph M. Brown Act, which generally applies to local, rather than state, governing bodies.

THIS BILL:

- 1) Increases the SJRC governing board from 15 to 17 voting members, as follows:
 - a) Adds one member of a local tribal organization, as defined, appointed by the Governor from a list submitted by local tribal organizations.
 - b) Adds one public member appointed by the Governor, who is not an elected official, to represent statewide interests.
- 2) Revises existing qualifications, as follows:
 - a) Replaces the “environmental organization” and “property owner” candidates that rotate between the Counties of Fresno and Madera for consideration by the Governor, to instead include candidates submitted by local nonprofit organizations that support outdoor recreation, conservation, environmental justice, or social justice issues.
 - b) Authorizes each county board of supervisors to establish additional criteria for these appointments.
- 3) Authorizes the Governor, in the event either of the two county-nominated seats are not filled within one year, to appoint a resident of Fresno or Madera County nominated by local nonprofit organizations that support outdoor recreation, conservation, environmental justice, or social justice issues.
- 4) Provides that SJRC governing board meetings are subject to the Bagley-Keene Open Meeting Act, which generally applies to state, rather than local, governing bodies.
- 5) Requires the voting members of the governing board to elect a chair and vice chair to a one-year term, limited to no more than two consecutive terms.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Background.** The SJRC was established in 1992 in order to acquire lands from willing sellers between the Friant Dam to Highway 99 along the San Joaquin River (~22 miles). The goal of these acquisitions is to simultaneously conserve valuable riparian habitat and provide the benefits of public greenspace to residents of Madera County, Fresno County, and beyond. The SJRC board is tasked with making decisions on the Conservancy Master Plan, which details how acquired lands will be enhanced and made available for recreation and public use. Currently, there are two board seats dedicated to residents of Fresno and Madera counties. However, on a rotating basis, one of these seats is selected from a list of private landowners along the river, while the other is from an environmental organization in the county.
- 2) **Author’s statement:**

Public parks in and around urban areas are crucial for both mental health and climate resilience, and the pandemic has made clear both the need for all to have access to these

spaces as well as the severe lack of access many of our disadvantaged communities have. Residents in underserved neighborhoods across Fresno and Madera counties face just such a predicament. The SJRC's mission to acquire lands along the San Joaquin River, conserve valuable habitat, and develop these lands for the public's benefit is a cure to this lack of access. However, the decisions of the board should be guided in an equitable manner by those impacted by the decisions of the Conservancy. AB 559 adds that equitable voice to the conversation by updating the selection criteria for the public seats to represent both the broad geographic space the San Joaquin River Parkway will serve, but also the severe disparities in greenspace access.

- 3) **Will giving the state even more weight make the SJRC board overweight?** When the SJRC was established by AB 2452 (Costa) in 1992, the understanding at the time was that it would not receive state funding. Thus, local interests dominated the nine-member board. However, as SJRC became part of the Natural Resources Agency and received state funding, the Agency sponsored SB 1583 (Costa) in 2000, which added state-appointed board members to increase the board to its current 15 voting members.

The board currently has nine members who are state officials or appointed by the Governor, and six members who are purely local appointees. Some of the Administration board members seem duplicative. The Resources Secretary serves on the board, as do both the Director of Fish and Wildlife and Director of State Parks, who report to the Secretary. The Wildlife Conservation Board also has heavy overlap with other Governor-appointed board members. This bill adds two more Governor appointments, with the intent of adding more diverse perspectives. This begs the question whether some of the existing voting members, to the extent they duplicate similar interests, should be converted to ex-officio status.

- 4) **Best laid plans.** For board members appointed by the Governor from the local nonprofit category, the eligibility criteria in this bill should not be expected to deliver appointees with any particular perspective. For one thing, the criteria in the bill are very broad, potentially ranging from advocates for protecting endangered species to advocates for hunting. Further, candidate lists must filter from local nonprofits, through the county boards, to the Governor's office. Finally, the Governor has broad discretion to appoint (or not appoint) candidates from the lists submitted by the counties, without the appointment being subject to confirmation by the Senate.
- 5) **Double referral.** This bill has been double-referred to the Governmental Organization Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Native Plant Society
Defenders of Wildlife
Sierra Club

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 21 (Bauer-Kahan) – As Introduced December 7, 2020

SUBJECT: Forestry: electrical transmission and distribution lines: clearance: penalties.

SUMMARY: Establishes specified civil penalties for the violation of specified utility vegetation management requirements in the State Responsibility Area (SRA). Establishes the Utility Accountability and Wildfire Prevention Fund (fund) for a specified amount of penalty revenues. Requires, upon appropriation, the fund to be available for purposes of enhancing forest management, fire planning, wildfire prevention and suppression, and fire-related enforcement activities.

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 SRA].
- 2) Requires any person that owns, controls, operates, or maintains any electrical transmission or distribution line in the SRA maintain around and adjacent not less than 10 feet of clearance in each direction from any to any pole or tower that supports a switch, fuse, transformer, lightning arrester, line junction, or dead end or corner pole,.
- 3) Requires any person that owns, controls, operates, or maintains any electrical transmission or distribution line in the SRA to maintain a clearance in all directions between all vegetation and all conductors as follows:
 - a) For any line which is operating at 2,400 or more volts, but less than 72,000 volts, four feet;
 - b) For any line which is operating at 72,000 or more volts, but less than 110,000 volts, six feet; and,
 - c) For any line which is operating at 110,000 or more volts, 10 feet.
- 4) Requires dead trees, old decadent or rotten trees, trees weakened by decay or disease and trees or portions thereof that are leaning toward the line that may contact the line from the side or may fall on the line to be felled, cut, or trimmed to remove the hazard.
- 5) Authorizes the Department of Forestry and Fire Protection (CAL FIRE) to permit exceptions to vegetation clearance requirements for persons that own, control, operate, or maintain any electrical transmission or distribution line based upon the specific circumstances involved.
- 6) Authorizes owners of any electrical transmission or distribution line to traverse land as necessary, regardless of land ownership or permission from the owner, after providing notice and an opportunity to be heard to the land owner, to prune trees to maintain and to abate, by pruning or removal, any hazardous, dead, rotten, diseased, or structurally defective live trees.

- 7) Requires the California Public Utility Commission (CPUC) and CAL FIRE to develop consistent approaches and data sharing related to fire prevention, safety, vegetation management, and energy distribution systems.

THIS BILL:

- 1) Specifies this bill shall be known and cited as the Utility Accountability and Wildfire Prevention Act of 2021.
- 2) Specifies that person is subject to a civil penalty of up to \$100,000 for each violation of certain utility vegetation clearance requirements. Specifies that when the violation continues, each day of a violation is a separate and distinct violation.
- 3) Requires a civil penalty of up to \$1,000 per acre of land burned if a fire is the result of failure to meet specified utility vegetation clearance requirements.
- 4) Authorizes the Attorney General or the district attorney of a proper county or city and county to bring an action created by this bill. Specifies proper county or city and county means a county or city and county where the violation or, if applicable, fire occurred.
- 5) Requires penalty money to be apportioned as follows:
 - a) If the action is brought by the Attorney General, 25% of the penalty collected is paid to the county in which the judgment was entered, and 25% to the General Fund;
 - b) If the action is brought by a district attorney, 50% of the penalty collected is to be paid to the county in which the judgment was entered; and,
 - c) 50% is deposited into the fund.
- 6) Establishes the fund and requires, upon appropriation, it to be available for purposes of enhancing forest management, fire planning, wildfire prevention and suppression, and fire-related enforcement activities.
- 7) Requires the court, in determining the amount of the civil penalty, to take into consideration all relevant circumstances.
- 8) Requires this cause of action to be commenced within four years of the occurrence and prohibits the cause of action from reviving a cause of action that is barred under law on or before January 1, 2022.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's statement:

California just experienced the worst fire season in our State's history. We experienced over 9,000 fires throughout the state in 2020, including the first "gigafire," which burned over 1 million acres in Northern California. In 2018, the deadliest fire in state history, the Paradise Fire, leveled a whole community,

tragically taking 85 lives in the process. The fire started when non-maintained electrical equipment failed, sending sparks to the overgrown vegetation.

During the Pacific Gas and Electric bankruptcy trial, court-appointed monitors reported to the court on hundreds of instances where PG&E contractors failed to treat trees that posed potential wildfire hazards. They also uncovered “substantial record-keeping issues.”

AB 21 looks to ensure the safety of all Californian’s from wildfires by extending the ability of the Attorney General or a county’s District Attorney to bring action against the owner of a power line, if after notification to correct has been issued and not resolved, for abatement of vegetation and tree limbs around power polls and lines.

- 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 Governor’s 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.

- 3) **Utility line vegetation management.** Electrical infrastructure is a common ignition point for wildfires. Other common sources of ignition include arson, campfires, equipment use, lightning, and vehicles. Many of last year's wildfires were caused by the approximately 14,000 lightning strikes that occurred during the August lightening siege. In 2019, 10% of wildfires and 65% of acres burned were caused by electrical equipment. In 2018, 9% of wildfires and 23% of acres burned were caused by electrical equipment.

While high winds can send vegetation into utility lines from far distances, removing vegetation in contact with utility lines has been found effective in reducing fire ignitions. There are various Public Resources Code (PRC) sections requiring utility line vegetation management in the SRA and provides access to utilities to do the work under specified conditions. Many requirements have been in place since 1976. The CPUC General Order 95 also places requirements on investor-owned utilities (IOUs) for vegetation management. In August 2017, CAL FIRE and the CPUC entered into a memorandum of understanding to, among other things, create an interagency Fire Safety Working Group and improve enforcement and coordination on vegetation management activities. Both agencies have tried to harmonize the requirements in the PRC and General Order 95 to ensure electric utilities can comply with both. In addition, both agencies do inspections and can pursue compliance or penalties. If CAL FIRE determines a utility has violated a utility line vegetation management requirement that has resulted in a fire, it has enormous financial consequences for the utility due to inverse condemnation. While CAL FIRE was unable to determine the exact number of violations of utility line vegetation management, a survey of their 21 units estimates it between 150 and 250 a year.

The CPUC has broad legal authority and this responsibility extends to investigating, determining fault, and crafting remedies for electric or gas IOUs violations of regulations and relevant laws. Currently, the CPUC enforces actions against electric and gas IOUs through administrative processes. These actions generally take the form of a citation, fine or some sort of remedial action (i.e. equitable remedy or corrective actions) at shareholder expense - and are not recovered from ratepayers.

The CPUC can prosecute enforcement actions internally – without relying on the courts. The CPUC's authority allows for remedies such as investments in utility infrastructure by shareholders to the benefit of ratepayers; fines levied by the CPUC are remitted to the State's General Fund. In May 2020, the CPUC approved a \$1.9-billion penalty against PG&E for the utility's role in the catastrophic 2017 and 2018 wildfires, including failure to follow utility vegetation management requirements.

Vegetation management of utility equipment is a significant cost for utilities and requires constant attention. Currently, all utilities are required to do a wildfire mitigation plan. In these plans all utilities are increasing their vegetation management activities. In some cases this has caused controversy. Last year in Santa Cruz, PG&E was accused of not providing notice to homeowners, removing old growth trees, leaving debris on people's property and in sensitive waterways, and violating the

forest practice rules. PG&E is subject to various enforcement actions by the California Coastal Commission and CAL FIRE for impacts from its utility vegetation management work and failure to get a Coastal Development Permit. Increased utility vegetation management can cause conflict between property owners and the utility over the scope of the work and effects to the property. However, federal transmission line rules do not allow plants that will grow into the lines, but do allow low growing scrubs. The concept of “right tree right place” offers an opportunity to replace vegetation under distribution lines with vegetation that at maturity will not grow into the lines. This will reduce conflict over utility vegetation management and costs to the utility. When vegetation is replaced it can also provide important habitat to monarch butterflies, bees, and other at-risk species. In addition, if the space below distribution lines is filled with appropriate vegetation it will reduce the chances of a home owner planting incompatible vegetation that will conflict with utility lines. AB 2911 (Friedman), Chapter 641, Statutes of 2018, declared the Legislature intends that the CPUC and CAL FIRE encourage the use of the concept “right tree right place” to reduce the need for utility vegetation management.

- 4) **This bill.** Currently, this bill would allow the Attorney General or proper district attorneys to bring action against a utility operating in the SRA that has violated vegetation clearance requirements for poles and conductors. In the event where there is a violation, but no fire, these violations would be very difficult to track because CAL FIRE does not keep a centralized database or report to the public when a violation has occurred. In addition, both the CPUC and CAL FIRE attempt to offer utilities an opportunity to correct their violation in order to promote compliance. If the violation does cause a fire, CAL FIRE will conduct an investigation and that violation can be made public when determining who is responsible for the fire. As noted above, utilities can already be subject to significant fines from the CPUC for improper management resulting in a fire and inverse condemnation will result in additional costs for the utility that in some cases could jeopardize the solvency of the utility. Finally, a per acre of burned land penalty seems arbitrary because often topography, wind, weather conditions, and fuels on the landscape determine the size of a wildfire not the ignition source. As the bill moves forward, the author may wish to reconsider the per acre penalty and also consider more proactive strategies to reduce electrical ignitions such as the concept of “right tree right place.”
- 5) **Amendments.** In order to address some of the issues raised above, the author and committee *may wish to consider* the following amendments:
 - a) Specify a reasonable opportunity to cure is required prior to imposing the penalties created by this bill;
 - b) Require any penalties apportioned to a county or city solely be used for fire prevention-related activities;
 - c) Require CAL FIRE to develop regulations to define what a reasonable opportunity to cure means for this bill; and,
 - d) Other technical and clarifying amendments.

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

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County District Attorney's Office (sponsor)

Opposition

Civil Justice Association of California
Coalition of California Utility Employees
Pacific Gas & Electric
Sempra Energy Utilities
Southern California Edison

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 896 (Bennett) – As Introduced February 17, 2021

SUBJECT: Oil and gas wells: hazardous or idle-deserted wells and facilities: liens: collections unit.

SUMMARY: Requires the Oil and Gas Supervisor (Supervisor) to establish a collections unit within the Geologic Energy Management Division (Division). Authorizes the Supervisor to impose a claim and lien upon the real property in the state owned by any operator or responsible party of an oil or gas well under specified conditions.

EXISTING LAW:

- 1) Renames the Division of Oil, Gas, and Geothermal Resources to be the Geologic Energy Management Division.
- 2) Requires the operator of any well, before commencing the work of drilling the well, to file with the Supervisor or the district deputy a written notice of intention to commence drilling. Specifies that if the Supervisor or the district deputy fails to give the operator written response to the notice within 10 working days from the date of receipt, that notice is considered approved. Requires the notice to be deemed canceled if operations have not commenced within one year of receipt of the notice.
- 3) Defines "idle well" as any well that has had 24 consecutive months of not producing oil, natural gas, or water to be used in production stimulation, enhanced oil recovery, or reservoir pressure management. Defines "long-term idle well" as any well that has been an idle well for eight or more years.
- 4) Requires an operator who engages in the drilling, redrilling, deepening, or in any operation permanently altering the casing of a well, or who acquires a well to file with the Supervisor an individual indemnity bond for each well in the following amount:
 - a) \$25,000 for each well that is less than 10,000 feet deep; and,
 - b) \$40,000 for each well that is 10,000 feet deep or more.
- 5) Allows an operator to file one blanket indemnity bond with the Supervisor to cover 20 or more wells instead of individual indemnity bonds. Requires the bond to be the following amounts:
 - a) \$200,000 for 20 to 50 wells;
 - b) \$400,000 for 51 to 500 wells;
 - c) \$2,000,000 for 501 to 10,000 wells; and,
 - d) \$3,000,000 for more than 10,000 wells.

- 6) Requires an operator to do one of the following:
 - a) File with the Supervisor annual fees of the following amounts:
 - i) \$150 for each idle well that has been idle for three years but less than eight years;
 - ii) \$300 for each idle well that has been idle for eight years or longer, but less than 15 years;
 - iii) \$750 for each idle well that has been idle for 15 years or longer, but less than 20 years; and,
 - iv) \$1,500 for each idle well that has been idle for 20 years or longer.
 - b) File an idle well management plan with the Supervisor for approval that eliminates between 4% and 6% of their long-term idle wells each year.
- 7) Requires a well to be properly abandoned before an individual or blanket indemnity bond can be terminated or canceled.
- 8) Authorizes the Supervisor to require an operator to provide an additional amount of security in an amount not to exceed the reasonable costs of plugging and abandoning all of the operator's wells or \$30 million whichever is less.
- 9) Authorizes the Division to make expenditures up to \$3 million for four years to plug and abandon hazardous or deserted wells or hazardous or deserted production facilities.
- 10) Requires the Supervisor to submit to the Legislature a comprehensive report on the status of idle and long-term idle wells each year.

THIS BILL:

- 1) On or before July 1, 2022, requires the Supervisor to establish a collections unit within the Division to be responsible for the following:
 - a) The collection of unpaid idle well fees from an operator;
 - b) Establishing the timelines and criteria for determining if a well had been deserted; and,
 - c) Locating or collecting any costs from the operator or responsible party.
- 2) Requires for the July 1, 2023, and each report thereafter, the Division to provide a description of activities undertaken by the Division's collections unit as part of the comprehensive idle well report.
- 3) Authorizes the Supervisor to impose a claim and lien upon the real property in the state owned by any operator or responsible party of an oil or gas well if any of the following occurs:
 - a) An order is issued by the Supervisor related to an unsafe well or unsafe condition;

- b) Failure by the operator to pay idle well fees; and,
 - c) Recovery of costs incurred by the Division for plugging and abandonment of a well.
- 4) Specifies the limitations on the amount and duration of the lien.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's statement:

Climate change is the most serious threat that we face and the window to act is closing. My district has suffered the impacts of climate change. My constituents, friends, and neighbors have had to flee from fires, and sea level rise is leading to the vanishing of my district's beautiful coastline. For decades we have relied on fossil fuels that have increased emissions and been a primary driver of climate change. We must plan for how we will transition away from natural gas and oil. That includes planning for the plugging and proper abandonment of wells.

AB 896 provides the state with an additional tool to minimize the number of orphan wells. There are over 29,000 idle wells in the state, and there will be serious consequences to communities if those wells are not responsibly managed, plugged, and abandoned. Rincon Island and Platform Holly, both of which were in my district, show the need to plan for decommissioning wells. The combined recovery bonds for both of these facilities totaled \$32 million, less than one-third the cost to the state for plugging and decommissioning the wells at both facilities.

A recent study by the non-partisan California Council on Science and Technology found that onshore wells pose a potential liability to the state of \$500 million, before accounting for environmental or health damage. The financial and environmental responsibilities of remediating orphan wells should not fall on the very communities that are harmed. AB 896 gives the state a lien authority, providing a new tool for increased oversight of well operators, and gives the state the ability to recover costs from orphaned wells, avoiding dozens of Rincon Islands and Platforms Holly throughout the state."

- 2) Idle/orphan wells.** Oil and gas wells that are not operated and maintained on a regular basis present several hazards to the environment as well as public health and safety. Deteriorating wells can create a conduit for contaminants such as hydrocarbons, lead, salt, and sulfates to enter freshwater aquifers and pose potential risks to surface water, air quality, soils, and vegetation.

Idle and orphan wells also present a liability risk to California. Operators with a large inventory of idle wells may be postponing the cost to permanently plug and abandon the wells for financial reasons. If the operator becomes insolvent, the idle wells may become orphan wells and the state may inherit liability to plug those idle wells. The Division has identified more than 2,500 potential orphan wells that require further investigation. Many of these are "buried-idle" wells with antiquated, vague, or nonexistent records below densely-built and populated urban areas in southern California. Some of these wells may never result

in problems or may be remediated as a condition of permitting new construction projects as downtown Los Angeles and other areas are redeveloped. However, with so many wells, some dating back to the turn of the last century, it is probable that some will present health or safety concerns. Just one or two in any given year in an urban environment has the potential to consume the Division's entire hazardous deserted idle well budget, leaving it unable to plug more than a few orphan wells every year throughout the entire state.

In November 2019, the Division released the first annual idle well report for calendar year 2018. Among the report's findings, there was a significant increase in the plugging and abandonment of idle and long-term idle wells (about 1,346 total) as intended, although over 29,000 idle wells remain, including about 17,575 long-term idle wells. The Division estimates that an additional 1,200 – 2,400 wells started the transition to idle status during 2018. The Division also reported that there were 957 operators that failed to file idle well fees for 2,555 idle wells. Since that report the number of unpaid idle wells has increased to 1159 operators for 4264 idle wells.

In a related effort, and at the Division's request, the California Council on Science and Technology (CCST) investigated the status of the state's oil and gas wells in order to estimate the potential cost to the state should the wells become orphaned. In January 2020, the CCST report was released. The CCST report suggested that there were about 5,540 wells that were either likely to be orphaned or at high risk of becoming orphaned soon. The potential liability to the state was estimated to be roughly \$500 million for these two categories alone. While there are indemnity bonds in place for many of these wells, the sum of the bond amounts is much less than the likely costs.

CCST recommended, among other things, that its methodology should be refined to improve its predictive ability, that the ownership history of wells should be assessed, and the potential environmental impacts of the orphaned wells should be investigated.

On July 15, 2020, California Resources Corp., the state's largest oil and gas production company, with more than 2 million acres of reserves spanning four major basins, filed for Chapter 11 bankruptcy protection, seeking relief from \$5 billion in debt and looming interest payments. According to the newspaper the Desert Sun, oil and gas company bankruptcies have been rising in recent years, and the demand downturn caused by business closures and stay-at-home orders has only exacerbated the issue.

- 3) **Liens.** A lien is a legal instrument that a party who is owed a debt can use to have that debt paid back from the sale of the debtor's property. A lien entitles the party a right to keep possession of property belonging to another person until a debt owed by that person is discharged. Within the universe of liens, different liens take priority for recovering debts. Under federal law, liens typically must be repaid in the order in which they were placed on the property based on the principal of "first in time, first in right." However, certain liens can be statutorily moved in front of other liens. For example, California law gives priority to liens accompanying mortgages or deeds of trust.

This bill proposes to create a lien that the Supervisor can impose on bad-acting operators. Those liens would be given equal treatment to liens obtained as a result of a court judgment against an operator. The liens imposed by the Supervisor would be a mid-level priority should an operator seek to sell their property or file for bankruptcy. In addition, the

Supervisor's authority to file a lien ensures that the Division can gain representation before a bankruptcy court.

4) Related/previous legislation.

SB 47 (Limón) increases the Division's budget for the plugging and abandonment of orphan wells from \$1 million to \$10 million a year. This bill is awaiting hearing in the Senate Natural Resources and Water Committee.

SB 84 (Hurtado) requires additional reporting on hazardous, idle-deserted wells, idle wells and facilities including the location of the applicable wells and facilities. This bill is awaiting hearing in the Senate Appropriations Committee.

SB 1012 (Hurtado, 2020) is almost identical to SB 1012. This bill was held on the Assembly Floor.

AB 1057 (Limón), Chapter 771, Statutes of 2019, renames the Division of Oil, Gas, and Geothermal Resources to the Geologic Energy Management Division. Authorizes the Supervisor to require an operator to provide an additional amount of security in an amount not to exceed the reasonable costs of plugging and abandoning all of the operator's wells or \$30 million.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Silicon Valley
Alliance of Nurses for Healthy Environments
California Coastal Protection Network
California Interfaith Power & Light
California League of Conservation Voters
Clean Water Action
Earthjustice
Elders Climate Action, NorCal and SoCal Chapters
Environmental Defense Center
Environmental Working Group
Friends Committee on Legislation of California
Natural Resources Defense Council
Sierra Club California
The Climate Center

Opposition

California Independent Petroleum Association

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 66 (Boerner Horvath) – As Introduced December 7, 2020

SUBJECT: Coastal resources: research: landslides and erosion: early warning system: County of San Diego.

SUMMARY: Appropriates \$2.5 million from the General Fund to Scripps Institution of Oceanography (Scripps) at the University of California San Diego (UCSD) to conduct research on coastal cliff landslides and erosion in San Diego County.

EXISTING LAW:

- 1) Authorizes the State Coastal Conservancy (SCC) to address the impacts and potential impacts of climate change on resources within its jurisdiction, including projects that reduce greenhouse gases, address extreme weather events including sea level rise, storm surge, beach and bluff erosion, salt water intrusion, flooding, and other coastal hazards that threaten coastal communities, infrastructure, and natural resources.
- 2) Establishes the Ocean Protection Council (OPC) and requires the OPC to support state agencies' use and sharing of scientific and geospatial information for coastal- and ocean-relevant decision making relating to coastal and ocean ecosystems, including the effects of climate change.
- 3) Establishes the Climate Ready Program to be administered by the SCC. Requires the OPC to develop and implement a coastal climate change adaptation, infrastructure, and readiness program to recommend best practices and strategies to improve the climate change resiliency of the state's coastal communities, infrastructure, and habitat.
- 4) Creates the Planning for Sea Level Rise Database (PSLRD) managed by the Natural Resources Agency (NRA). Requires various public and private entities to provide NRA with existing sea level rise planning information that is to be posted and updated biannually on the PSLRD.
- 5) Requires NRA to update its climate adaptation strategy, the Safeguarding California Plan, by July 1, 2017, and every three years thereafter, by coordinating adaptation activities among lead state agencies in each sector.
- 6) Establishes the Integrated Climate Adaptation and Resiliency Program (ICARP) within the Office of Planning and Research (OPR) to coordinate regional, local, and state efforts to adapt to climate change. Among other things, requires ICARP to:
 - a) Require program efforts including, but not limited to, working with and coordinating local and regional efforts for climate adaptation and resilience; and,
 - b) Maintain a continued data clearinghouse on climate change and climate adaptation for the purposes of facilitating educated state and local policy decisions.

THIS BILL:

- 1) Appropriates 2.5 million from the General Fund to Scripps at UCSD to conduct research on coastal cliff landslides and erosion in San Diego County. This research will include:
 - a) Development of a bluff failure database using historical records and analysis of recent and future coastal survey data. This database shall be used to establish landslide size frequency statistics, quantify failure rates, and identify erosion hot spots.
 - b) Real-time measurements of land deformation to indemnify and analyze conditions that lead to bluff failure at Beacons Beach in the City of Encinitas and the City of Del Mar.
- 2) Requires the research to be completed by January 1, 2024.
- 3) Requires Scripps to report to the Legislature with recommendations for developing coastal cliff landslide and erosion early warning systems based on this research by March 15, 2024.
- 4) Exempts Scripps from civil liability for any harm caused while conducting this research.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

It is critical that we develop the science on when and under what circumstances bluff collapses happen so that we can prevent the tragedy that happened in 2019 in Leucadia, where three valued members of the community lost their lives. With this information, we would be able to inform marine safety personnel, residents, and visitors of the danger of vulnerable bluffs and potential collapses. Once the research is completed, an early warning system for bluff collapse can be developed to keep our beaches and beach-goers safe.

- 2) **Coastal Management:** Various entities have responsibility for managing coastal areas in the state. The California Coastal Commission (Commission) was established by voter initiative in 1972 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. The Commission has been working with coastal zone local governments to update their local coastal programs to address shoreline hazards and sea level rise. The Commission administers Local Coastal Programs (LCPs), which are planning tools used by local governments to guide development in the coastal zones. In San Diego, the Board of Supervisors approved a Land Use Plan in 2018 as part of their LCP for approximately 1,050 acres along the coast. The plan includes some provisions about sea level rise and climate change, including the selection of a range of sea level rise projections relevant to LCP planning area, identification of potential sea level rise impacts in the LCP

planning area, and an assessment of risks to coastal resources and development in the planning area.

Other governing bodies involved in coastal planning are the SCC, OPC, and NRA. The SCC is a state agency established in 1976 to complement the coastal zone regulatory agencies (the Commission and the San Francisco Bay Conservation and Development Commission) by working to permanently protect coastal resources and improve public access. The NRA, in collaboration with the OPC, oversees the PSLRD. Until 2023, they will conduct biannual surveys of sea level rise planning information, defined as “studies, programs, modeling, mapping, cost-benefit analyses, vulnerability assessments, adaptation, assessments, and local coastal programs . . . that have been developed for the purposes of addressing or preparing for sea level rise.”

- 3) **Scripps Institution of Oceanography.** Scripps is a research institute associated with UCSD which studies oceans, atmosphere, Earth, and other planets. They receive funding from a variety of sources, including the Department of Defense, National Science Foundation, National Aeronautics and Space Administration, and National Oceanographic and Atmospheric Administration. They host a research unit that specifically studies the natural and anthropological processes contributing to the formation and erosion of coastlines.
- 4) **Coastal erosion.** Actively eroding cliffs make up the majority of California’s 2,000-mile coastline, and sudden landslides and collapses have caused injuries and several fatalities in recent years. Sea level rise, higher storm surges, and other impacts of climate change are likely to exacerbate coastal erosion. Studies project that, under medium to medium-high emissions scenarios, mean sea level along the California coast will rise from 1.0 to 1.4 meters by the year 2100 (Cayan et al., 2009). A 1.4-meter sea level rise will accelerate erosion, resulting in a loss of 41 square miles of California’s Central and Northern coasts by 2100, where over 14,000 people currently reside (Herberger et al., 2009). Eroding cliffs threaten extensive cliff top development throughout the state including highways, railways, wastewater, oil, natural gas, nuclear facilities, universities, several critical military bases, and numerous state beaches and parks.

In Southern California, cliffs could recede more than 130 feet by 2100 if sea levels keep rising amid global climate change, according to a study led by the U.S. Geological Survey. A 2018 report by Scripps identified locations in California at highest risk of cliff failure by 2050. The highest risk sites were spread across the state, but included several Southern California locations: San Onofre State Beach, Daly City, Point Reyes National Seashore, and Palos Verdes. In these areas, ocean waves, rainstorms and other factors eroded coastal bluffs by up to about 12 feet per year during the study period. Coastal erosion and bluff collapse have resulted in multiple fatalities and injuries in San Diego County. In August 2019, three people were fatally crushed when a bluff collapsed at an Encinitas beach. Bluff collapses in 1995 and 2008 resulted in three deaths and one injury.

Research suggests that coastal erosion rates will increase as the sea level rises. Some of the basic causes of coastal cliff erosion are clear, including rainfall and waves. However, variation in cliff geology, beach protection, exposure to weather, and other factors complicate the prediction of future erosion rates. The 2018 Scripps study also determined that historical cliff erosion rates do not always provide a good prediction of future rates, and cliffs with high erosion rates in recent times were often preceded by time periods with very

little erosion. These are key findings, because models predicting future cliff retreat are often based on projecting the historical rates. Existing cliff erosion studies are often small scale, use a variety of techniques, and often rely on lower quality data sources, providing a patchwork across the state. According to Scripps researcher Dr. Adam Young, understanding the processes that drive cliff failures, triggering mechanisms, magnitude of erosion, and timing of collapse is essential for coastal management and building resilient and safe communities.

Effective coastal erosion Early Warning Systems (EWS) can provide critical lead time, prior to an advancing storm, for coastal communities to take action to mitigate or prevent threats caused by severe and rapid changes to beach morphology. However, one commonly adopted conceptual framework which may be used by an EWS to describe coastal hazards is the Sallenger Storm Impact Scale. This scale characterizes the severity of coastal storm impacts based on the vertical extent of the Total Water Level relative to the beach and dune profile. On wave-dominated coastlines, however, where storm impacts are often caused by a horizontal recession of the coast, the usefulness of an EWS based on such a framework is unclear.

- 5) **This bill.** AB 66 provides a one-time General Fund appropriation to Scripps to study coastal cliff landslide and erosion in San Diego County, and to create an early warning system to detect these issues. Although some of this research will be transferable to other areas, San Diego County will be the primary beneficiary of this bill. As the bill moves forward, the author may wish to consider whether to include a requirement for local match funds for this funding. Additionally, the committee *may wish to consider* limiting the provision exempting Scripps from any civil liability as a result of harm caused during the research process. This provision is very broad and would cover a variety of infractions that are not directly relevant to the research and would apply even if Scripps were negligent. The committee also *may wish to consider* making minor technical changes to the bill requested by the author.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Encinitas
Estrategia LLC
Inland Boatman's Union
San Diego Association of Governments
Semptra Energy Utilities
Sierra Club

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 1276 (Carrillo) – As Amended March 17, 2021

SUBJECT: Single-use food accessories and service ware.

SUMMARY: Expands and revises the statute that prohibits the distribution of single-use plastic straws, except upon request, to apply to all single-use food accessories and food service ware distributed by food facilities or third-party food delivery platforms (platform). Beginning January 1, 2023, requires full service restaurants to provide reusable food service ware, except as specified.

EXISTING LAW:

- 1) Under the federal Marine Plastic Pollution Research and Control Act of 1987, prohibits the at-sea disposal of plastic and other solid materials for all navigable waters within the United States. The law also requires the US Environmental Protection Agency (US EPA), the National Oceanic and Atmospheric Administration, and the US Coast Guard to jointly conduct a public education program on the marine environment.
- 2) Under the federal Clean Water Act, requires the state to identify a list of impaired water-bodies and develop and implement Total Maximum Daily Loads for impaired water bodies.
- 3) Under the Porter Cologne Water Quality Control Act, regulates discharges of pollutants in stormwater and urban runoff by regulating, through the National Pollution Discharge Elimination System, industrial discharges and discharges through the municipal storm drain systems.
- 4) Under the Integrated Waste Management Act, requires that local governments divert at least 50% of solid waste from landfill disposal and establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020.
 - a) Prohibits a full-service restaurant from providing a single-use plastic straw to a consumer unless requested by the consumer. Subjects the first and second violation to a notice of violation and each subsequent violation to an infraction and a fine of \$25 for each day the full-service restaurant is in violation. Limits the fine to no more than \$300 annually.
 - b) Prohibits a state food service facility from dispensing prepared food using a type of food service packaging unless the packaging is on a specified list maintained by the Department of Resources Recycling and Recovery (CalRecycle) and has been determined to be reusable, recyclable, or compostable.

THIS BILL:

- 1) Expands the prohibition on food service facilities from distributing single-use plastic straws except upon request to include platforms and all single-use food accessories.

- 2) Defines terms used in the bill, including:
 - a) “Full-service restaurant” as an establishment with the primary business of serving food, where food may be consumed on the premises;
 - b) “Single-use food accessory” as any standard condiment in single-use packaging or single-use food service ware; and,
 - c) “Single-use food service ware” as all types of single-use items provided alongside ready to-eat food served or delivered in single-use bags, plates, containers, or cups, including, but not limited to, utensils, chopsticks, napkins, condiment cups and packets, straws, stirrers, splash sticks, and cocktail sticks, which are designed for a single use.
- 3) Requires platforms to provide each of its ready-to-eat food vendors with the option to customize the vendor’s menu on the online food-ordering platform, with a list of the single-use food accessories offered by the vendor. If a consumer does not select any single-use food accessories, no single-use food accessory shall be provided.
- 4) If a ready-to-eat food vendor chooses not to customize its menu, the platform shall post the following statement next to their menu: “This restaurant has not listed single-use food accessories on its menu.”
- 5) States that the requirement to provide single-use food accessories only upon request does not prevent a local government from adopting or implementing an ordinance or rule that would further restrict a food facility, platform, or full service restaurant from providing single-use food accessories to a consumer.
- 6) Beginning January 1, 2023, requires full-service restaurants to provide reusable food service ware and prohibits them from providing single-use food service ware to a consumer dining on the premises if the restaurant has dishwashing capacity, as specified.
- 7) Authorizes a full-service restaurant to provide single-use food service ware to consumers dining on the premises under the following conditions:
 - a) The restaurant has limited dishwashing capacity;
 - b) The single-use food service ware is necessary to accommodate a consumer with a disability;
 - c) The single-use food service ware is provided to a consumer upon request to carry out leftover ready-to-eat food after dining onsite;
 - d) A public health state of emergency has been declared; or,
 - e) If the single-use food service ware is a disposable paper food wrapper, foil wrapper, paper napkin, straw, or paper tray or plate liner that is of a type and form accepted by local municipal recycling and composting programs.

- 8) On or before June 1, 2022, requires local governments to authorize an enforcement agency to enforce the bill's requirements. Establishes that the first and second violations of this chapter result in a notice of violation, and any subsequent violations constitute infractions punishable by a fine of \$100 for each day of violation, not to exceed \$300 annually.
- 9) Exempts correctional institutions, health care facilities, and residential care facilities, as specified.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's statement:

The COVID-19 pandemic has increased takeout and food delivery, which restaurants are relying upon to stay afloat. However, the use of disposable food accessories like plastic forks, spoons, and knives has led to a rise in single-use plastics and waste. AB 1276 is an important step to significantly reduce plastic waste that pollutes our oceans, harms marine life, harms our environment, and hurts low income communities of color, while simultaneously providing financial savings to restaurants and local governments. This bill will build on California's existing efforts to combat waste from single-use items by ensuring food and beverage accessories are provided only upon request to customers.

- 2) **California's waste management goals.** An estimated 35 million tons of waste are disposed of in California's landfills annually. CalRecycle is tasked with diverting at least 75% of solid waste from landfills statewide by 2020. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro), Chapter 476, Statutes of 2011, requires commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep the material out of the landfill. California's recent recycling rate, which reached 50% in 2014, dropped to 37% in 2019.
- 3) **Plastic production.** While the conversation around plastic has focused on its end of life, plastic pollution starts with fossil fuel extraction, and continues through manufacturing, transportation, usage, and finally disposal. Hundreds of petrochemical facilities throughout the United States create the pellets used in the production of plastic products. About 14% of oil is used in petrochemical manufacturing, a precursor to producing plastic. By 2050, it is predicted to account for 50% of oil and gas demand growth. California ranks third in the nation in oil refining capacity; our 17 refineries have a combined capacity of nearly 2 million barrels per day. Oil drilling and refining disproportionately impact low-income communities of color. In the United States, about 56% of the people who live within three kilometers of a large commercial hazardous waste facility are people of color. In California, that figure soars to 81%. In the Los Angeles area, over 580,000 people live within five blocks of an active oil or gas well. Every step in the production of plastic, from extraction to manufacturing, impacts air and water quality and human health.

- 4) **Ocean plastic pollution.** Plastics are estimated to comprise 60-80% of all marine debris and 90% of all floating debris. By 2050, by weight there will be more plastic than fish in the ocean if we keep producing (and failing to properly manage) plastics at predicted rates, according to *The New Plastics Economy: Rethinking the Future of Plastics*, a January 2016 report by the World Economic Forum.

California Coastal Cleanup Day was first organized by the California Coastal Commission in 1985. The Coastal Commission continues to organize the event annually and track the items collected. According to the Coastal Commission, the top 10 items collected since 1984 are cigarette butts; food wrappers and containers; caps and lids; bags; cups, plates, and utensils; straws; glass bottles; plastic bottles; cans; and, construction material.

Ocean plastic pollution is driven by ocean currents and accumulates in certain areas throughout the ocean. The North Pacific Central Gyre is the ultimate destination for much of the marine debris originating from the California coast. However, plastic generated in California pollutes oceans across the globe, as bales of plastic collected for recycling are exported for processing and recycling. The plastic with value is collected and recycled, and the rest is discarded or incinerated. In countries with inadequate waste management systems, this plastic enters waterways and flows to the ocean. Approximately 150 million metric tons of plastic is already circulating in the marine environment and an estimated 8 million metric tons enter the oceans annually.

Most plastic marine debris exists as small plastic particles due to excessive UV radiation exposure and subsequent photo-degradation. Expanded polystyrene breaks down more rapidly into these smaller particles than rigid plastics. These plastic pieces are confused with small fish, plankton, or krill and ingested by birds and marine animals. Over 600 marine animal species have been negatively affected by ingesting plastic worldwide.

In addition to the physical impacts of plastic pollution, hydrophobic chemicals present in the ocean in trace amounts (e.g., from contaminated runoff and oil and chemical spills) bind to plastic particles where they enter and accumulate in the food chain.

- 5) **This bill.** Controlling plastic pollution involves source reduction in addition to proper end-of-life management. This bill is intended to reduce the amount of single-use food ware used in California, which has the combined benefits of source reducing the amount of waste generated and potentially reducing the amount of single-use food ware that is littered or otherwise improperly managed.
- 6) **Suggested amendments.** The *committee may wish to amend the bill* to specify that only the single-use food accessories selected by the consumer on a third-party platform shall be provided and correct drafting errors. Additionally, this bill establishes penalties in the amount of \$100 for the third and subsequent violations, but caps the total annual penalties at \$300. This cap should be high enough to act as a deterrent. The *committee may wish to amend the bill* to increase the annual penalty cap to \$1,000.

REGISTERED SUPPORT / OPPOSITION:**Support**

Agromin
Alliance of Nurses for Healthy Environments, California Chapter
Azul
Cafe Aquatica
California Coastkeeper Alliance
California Compost Coalition
California Interfaith Power & Light
California League of Conservation Voters
California Product Stewardship Council
California Reuse Collective
Californians Against Waste
CALPIRG
Center for Biological Diversity
Center for Environmental Health
ChicoEco, Inc, DBA ChicoBag Company
City and County of San Francisco
Clean Water Action
Community Environmental Council
Compost Manufacturing Alliance
County of Marin
Courage California
Ecology Center
Elders Climate Action, NorCal and SoCal Chapters
Friends Committee on Legislation of California
Goodwerks
Green Mary
Green Valley Community Farm
GreenTown Los Altos
Habits of Waste
Heal the Bay
League to Save Lake Tahoe
Marin Sanitary Service
Muuse
Napa Recycling and Waste Services
National Stewardship Action Council
Natural Resources Defense Council
Northern California Recycling Association
Ocean Conservancy
Orange County Coastkeeper
Plastic Oceans International
Plastic Pollution Coalition
Race to Zero Waste
Rainbow Grocery Cooperative, Inc.
Recology
Resource Renewal Institute

RethinkWaste
Santa Barbara Channelkeeper
Save Our Shores
Sea Hugger
Seventh Generation Advisors
Shizen and Tataki Restaurants
Sierra Club California
Sierra Nevada Brewing Company
Sonoma County Waste Management Agency
Surfrider Foundation
Sustain LA
Sustainable St. Helena
The 5 Gyres Institute
The Bay Foundation, Los Angeles CA
The Center for Oceanic Awareness, Research, and Education
The Refill Shoppe
The Story of Stuff Project
The Trust for Public Land
Upstream
Wisdom Supply Co.
Wishtoyo Chumash Foundation
Zanker Recycling
Zero Waste USA

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 881 (Lorena Gonzalez) – As Amended March 16, 2021

SUBJECT: Plastic waste: diversion: recycling: export

SUMMARY: Establishes standards for mixed plastic waste exported for recycling in order to be credited toward a local jurisdiction's solid waste diversion rate.

EXISTING LAW: Pursuant to the Integrated Waste Management Act:

- 1) Requires that local governments divert at least 50% of solid waste from landfill disposal through source reduction, recycling, and composting.
- 2) Establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020 through source reduction, recycling, and composting.
- 3) Requires commercial waste generators, including multi-family dwellings, to arrange for recycling services and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste from businesses.

THIS BILL:

- 1) Specifies that the export of mixed plastic waste does not constitute recycling for purposes of calculating a local jurisdiction's diversion rate, unless the plastic waste meets both of the following criteria:
 - a) The mixed plastic waste is a mixture consisting of polyethylene, polypropylene, or polyethylene terephthalate and the export is destined for separate recycling of each material; and,
 - b) The mixed plastic waste export is not prohibited by an applicable law or treaty of the country of destination and the import of the plastic waste into the country will be conducted in accordance with all applicable laws and treaties of that country.
- 2) Specifies that "export" does not include export to Canada or Mexico pursuant to a trade agreement in existence as of January 1, 2022.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

Simply shipping plastic waste to other countries who lack sufficient waste management capacity is not recycling. Instead, these exports cause lasting harm to our planet as plastic waste ends up back in the environment, and to local communities as incineration and dumping lead to respiratory and other health issues. It is time to be honest with ourselves about where our trash goes, how it is being disposed of, and whether or not it is actually

recyclable. Assembly Bill 881 would close the loophole in California law that enables exported plastic waste to be deemed recycled even when it is landfilled, burned, or dumped; and increase transparency and accountability in our state's waste management.

- 2) **California's recycling goals.** An estimated 35 million tons of waste are disposed of in California's landfills annually. The Department of Resources Recycling and Recovery (CalRecycle) is tasked with diverting at least 75% of solid waste from landfills statewide by 2020. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro), Chapter 476, Statutes of 2011, requires commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep the material out of the landfill. California's recent recycling rate, which reached 50% in 2014, dropped to 37% in 2019.
- 3) **Ocean plastic pollution.** Plastics are estimated to comprise 60-80% of all marine debris and 90% of all floating debris. By 2050, by weight there will be more plastic than fish in the ocean if we keep producing (and failing to properly manage) plastics at predicted rates, according to *The New Plastics Economy: Rethinking the Future of Plastics*, a January 2016 report by the World Economic Forum.

Ocean plastic predominantly enters the ocean from river runoff. The largest contributors are rivers primarily located in Southeast Asia. While some have used this information to place the blame on those countries, a significant portion of the plastic pollution is generated in the United States and sported to those countries as mixed plastic scrap for recycling. The material is sorted and the material with value is recycled while the rest burned for energy generation or discarded. In countries with inadequate waste management systems, waste plastic finds its way into waterways that flow to the ocean.

Most plastic marine debris exists as small plastic particles due to excessive UV radiation exposure and subsequent photo-degradation. Expanded polystyrene breaks down more rapidly into these smaller particles than rigid plastics. These plastic pieces are confused with small fish, plankton, or krill and ingested by birds and marine animals. Over 600 marine animal species have been negatively affected by ingesting plastic worldwide.

In addition to the physical impacts of plastic pollution, hydrophobic chemicals present in the ocean in trace amounts (e.g., from contaminated runoff and oil and chemical spills) bind to plastic particles where they enter and accumulate in the food chain.

- 4) **Recycling markets.** In spite of generating the most plastic waste in the world, the United States has not developed significant processing or markets for recycled plastic. Approximately 50% of plastic waste collected for recycling in the United States is exported; in 2016, 88% of that material was exported to countries that lack the infrastructure to properly manage it. After sorting out the material with value, the rest, an estimated 0.15 to 0.99 million metric tons of plastic exported by the United States for recycling, winds up in the environment through open dumping or burning.

The Basel Convention Amendment follows several years of increasing efforts to manage the flood of plastic waste exported from countries like the United States. China, a Basel Convention member and historically the largest importer of recycled plastic, enacted Operation Green Fence in 2013, under which it increased inspections of imported bales of recyclables and returned bales that did not meet specified requirements at the exporters' expense. In 2017, China established Operation National Sword, which included additional inspections of imported recycled materials and a filing with the World Trade Organization (WTO) indicating its intent to ban the import of 24 types of scrap, including mixed paper and paperboard, PET, PE, polyvinyl chloride (PVC), and polystyrene (PS) beginning January 1, 2018. In November 2017, China announced that imports of recycled materials that are not banned would be required to include no more than 0.5% contamination. In January 2019, China announced that it would be expanding its ban even further – to encompass 32 types of scraps for recycling and reuse, including post-consumer plastics such as shampoo and soda bottles.

Following China's actions, other Southeast Asian countries have enacted policies limiting or banning the importation of recycled materials, primarily plastic and mixed paper. Last year, Malaysia and Vietnam implemented import restrictions. Last year, India announced that it would ban scrap plastic imports. Thailand has announced a ban that will go into effect this year. These policies create serious challenges for recyclers. Recycling requires markets for recycled materials to create new products and close the loop.

- 5) **Basel Convention.** The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention) was originally adopted on March 22, 1989 to control the export of hazardous waste to the developing world and went into effect in 1992. The Basel Convention has 187 parties; only the United States and Haiti have failed to ratify it. It was amended in 2019 to include most plastic scrap (i.e., recycled plastic) destined for recycling or disposal. This amendment went into effect on January 1st of this year. The specific types of plastic material covered by the amendment are: plastic scrap and waste that is contaminated (e.g., with food residue or other non-hazardous waste); plastic scrap and waste mixed with other types of scrap and waste; and, plastic scrap and waste containing halogenated polymers; mixed plastic scrap and waste, with the exception of shipments consisting of polyethylene (PE), polypropylene (PP), and polyethylene terephthalate (PET) that meet specified criteria. Generally, plastic scrap that is “almost exclusively” limited to one polymer or resin type, as specified, are not subject to the Basel Convention.

Under the Convention, material cannot be exported unless the country of export provides detailed information on the intended shipment to the prospective country of import. The shipment may only proceed if and when all countries concerned have given their written consent. Member countries must also comply with environmentally sound waste management practices. Unless the US joins the Basel Convention, it will struggle to find legal export markets for recycled plastic.

- 6) **Opportunities and challenges.** California has long-been a leader in recycling policy. However, the state has failed to develop the processing capacity to manage the recycled materials it generates. Instead, we have relied heavily on exporting the plastic that Californians separate and put in their recycling bins. Estimates vary on the percentage of that material that is recycled, but all estimates indicate that a large amount of that material has no

value and is disposed of in the destination country. In most cases, the material is shipped to countries that lack the infrastructure to safely manage solid waste and the material that is not recycled ends up in the environment through open disposal or open burning contributing to ocean plastic pollution and toxic air and greenhouse gas emissions. This bill would improve the accuracy of our recycling numbers and encourage improved processing and sorting of waste plastic to ensure that the material we export is recycled. California's plastic processors provide economic benefits and green jobs within the state. Additionally, by eliminating the incentive to export mixed non-recyclable plastic waste, this bill would reduce plastic pollution.

CalRecycle calculates local diversion rates based on estimated waste generation and reported disposal amounts. The current reporting structure lacks the specificity needed to implement this bill. As the bill moves forward, the author may wish to work with CalRecycle to ensure that the department is able to calculate the amount of waste exported and whether or not it meets the criteria established by the bill.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Silicon Valley
American Chemistry Council
California League of Conservation Voters
Californians Against Waste
CALPIRG
Center for Oceanic Awareness, Research, & Education
Colorado Medical Waste, Inc.
Ecology Center
Elders Climate Action, NorCal and SoCal Chapters
Friends Committee on Legislation of California
Full Circle Environmental
Heal the Bay
Individual
Linkco Inc.
Marin County Hazardous and Solid Waste Management Joint Powers Authority
Marin Interfaith Climate Action
Marin Sanitary Service
Merced County Regional Waste Management Authority
National Stewardship Action Council
Natural Resources Defense Council
Northern California Recycling Association
Ocean Conservancy
Plastic Pollution Coalition
Prezero US, Inc.
Recology
RethinkWaste
Save Our Shores
Save the Albatross Coalition
Seventh Generation Advisors

Sierra Club California
Silicon Valley Youth Climate Action
Surfrider Foundation
The 5 Gyres Institute
The Last Beach Cleanup
Upstream
Zanker Recycling

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 819 (Levine) – As Amended March 16, 2021

SUBJECT: California Environmental Quality Act: notices and documents: electronic filing and posting.

SUMMARY: Requires California Environmental Quality Act (CEQA) notices and environmental review documents to be filed electronically and posted online.

EXISTING LAW:

- 1) Requires, under CEQA, lead agencies with the principal responsibility for approving or carrying out 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) Requires the lead agency to submit a sufficient number of copies, *in either a hard-copy or electronic form*, of the draft EIR, proposed negative declaration, or proposed mitigated negative declaration to the State Clearinghouse for review and comment by state agencies when a state agency has a specified duty to review the project.
- 3) Establishes minimum public review periods for draft EIRs of at least 30 days, or 45 days if the draft EIR is submitted to the State Clearinghouse for review, and requires the lead agency to provide a sufficient number of copies of the document, *in either a hard-copy or electronic form*.
- 4) Requires specified CEQA notices to be mailed to every person who has filed a written request for notices.
- 5) When a project is approved or carried out by a state agency, requires the state agency to file notice of the approval or determination with the Office of Planning and Research (OPR).
- 6) When a project is approved or carried out by a local agency, requires the local agency to file notice of the approval or determination with the county clerk of each county in which the project will be located.

THIS BILL:

- 1) Requires the lead agency to submit CEQA documents in electronic form to the State Clearinghouse, and post those documents on its own website, if any.
- 2) Repeals the requirement for the lead agency to provide CEQA documents in hard copy to the State Clearinghouse.
- 3) Requires the lead agency to post required CEQA notices on its own website, if any.
- 4) Requires a state agency notice of approval or determination to be filed electronically with OPR.

- 5) Requires a local agency notice of approval or determination to be filed electronically with the county clerk if that option is offered by the county clerk.

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.

Once a lead agency has approved a project, the agency must file a notice of determination. State agencies are required to file notice with OPR, which is then posted on OPR's CEQAnet website. Local agencies are required to file notice within five working days with the county clerk of each county in which the project will be located. These notices may be posted on the county's website, but this is not required. Depending on the county's practices, the notice may simply be posted on a bulletin board in the clerk's office. CEQA also requires notices to be sent upon request to any interested person.

When a public agency decides that a project is exempt from CEQA, and the public agency approves or determines to carry out the project, the agency may file a Notice of Exemption (NOE). The NOE is filed after approval of the project. The NOE includes:

- A brief description of the project;
- The location of the project;
- A finding that the project is exempt from CEQA, including a citation to the Guidelines section or statute under which it is found to be exempt;
- A brief statement of reasons to support the finding; and
- The applicant's name, if any.

The CEQA Guidelines encourage all public agencies to make NOEs available in electronic format on the Internet.

Generally, CEQA actions taken by public agencies can be challenged in Superior Court once the agency approves or determines to carry out the project. CEQA appeals are subject to unusually short statutes of limitations, which are tied to the date the notice was filed. Under current law, court challenges of CEQA decisions generally must be filed within 30 to 35 days, depending on the type of decision. Failure to file a notice in time may increase the statute of limitations to 180 days.

Due to the COVID-19 pandemic, Governor Newsom issued Executive Order N-54-20 permitting certain posting and filing requirements under CEQA to be carried out electronically. This order allows projects to proceed with CEQA review during the pandemic and without physically posting or filing project notices and documents with the county clerk and putting people at risk for COVID-19 exposure.

2) **Author's statement:**

AB 819 would require certain posting, filing and notice requirements under CEQA to be satisfied through electronic means to increase public access and involvement. This bill would increase transparency in the environmental review process; modernizing the filing of CEQA-related reports. Communicating documents has become quick and painless through the means of email or the posting of documents on a company's website. CEQA was enacted 50 years ago, long before this facilitating technology could be utilized. AB 819 updates the CEQA process to reflect this new technology to improve the accessibility and ease of the process.

3) **Proposed amendments.** *The author and the committee may wish to consider the following technical and conforming amendments to reflect uniform electronic filing:*

- a) Add "email" as an alternative to "certified mail" in Section 21080.4.
- b) Require notices to be posted on the lead agency's website in Section 21092.
- c) Require notices to be posted on the county clerk's website in Section 21092.3
- d) Revise posting requirements for notices filed with OPR to require posting on OPR's website, rather than paper notice posting in OPR's physical office, in Section 21108.
- e) Permit notices required to be posted by the county clerk to be posted on the county clerk's website in Section 21152.
- f) Require public agencies to file notices of completion using OPR's online process, rather by mailing a paper copy in Section 21161.
- g) Revise the varying comment periods in subdivisions (a) and (b) of Section 21091 to reflect uniform electronic filing of CEQA review documents with the State Clearinghouse.

4) **Prior legislation:**

AB 609 (Levine) was amended in the Senate on June 23, 2020 with provisions similar to this bill, but was never heard.

SB 80 (Wieckowski) expanded CEQA notice requirements by requiring electronic posting of specified notices by lead agencies and county clerks, as well as requiring filing of a notice for every categorical exemption claimed under the CEQA Guidelines. SB 80 passed the Legislature in 2017, but was vetoed by Governor Brown due to the bill's expansion of existing CEQA notice requirements.

REGISTERED SUPPORT / OPPOSITION:

Support

American Planning Association, California Chapter
California Chamber of Commerce

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 442 (Mayes) – As Introduced February 4, 2021

SUBJECT: Surface Mining and Reclamation Act of 1975: exemption: Metropolitan Water District of Southern California: single master reclamation plan.

SUMMARY: Authorizes, until January 1, 2026, the Metropolitan Water District of Southern California (Metropolitan) to prepare a single master reclamation plan, known as the Metropolitan Reclamation Plan (plan), for its earth moving operations conducted on lands it owns or leases, or upon which easements or rights-of way were granted to Metropolitan.

EXISTING LAW:

- 1) Establishes the Division of Mine Reclamation (DMR) within the Department of Conservation (DOC), led by the Supervisor of Mine Reclamation (supervisor).
- 2) Pursuant to the Surface Mining and Reclamation Act (SMARA) of 1975:
 - a) Prohibits a person from conducting surface mining operations unless the lead agency for the operation issues a surface mining permit and approves a reclamation plan and financial assurances for reclamation.
 - b) Specifies, depending on the circumstances, a lead agency can be a city, county, the San Francisco Bay Conservation and Development Commission, or the California State Mining and Geology Board (Board).
 - c) Requires reclamation plans and financial assurances must be submitted to the Director of the DOC for review.
 - d) Provides a mechanism by which the Board can strip a local agency of its lead agency status for failure to implement state law; the Board then serves as the lead agency.
 - e) Requires the Board to adopt regulations that establish state policy for the reclamation of mined lands in accordance with the intent of SMARA.
 - f) Establishes the maximum reporting fee for any single mining operation of \$10,000 annually over a three-year period. Requires the total allowable revenue generated by the reporting fees to be \$8 million annually.
 - g) Requires lead agencies that own or operate a borrow pit to include an interim management plan in their reclamation plan. Authorizes the interim management, which will cover the borrow pit when it is idle plan, to remain in effect until reclamation is complete instead of the current five-year limit.
 - h) Allows lead agencies to conduct inspections once every two years for their borrow pits.

- i) Establishes the Cache Creek Resources Management Plan (CCRMP), in conjunction with a site specific plan deemed consistent by the lead agency with the CCRMP, which is considered the functional equivalent of a reclamation plan for the purposes of SMARA.

THIS BILL:

- 1) Exempts from the provisions of SMARA emergency excavations or grading conducted by Metropolitan for its own operations and infrastructure for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.
- 2) Authorizes Metropolitan to prepare a single master reclamation plan for its earth moving operations conducted on lands it owns or leases, or upon which easements or rights-of way- were granted to Metropolitan for the purpose of operating, repairing, maintaining, or replacing any pipelines, infrastructure, or related transmission systems located in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, or Ventura and used for the conveyance and distribution of water.
- 3) Specifies the Board is the lead agency for purposes of this plan.
- 4) Requires the plan to do, at a minimum both of the following:
 - a) Include all of the specified information and documents contained in a normal reclamation plan; and,
 - b) Comply with DMR's reclamation standards requirements.
- 5) Requires Metropolitan to provide the plan and financial assurance cost estimate to the Board for review and comment. Authorizes Metropolitan to satisfy any financial assurance requirements with evidence of surety bonds, irrevocable letters of credit, trust funds, pledges of revenue, budget set asides, or other appropriate financial mechanisms.
- 6) Requires after the plan is approved, Metropolitan to prepare any amendment to the plan to include any emergency excavations or grading exempted from SMARA.
- 7) Requires Metropolitan to prepare and file an annual report with the Board and any affected county indicating the quantity of material used for repair and maintenance of any of its pipelines, infrastructure, or related transmission systems.
- 8) Requires the Board to conduct inspections of sites used under the plan once every three years.
- 9) Prohibits Metropolitan from selling or allowing any materials produced by operations to be sold or used for the benefit of any other party.
- 10) Specifies Metropolitan is the lead agency for the California Environmental Quality Act for any environmental review of the plan.
- 11) Sunsets Metropolitan's authority to prepare a single master reclamation plan after January 1, 2026.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's statement:

The proposed approach to grant Metropolitan the ability to prepare a single master reclamation plan that would protect ratepayers from significant costs associated with SMARA compliance, including multiple inspection fees, administrative fees, and annual reporting fees associated with the quantity of material produced.

There could be a cost associated with this proposal depending on who completes the annual inspection. Metropolitan would reimburse for administrative costs.

- 2) Background.** There are over a thousand active mines in California that remove aggregate for building material, metals, and minerals. California is the only state in the United States where surface mine reclamation is not regulated by the state. Local governments, including cities and counties, are the lead agencies for most mines. However, DOC and the Board oversee their permitting, inspection, and enforcement actions. Mining operators are required under SMARA to develop and implement reclamation plans, which will return the mine to a condition where it can be used for another purpose after the mining operation is complete. Annual reports and inspections are supposed to ensure that mining operators are making progress toward reclamation. However, there are instances when the mine operator cannot be located or is unable to complete the mine reclamation. Financial assurances are required to make sure there will be resources available to reclaim the mine. The state and lead agencies have an interest in properly reclaimed mines, because a surface mine is a large hole in the ground and can have many dangerous features. If the mine is reclaimed, the land can be returned to another use. If it is not, the state or the lead agency could be responsible for protecting the public from any dangers, clean up, and reclaiming the mine.

Lead agencies are required to annually inspect mines to ensure they are complying with their permits, reclamation plan, and SMARA. Permit conditions imposed by a regional water quality control board or the Department of Fish and Wildlife can be included in a SMARA permit. These conditions can include requirements that deal with water quality issues and streambed alterations. In addition, mine inspectors are the inspectors most often in the mine and the last inspector in the mine before it closes. Often mine inspectors play a vital role in ensuring compliance with other environmental laws.

AB 1142 (Gray), Chapter 7, Statutes of 2016 and SB 209 (Pavely), Chapter 8, Statutes of 2016, reformed SMARA by doing the following:

- a) Created a new layer of DOC review of reclamation plans to ensure they are complete and to give the Director an opportunity to improve the plans;
- b) Improved financial assurances by making sure they are adequate and prevent the release of mechanisms prior to completion of reclamation by requiring both the DOC and lead agency to agree to their release;

- c) Required the DOC to establish an inspection training program and for inspectors to retake the program every five years;
 - d) Authorized the lead agency or DOC to assess administrative penalties of operators who do not pay annual reporting fees; and,
 - e) Increased specified fees to fund the regulation of mines.
- 3) **Met me in the middle.** When Metropolitan completed construction of the Colorado River Aqueduct (CRA) and began operation in 1941, it retained ownership of the land beneath and adjacent to the Aqueduct, including the excess stone, gravel, and sand used to construct the project. Metro uses those materials to restore, repair, protect, and maintain berms, and access roads, and pipelines. The desert is an area subject to heavy rains and flash floods. Maintaining berms and siphons to redirect water laden with sediment around the aqueduct is essential to maintain water quality. In addition, heavy rains and localized flooding in 2018, for example, caused erosion damage to 35 sites and exposed parts of the CRA pipeline in 26 places over nine miles. Metropolitan used the sand and gravel materials from its existing borrow sites adjacent to the CRA to make repairs to the exposed pipeline and washed out roads.

Metropolitan currently maintains 19 borrow pit sites that supply aggregate materials for repairs and maintenance of the CRA and other infrastructure. Most of the material at these sites are spoils from tunnel construction of the CRA. However, in 2017, San Bernardino and Riverside counties informed Metropolitan it had to comply with SMARA because some sites involved the removal of native soils, which constitutes a mining activity under SMARA.

In response to the notice provided by the counties, Metropolitan has worked with both counties to identify sites that are subject to SMARA and in 2020, began preparation of a reclamation plan for each county. This bill offers a middle ground and would exempt Metropolitan's emergency excavation from SMARA and would allow Metropolitan to do a master reclamation plan for all 19 borrow pit sites. Metropolitan's emergency excavations would then be added into its plan as an amendment.

- 4) **Double referral.** This bill has also been referred to the Assembly Water, Parks, and Wildlife Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Council for Environmental & Economic Balance
 California Municipal Utilities Association
 California Special Districts Association
 Construction Industry Coalition on Water Quality
 Eastern Municipal Water District
 El Monte/South El Monte Chamber of Commerce
 El Segundo Chamber of Commerce
 Foothill Municipal Water District
 Gateway Chambers Alliance

Glendora Chamber of Commerce
LA Verne Chamber of Commerce
Metropolitan Water District of Southern California
Municipal Water District of Orange County
Redondo Beach Chamber of Commerce
San Gabriel Valley Legislative Coalition of Chambers
South Bay Association of Chambers of Commerce
Southern California Contractors Association
Three Valleys Municipal Water District
Upper San Gabriel Valley Municipal Water District

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 431 (Patterson) – As Introduced February 4, 2021

SUBJECT: Forestry: timber harvesting plans: defensible space: exemptions.

SUMMARY: Extends the sunset date of January 1, 2022 to January 1, 2026 for the exemption from the requirement to complete a timber harvest plan (THP) for maintaining defensible space between 150 feet and 300 feet from a habitable structure.

EXISTING LAW, pursuant to the Z'Berg-Nejedly Forest Practice Act of 1973:

- 1) Prohibits timber operations unless a THP has been prepared by a registered professional forester (RPF) and approved by the Department of Forestry and Fire Protection (CAL FIRE).
- 2) Considers a THP the functional equivalent of an environmental impact report under the California Environmental Quality Act.
- 3) Requires a THP to contain a description of the location of the planned harvest, the harvest method, measures to avoid excessive erosion, timeframe of operations, and other information required by forest practice rules adopted by the Board of Forestry and Fire Protection (Board).
- 4) Requires the Board to adopt regulations implementing minimum fire safety standards related to defensible space for the state responsibility area (SRA).
- 5) Requires a person who owns, leases, controls, operates, or maintains a building or structure to maintain defensible space of 100 feet around the structure, but not beyond the property line. Authorizes local governments to require greater distances of defensible space.
- 6) Requires the Board, in consultation with CAL FIRE, to develop, update, and post on its internet website a guidance document on fuels management. Requires the guidance document to include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species that are fire resistant or drought tolerant, or both, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of nonvegetative sources of combustion such as woodpiles, propane tanks, decks, and outdoor lawn furniture.
- 7) Exempts various tree removal activities from THPs, including Christmas tree farms; rights-of-way for utility lines; conversions of less than three acres; fire prevention; defensible space; small landowner fuel reduction; and, dead, dying and diseased trees. Requires ministerial permits for certain exemptions, called a notice of exemption (NOE), and subjects projects to inspection by CAL FIRE.
- 8) Creates two exemptions from THPs specifically for defensible space:

- a) A permanent exemption for maintaining a fuel break for a distance of not more than 150 feet around an approved and legally permitted structure; and,
 - b) An exemption, until January 1, 2022, for defensible space between 150 feet and 300 feet from a habitable structure.
- 9) Requires CAL FIRE and the Board, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, commencing December 31, 2019, and annually thereafter, to review and submit a report to the Legislature on trends in the use of, compliance with, and effectiveness of, the exemptions and emergency notice provisions. Requires the report to include an analysis of exemption use and whether the exemptions are having the intended effect and recommendations to improve the use of those exemptions and emergency notice provisions.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

The program created under AB 1867 (Patterson), Chapter 804, Statutes of 2014, allows landowners to sell the timber that was cut down as part of defensible space maintenance. This developed an incentive for landowners to maximize protection of their homes from the dangers of wildfire in an environmentally responsible way. More than 163 homeowners have taken advantage of this exemption since 2019. AB 431 would continue to benefit forest landowners by extending the sunset date for this pilot program.

- 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.

- 3) **Defensible space.** According to CAL FIRE, defensible space is the front line for defending a property against wildfire. Creating and maintaining defensible space around your home can

dramatically increase a home's chance of surviving a wildfire and improves the safety of firefighters defending a property. Defensible space in combination with home hardening will make a home ignition resistant from embers, radiant heat, and flame impingement. All structures within the SRA and very high fire hazard severity zone (VHFHSZ) in the local responsibility area must maintain 100 feet of defensible space. CAL FIRE requires that within 30 feet of a structure the removal of all dead plants, grass, and weeds; removal of dry leaves, pine needles; and, to keep tree branches 10 feet away from a chimney and other trees. AB 3074 (Friedman), Chapter 259, Statutes of 2020, established, upon appropriation, an ember-resistant zone within five feet of a structure as part of the defensible space requirements for structures located in specified high fire hazard areas. Requires removal of material from the ember-resistant zone based on the probability that vegetation and fuel will lead to ignition of the structure by ember. Currently, the Legislature is considering a budget change proposal to fund the establishment of the ember-resistant zone.

- 4) **This bill.** AB 1867 (Patterson), Chapter 804, Statutes of 2014, allowed owners of habitable structures to sell timber removed to create defensible space by completing an NOE rather than a THP. This ministerial permit is simpler and less costly than a THP. However, the project is required to increase the quadratic mean diameter of the post-harvest stand, remove slash or wood debris created from the project and use a registered professional forester to prepare the NOE. The project is subject to inspection by CAL FIRE. SB 901 (Dodd), Chapter 626, Statutes of 2018 extended the sunset of the defensible space exemption to January 1, 2022, created a Small Land Owner Exemption, and expanded the Forest Fire Prevention Exemption. This bill would extend the defensible space exemption until January 1, 2026.

Related legislation. 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 Natural Resources and Water Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Realtors
 California Forestry Association
 California Licensed Foresters Association
 Forest Landowners of California
 Pacific Forest Trust
 Rural County Representatives of California
 Sierra Business Council
 The Watershed Research and Training Center

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 284 (Robert Rivas) – As Introduced January 21, 2021

SUBJECT: California Global Warming Solutions Act of 2006: climate goal: natural and working lands

SUMMARY: Requires the California Air Resources Board (ARB), in the next scoping plan update, to identify a 2045 climate goal, with interim milestones, to sequester carbon and reduce atmospheric greenhouse gas (GHG) emissions.

EXISTING LAW:

- 1) Defines “working lands” as lands used for farming, grazing, or the production of forest products.
- 2) Defines “natural lands” as lands consisting of forests, grasslands, deserts, freshwater and riparian systems, wetlands, coastal and estuarine areas, watersheds, wildlands, or wildlife habitat, or lands used for recreational purposes such as parks, urban and community forests, trails, greenbelts, and other similar open-space land.
- 3) Declares it is the policy of the state that the protection and management of natural and working lands (NWLs) is an important strategy in meeting the state’s GHG emissions reduction goals. Requires all state agencies, including the Natural Resources Agency (NRA), the Department of Food and Agriculture (CDFA), and the California Environmental Protection Agency (CalEPA), and their respective departments, boards, and commissions to consider the policy.
- 4) 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.
- 5) Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030.
- 6) Mandates, pursuant to Executive Order B-55-18, that the state achieve carbon neutrality by 2045 and maintain net negative emissions thereafter.
- 7) 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.
- 8) Requires NRA to update its climate adaptation strategy, the Safeguarding California Plan, every three years by coordinating adaptation activities among lead state agencies in each sector.

- 9) Requires state agencies to maximize, where applicable and feasible, objectives that include promoting the use of natural systems, natural infrastructure, flood plain and wetlands restoration or preservation, urban greening, wildlife corridors, healthy soils, and sustainable agriculture to deal with climate change impacts and adaptation.
- 10) Requires ARB to consult with CDFA to develop quantification methods to demonstrate and quantify on-farm GHG emissions reductions and to establish a healthy soils program to seek to optimize climate benefits while supporting the economic viability of California's agricultural industry.

THIS BILL:

- 1) Declares the intent of the Legislature to ensure all policies and programs aimed at achieving carbon neutrality:
 - a) Support improved air quality, community health, and economic resiliency, particularly for low-income and disadvantaged communities; and
 - b) Support climate adaptation, water supply and quality, and biodiversity.
- 2) Declares the intent of the Legislature that state agencies engage the support, participation, and partnership of universities, businesses, investors, and communities, as appropriate, in the pursuit of the state's climate goals.
- 3) Requires ARB, as part of the next scoping plan update, in collaboration with NRA and other relevant state agencies, and no later than January 1, 2023, to:
 - a) Identify a 2045 climate goal, with interim milestones, for the state's NWLs to sequester carbon and reduce GHG emissions in support of the state's effort to achieve carbon neutrality, increase resilience to climate impacts, and reduce GHG emissions through development and application of compost on working lands;
 - b) Identify practices, policy incentives, and potential reductions in barriers;
 - c) Identify and develop recommendations regarding technical assistance to landowners and local governments; and
 - d) Integrate opportunities to enhance additional public benefits and needs.
- 4) Requires ARB, no later than January 1, 2024, to develop standard methods for state agencies to consistently track GHG emissions reductions, carbon sequestration, and additional benefits from NWLs.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's statement:

Global carbon emissions have already passed the limit beyond which catastrophic climate change begins. To prevent the worst impacts of climate change, a sizable amount of

atmospheric carbon will need to be stored back into the ground. The priority California places on stewarding and conserving our natural and working lands will determine how well we fight climate change. In addition to capturing and storing carbon in the ground, investment in nature-based climate strategies means cleaner air and water, flood protection, and improved resiliency to extreme heat and fires. Unfortunately, there is currently a lack of state programs aimed at sequestering the amounts of carbon necessary.

In preparation for the next scoping plan update in 2022, AB 284 directs ARB to incorporate and set an overall climate goal for carbon sequestration for the state's natural and working lands. This legislation will ensure that the next scoping plan fully considers and leverages the huge power of California's natural and working lands in achieving our ambitious greenhouse gas emission goals. AB 284 is strictly a planning document that outlines how the state can meet our ambitious climate goals – it is not a land-use mandate for farmers or other private landowners. This is a basic, yet crucial step the state must take towards establishing a policy framework and setting a climate goal for our natural and working lands to achieve California's GHG emission goals.

- 2) **Natural and working lands.** NWLs comprise over 90% of California and include biologically diverse landscapes such as forests, woodlands, shrublands, grasslands, and wetlands as well as rangelands, farmlands, urban green space, and forestry plantations. These lands have the potential to sequester significant amounts of carbon in soils, plants, and trees. They can also be a major source of GHG emissions, especially when impacted by drought, disease, wildfires, soil disturbances, land conversion, harvests, and poor land management. As the climate changes, NWLs are likely to become further degraded and thus store less carbon, unless proactive steps are taken to restore, conserve, and manage them. Currently, NWLs account for roughly 9% of total emissions globally. Through preservation and management initiatives, emissions from NWLs can be reduced, and they can become a source of negative emissions via carbon sequestration in the land. A 2017 study by Stanford researchers entitled [“Ecosystem management and land conservation can substantially contribute to California’s climate mitigation goals”](#) found that aggressive implementation of conservation, restoration, and management activities on NWLs has the potential to contribute up to 17% of California's GHG reduction goal, in addition to providing additional benefits such as improved water and air quality, food and fiber production, biodiversity conservation, and wildfire prevention.

Thus far, state action to conserve, restore, and manage NWLs has been piecemeal, and various agencies have jurisdiction over different facets of the NWLs problem. Most efforts to enhance carbon benefits on NWLs are done on a project-by-project basis, either by targeting a specific category of land (e.g. grasslands, forests, etc.) or aimed at promoting one type of emissions reduction or sequestration technique (e.g. enhancing soil carbon). For example, there have been a variety of initiatives and proposals aimed at improving forest health to increase forest resilience and sequester carbon. Most prominently, the Department of Forestry and Fire Protection's Forest Health Initiative invests money from the Greenhouse Gas Reduction Fund (GGRF) into projects aimed at proactively restoring forests, creating urban forests, protecting upper watersheds, promoting long-term storage of carbon in forest trees and soils, and minimizing the loss of forest carbon from wildfires. The Department of Fish and Wildlife administers a Wetlands Restoration Program using GGRF funds to enhance and restore wetlands and watersheds for carbon storage and other benefits. In the agricultural sector, CDFA's Healthy Soils Initiatives and the Department of Conservation's Sustainable

Agriculture Lands Conservation Program both promote the implementation of sustainable agricultural practices that reduce emissions and sequester carbon on productive agricultural land. Another strategy has simply been to prevent the conversion of NWLs to urban development, via conservation easements or by designating protected areas. However, the state does not have an official overarching plan or a designated agency to coordinate a cohesive strategy to protect NWLs, maximize their carbon benefits, and promote cobenefits.

- 3) **Natural and working lands in the scoping plan.** ARB has recognized the importance of NWLs in meeting the state's GHG reduction targets. In the 2013 Scoping plan update, ARB included sections on NWLs and agriculture and put forth recommended actions related to NWLs including the development of the Forest Climate Plan. The 2017 Scoping plan update further emphasized the importance of NWLs, stating "California's climate objective for NWLs is to maintain them as a carbon sink (i.e., net zero or negative GHG emissions) and, where appropriate, minimize the net GHG and black carbon emissions associated with management, biomass utilization, and wildfire events." The plan also directed the state to quantify carbon impacts of climate intervention activities on NWLs and to identify potential regulatory mechanisms. It also proposed a GHG emission reduction goal of 15-20 million metric tons by 2030. ARB has also produced an NWLs Inventory to quantify the existing state of ecosystem carbon stored in the state's land base.

The 2017 Scoping plan directed NRA, CDFA, CalEPA, and ARB to complete an NWLs Climate Change Implementation Plan by 2018 to evaluate implementation scenarios and develop long-term sequestration goals. A draft plan was released in January of 2019 and has undergone public comment, but has not been finalized. The plan aims to coordinate all NWLs programs under a united approach that will move the state toward the goal of maintaining resilient carbon sinks while improving air and water quality, wildlife habitat, recreation, and other benefits. Although the plan does not specifically set an emissions reduction or carbon sequestration goal for NWLs, it establishes a set of goals for the implementation of land activities that will lead to carbon benefits:

"To realize a long-term objective of resilient land-based carbon, the State must more than double the pace and scale of State-supported land activities by 2030 and beyond. The State will, at the least, strive to increase fivefold the acres of cultivated lands and rangelands under State-funded soil conservation practices, double the rate of State-funded forest management or restoration efforts, triple the rate of State-funded oak woodland and riparian restoration, and double the rate of State-funded wetland and seagrass restoration through 2030."

The report projects this effort will result in cumulative emissions reductions of -36.6 to -11.7 million metric tons of carbon by 2045. In the shorter term, some of the activities referenced in the plan will cause emissions (e.g., forest fuel reductions) but will have long-term climate benefits. The plan is meant to produce benefits for water quality and quantity, air quality, biodiversity and habitat and ecosystem health, food and fiber production, public health, and resilience to climate change. The plan states that CalEPA, ARB, CDFA, NRA, and the Strategic Growth Council will collaborate to begin implementation through existing conservation, management, and restoration programs and new efforts, as needed. Implementation will include the organization of existing, and initiation of additional, state-funded activities on both private and public lands.

At the board meeting on April 23, 2020, the ARB announced their intention to fold the NWLs plan into the 2022 update to the Scoping plan, which will chart the pathway to carbon neutrality by 2045. In the NWLs section of the Scoping plan, they will explore new and existing mechanisms to increase the pace and scale of emissions reductions and sequestration actions on NWLs. They will also examine opportunities to accelerate climate solutions on NWLs as they interact with other economic sectors. In early 2021, ARB will initiate the development of the Scoping plan update, engaging with other relevant agencies and the public in the process. They intend to release a final draft of the plan by the end of 2022.

- 4) **This bill.** AB 284 would build upon SB 1386 (Wolk), Chapter 545, Statutes of 2016, to declare that the NWLs are a priority for the Legislature and to help ensure that NWLs are a major component of the state's climate plan. The bill will also designate the ARB as the lead agency responsible for NWLs implementation, which may streamline implementation of NWL policies by avoiding jurisdictional hurdles among agencies. The requirements set forth in this bill for the next scoping plan update align with ARB's existing plans to include NWLs in the next update. The date specified in the bill, January 1, 2023, also fits ARB's intended timeline for the update.

This bill states that it is the intent of the Legislature to employ emissions reduction and carbon sequestration strategies on NWLs as part of the plan to achieve carbon neutrality. This goal aligns with Executive Order B-55-18, which mandates that the state achieve carbon neutrality by 2045. This bill will include the first reference to a carbon neutrality goal in statute.

- 5) **One-time effort?** If passed and signed this year, this bill would take effect January 1, 2022 and remain in effect indefinitely. However, the bill appears to apply only to the "next" scoping plan update, which ARB plans to adopt in 2022. *The author and the committee may wish to consider* whether the NWLs provisions added by this bill should remain elements of future scoping plan updates.
- 6) **Re-run.** This bill is nearly identical to AB 2954 (Robert Rivas), which passed this committee on May 13, 2020 and was later held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Silicon Valley
 American Farmland Trust
 California Association of Resource Conservation Districts
 California Climate & Agricultural Network (CALCAN)
 California Environmental Justice League
 California Habitat Conservation Planning Coalition
 Californians Against Waste
 Californians for Pesticide Reform
 Ceres Community Project
 Elders Climate Action, NorCal and SoCal Chapters
 Fibershed
 Marin Interfaith Climate Action

NorCal Elders Climate Action Network
Pesticide Action Network North America
Santa Clara Valley Open Space Authority
The Climate Center
The Nature Conservancy
The Trust for Public Land

Opposition

Agricultural Council of California
American Pistachio Growers
California Association of Wheat Growers
California Bean Shippers Association
California Chamber of Commerce
California Cotton Ginners & Growers Association
California Farm Bureau Federation
California Fresh Fruit Association
California Grain and Feed Association
California Pear Growers Association
California Seed Association
California Walnut Commission
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 1201 (Ting) – As Introduced February 18, 2021

SUBJECT: Solid waste: plastic products: labeling: compostability and biodegradability.

SUMMARY: Establishes content and labeling requirements for compostable plastic.

EXISTING LAW:

- 1) Finds and declares that it is the public policy of the state that environmental marketing claims should be substantiated by competent and reliable evidence to prevent deceiving or misleading consumers about the environmental impact of plastic products.
- 2) Prohibits the sale of a plastic product that is labeled “compostable” or “home compostable,” unless it meets certain American Society for Testing and Materials (ASTM) standard specifications, the OK Compost HOME certification, as specified, or a standard adopted by the Department of Resources Recycling and Recovery (CalRecycle), or unless the plastic product is labeled with a qualified claim for which CalRecycle has adopted a relevant standard, and the plastic product meets that standard.
- 3) Prohibits the sale of a plastic product that is labeled as “biodegradable,” “degradable,” “decomposable,” or implies that the plastic product will break down, fragment, biodegrade, or decompose in a landfill or other environment, except as specified.
- 4) Requires a manufacturer or supplier to provide a person, upon request and within 90 days of the request, easily understandable and scientifically accurate documentation of compliance with the requirements above.
- 5) Imposes a civil liability of \$500 for the first violation of the statutes related to marketing of plastic products, \$1,000 for the second violation, and \$2,000 for the third and any subsequent violation.
- 6) Authorizes the sale of commercial agricultural mulch film labeled “soil degradable” if CalRecycle has adopted the European Committee for Standardization’s appropriate standard specification or an equivalent or more stringent standard and the commercial agricultural mulch film is certified to meet both the specification and the ASTM standard specification for compostability.

THIS BILL:

- 1) Prohibits the sale of a plastic product labeled with the term “compostable,” “home compostable,” or “soil degradable” unless the product meets all of the following requirements:
 - a) Meets the appropriate ASTM Test Method for compostability;

- b) Has certification from the Biodegradable Products Institute (BPI), or a third party approved by the Director of CalRecycle, as specified, for meeting compostability and toxicity standards;
 - c) Is an allowable organic input under the requirements of the National Organic Program and the Department of Food and Agriculture's Organic Input Material Program;
 - d) Does not include intentionally added perfluorinated compounds; and,
 - e) Is labeled in a manner that clearly distinguishes the product from a noncompostable or nonbiodegradable product upon quick inspection by consumers and solid waste processing facilities.
- 2) Authorizes CalRecycle to adopt regulations for plastic product labeling to ensure that plastic products labeled "compostable" or "home compostable" are clearly distinguishable from noncompostable products upon quick inspection by consumers and solid waste processing facilities. In adopting regulations, CalRecycle may consider the plastic product labeling requirements of other states to maximize consistency with those requirements, when possible.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

AB 1201 ensures that California's compost stream is safe from harmful chemicals and that what is labeled as compostable actually is compostable. A majority of compostable packaging is currently sorted then disposed of in landfills. Californians are paying higher costs for their food to come in compostable containers and even more for their waste collector to sort these erroneously marked materials, only to end up in the landfill rather than a compost facility. This practice also results in higher environmental costs. It's crucial that claims of compostability reflect the realities of the infrastructure where these products are managed and that we do not allow harmful "forever chemicals" to impact our health through the compost process.

- 2) **Compostable plastic standards.** California's labeling requirements for compostable plastic were crafted to ensure that environmental marketing claims are accurate and do not mislead consumers. Prior to the state adopting standards in 2004, plastic with misleading claims of biodegradability and compostability were widely marketed to consumers, even though the material does not break down in the environment. These materials are also not recyclable and are instead a contaminant when mixed with recyclable plastic waste. The Legislature has enacted numerous bills that attempt to prevent misleading environmental marketing claims and ensure that the materials we use can be properly managed, including banning the use of terms like "biodegradable" for plastic products and requiring plastics labeled "compostable" to meet widely accepted standards for compostability.

ASTM, headquartered in Pennsylvania, is an international standards organization that develops and publishes consensus, technical standards. ASTM has adopted over 12,000 voluntary standards for a wide range of materials, products, systems, and services. ASTM

standards include two for compostable plastics. For plastics designed to be composted in industrial compost facilities (D6400) and for paper and other products coated in plastic or other polymers designed to be composted in industrial compost facilities (D6868) the standards provide consistency and clarity for consumers and producers who want to ensure that their products are compostable. The standards are imperfect. Composting technology has advanced since the adoption of the standards and material is processed more quickly, so thicker compostable items, like utensils, often have to be removed from the finished compost and landfilled. Composting is designed to manage organic waste, like yard clippings and leaves, and is not the ideal management option for plastic waste.

BPI is a membership-based, science-driven organization that supports shifting to a circular economy by promoting the production, use, and appropriate end of life management for materials and products that are designed to fully biodegrade in “specifically biologically active” environments. BPI is governed by a board of directors comprised of product and compost producers and offers membership to both producers and stakeholders. Certification offers an independent-third party verification of compostability for materials and products. To be certified, the full formulation of the material must be disclosed and not intentionally include carcinogens, mutagens, or reproductive toxins, and trace amounts must be below 0.1% by weight; substances identified as persistent, bioaccumulative, and toxic, as specified, shall not be intentionally added or exceed 0.1% by weight; organic fluorinated chemicals, such as perfluorinated and polyfluorinated substances (PFAS) cannot be present; and, the product demonstrates compliance with ASTM D6400 or D6868, as specified.

- 3) **Federal law.** Unfair or deceptive acts or practices in or affecting commerce are illegal under federal law. The Federal Trade Commission (FTC) publishes the Green Guides to explain how the law applies to environmental labeling, advertising, and marketing, including the use of labels such as "degradable," "biodegradable," or "compostable."
- 4) **PFAS.** This bill prohibits labeling plastic with added PFAS as compostable. PFAS are a class of chemicals characterized by highly stable carbon-fluorine bonds that are used to make fluoropolymer coatings and products that resist heat, oil, stains, grease, and water. These coatings can be used in everything from clothing to food packaging. PFAS are a concern because they do not break down in the environment, can move through soils and contaminate waterways, and the bioaccumulate in fish and wildlife, which is why they are also known as “forever chemicals.” The Centers for Disease Control (CDC) includes testing for PFAS in its *National Report on Human Exposure to Environmental Chemicals*, which includes biomonitoring data gathered since 1999 on participants in the National Health and Nutrition Examination Survey. The CDC scientists found PFAS in “nearly all” of the participants tested, indicating widespread exposure to PFAS in the United States population.

According to the Department of Toxic Substances Control (DTSC), PFAS have the potential to cause or contribute to significant and widespread adverse impacts to sensitive subpopulations, including fetuses, infants, young children, and workers; to environmentally sensitive habitats; and, to threatened and endangered species. DTSC states that exposure to PFAS can lead to adverse health impacts to humans. When humans are exposed through food, drinking water, or inhalation, the chemicals remain in the body for a long time. Continued exposure causes the levels to increase until they may suffer from adverse health effects. DTSC also notes that studies indicate that PFAS can cause reproductive, developmental, tumors, and liver, kidney, and immunological effects in animals. In humans,

the most consistent finding is a small increase in serum cholesterol levels, with more limited findings related to infant birth weight, immune system function, cancer, and thyroid hormone disruptions.

- 5) **This bill.** Even with the standards, the majority of plastic material that is composted is sorted out and landfilled. Lack of clear labeling and the potential for the material to include toxic compounds like PFAS make it challenging for processors to identify what can be safely included in compost feedstock. Misleading product labels damage composting facilities' ability to ensure that their feedstock will break down properly and be available for resale to end users. It is critical that plastic that is labeled compostable meet the standards necessary to ensure it's safe to include in compost.

This bill is intended to remove the barriers faced by compost producers and enable products that are labeled compostable to truly be compostable. This bill will also prevent manufacturers from intentionally adding PFAS and other known harmful chemicals to food packaging that is compostable.

- 6) **Suggested amendments.** The *committee may wish to amend the bill* to clarify the types of compounds that are included by replacing the reference to “perfluorinated compounds” with “perfluoroalkyl or polyfluoroalkyl substances.” The *committee may also wish to amend the bill* to authorize CalRecycle, when adopting regulations pursuant to the bill, to consider stakeholder input and industry standard guidelines. In order to ensure that compostable materials are clearly distinguishable from noncompostable and nonbiodegradable products, the *committee may wish to amend the bill* to clarify that the label, where possible, include the word “compostable,” a third-party certification mark, and the use of green or brown colors, which are widely used to indicate compostability.
- 7) **Previous legislation.** There have been a number of bills relating to plastic product labeling claims pertaining to biodegradability.
- a) AB 2287 (Eggman), Chapter 281, Statutes of 2020, authorized the use of soil degradable agricultural mulch film that meets specified standards.
 - b) SB 1383 (Hueso) of 2014 would have authorized the Director of CalRecycle to adopt a standard for plastic products that degrade in soil, as specified, and permits the sale of agricultural mulch film plastic that meets that standard. This bill was vetoed by Governor Brown, who stated that the standard for biodegradable agricultural film plastic was not yet finalized.
 - c) SB 567 (DeSaulnier), Chapter 594, Statutes of 2011, created the Plastic Products Law under the California Integrated Waste Management Act of 1989, to prohibit a plastic product from being sold that is labeled “compostable,” “home compostable,” or “marine biodegradable” unless the plastic meets certain ASTM standards or another standard that is subject to CalRecycle requirements.
 - d) SB 228 (DeSaulnier), Chapter 406, Statutes of 2010, required a compostable plastic bag manufacturer meeting certain standards to ensure that the compostable plastic bag is “readily and easily identifiable” (as defined in this bill) from other plastic bags, in a manner that is consistent with the Federal Trade Commission Guides for the Use of

Environmental Marketing Claims.

- e) SB 1454 (DeSaulnier) of 2010 was substantially similar to SB 567, but was vetoed by Governor Schwarzenegger.
- f) AB 2071 (Karnette), Chapter 570, Statutes of 2008 set penalties for violations of the SB 1749 plastic bag requirements and the AB 2147 food and beverage container requirements.
- g) AB 1972 (DeSaulnier), Chapter 436, Statutes of 2008, revised prohibited actions under the plastic bag, as well as the food and beverage container, requirements, while revising definitions and providing for review of changing ASTM standards.
- h) AB 2147 (Harman), Chapter 349, Statutes of 2006, prohibited persons from selling plastic food and beverage containers labeled as “compostable,” “biodegradable,” “degradable,” or any form of those terms, unless the containers meet certain requirements.
- i) SB 1749 (Karnette), Chapter 619, Statutes of 2004, prohibited persons from selling a plastic bag labeled as “compostable,” “biodegradable,” “degradable,” or any form of those terms, unless the plastic bag meets certain requirements.

REGISTERED SUPPORT / OPPOSITION:**Support**

Athens Services
California Compost Coalition
California Product Stewardship Council
California Waste Haulers Council
Californians Against Waste
National Stewardship Action Council
Northern California Recycling Association
Plastic Pollution Coalition
Recology
Republic Services, Inc.
Resource Recovery Coalition of California
RethinkWaste
Save Our Shores
Seventh Generation Advisors
Sierra Club
The 5 Gyres Institute
The Center for Oceanic Awareness, Research, and Education

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 267 (Valladares) – As Amended March 16, 2021

SUBJECT: California Environmental Quality Act: exemption: prescribed fire, thinning, and fuel reduction projects.

SUMMARY: Extends the sunset for the exemption of prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that had been reviewed under the federal National Environmental Policy Act (NEPA), from the requirements of California Environmental Quality Act (CEQA) from January 1, 2023 to January 1, 2026.

EXISTING LAW:

- 1) Authorizes the Department of Forestry and Fire Protection (CAL FIRE) to enter into an agreement, including a grant agreement, for prescribed burning or other hazardous fuel reduction. Authorizes the state to assume a proportionate share of the costs of site preparation and prescribed burning or other hazardous fuel reduction on wild lands.
- 2) Authorizes CAL FIRE to provide grants or enter into agreements with entities, including, but not limited to, private or nongovernmental entities to improve forest health and reduce greenhouse gas emissions. Requires moneys appropriated to CAL FIRE for landscape-scale projects to be allocated as follows:
 - a) To subsidize the removal of small diameter material, especially surface fuels and ladder fuels, as well as dead trees, in order to help develop markets for beneficial uses of the material, including, but not limited to, animal bedding, biochar, cross-laminated timber, mulch, oriented strandboard, pulp, post, shredding, and veneer products.
 - b) For multiple benefit projects, such as tree thinning, carbon sequestration, forest resilience, and improved ecological outcome projects, including, but not limited to, restoring watershed health and function and supporting biodiversity and wildlife adaptation to climate change. Requires CAL FIRE to prioritize grant funding to landowners who practice uneven-age forest management with a resilient forest of diverse age, size, and species class within the boundaries of the project and whose activities are conducted pursuant to an approved timber harvest plan, nonindustrial timber harvest plan, or working forest management plan. Requires an application for a grant for a project to include a description of how the proposed project will increase average stem diameter and provide other site-specific improvement to forest complexity, as demonstrated by the expansion of the variety of tree age classes and species persisting for a period of at least 50 years.
 - c) For activities on National Forest lands to increase tree stand heterogeneity, create forest openings of less than one acre, and increase average tree stand diameter of residual trees. Requires collaboration with the Air Resources Board (ARB) for grant approvals for projects on National Forest lands.

- 3) Exempts, until January 1, 2023, prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that had been reviewed under NEPA, from the requirements of CEQA. This allowance is contingent on the Secretary of the Natural Resources Agency (NRA) certifying on or before January 1 of each year that NEPA has not been substantially amended on or after August 31, 2018.
- 4) Establishes the Good Neighbor Authority (GNA) Fund (Fund) in the State Treasury. Requires the Fund to be administered by CAL FIRE under the direction of the Secretary of the Natural Resources Agency. Specifies money in the Fund be available for expenditure, upon appropriation by the Legislature, for state departments or agencies to undertake forest health and fuel reduction projects on federal lands executed through these agreements, including specified associated activities. Requires the Fund to be the depository for revenues derived from the sale of forest products from federal lands.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

California's wildfires continue to wreak havoc on communities throughout the state. AB 267 will allow California to continue streamlining wildfire prevention projects in federally managed forests. It is essential that the state continue carrying out prescribed fire, thinning, and fuel reduction projects that are on federal lands and have already been thoroughly reviewed under NEPA.

- 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 Governor's 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.

- 3) **Good neighbor authority.** GNA allows the United States Department of Agriculture's Forest Service to enter into agreements with state forestry agencies to do the critical management work to keep our forests healthy and productive.

Since GNA was first authorized, the number of projects and participating states has grown. In 2018, Congress expanded authorities for forest management projects related to the GNA, setting the stage for more growth in cooperative forest management.

There are 33 million acres of forestland in California. The federal government owns and manages 57% of forestland, while 40% is owned by companies, families, individuals, or Native American tribes. The remaining 3% is owned and managed by state and local governments.

Major wildfires have started on federal forestlands then spread to and damaged communities throughout our state. The health of federally managed forests has a significant impact on all Californians, because it provides clean air, clean water, carbon storage, and recreational opportunities. High-intensity wildfires threaten all of these resources. At least four western states, including Idaho, Montana, Oregon, and Washington, have established formal programs where the state either contributes to, or is primarily responsible for, planning, managing, and implementing forest restoration projects on Forest Service lands.

California recently entered into a Memorandum of Understanding with the United States Forest Service, known as the Shared Stewardship Agreement, to reduce wildfire risks on federal, state, and private lands by sustainably treating one million acres of forest lands annually by 2025. In addition, CAL FIRE has funded work through its Healthy Forest grant program on federal land using GNA.

AB 92 (Committee on Budget) Chapter 18, Statutes of 2020, among other things, enacted Public Resources Code Section 4810 that establishes the Fund in the State Treasury to facilitate the implementation of forest management projects on federal lands.

SB 901 created a limited exemption from CEQA for fuel reduction projects on federal land where the primary role of state or local agency is providing funding or staffing

for those projects. If the state or local agency did not provide the funding or staff, the federal government would not have to conduct a CEQA analysis. According to the NRA, this exemption was used 49 times in 2019 and 19 times in 2020. Agencies that have used the exemption include CAL FIRE and the Sierra Nevada Conservancy. The exemption requires the Secretary of NRA to certify each year whether NEPA has not been substantially amended on or after August 31, 2018. The Trump Administration did amend regulations related to NEPA in the summer of 2020. It is unclear whether the Secretary has certified in 2021 as a result of those changes. However, any project that completed NEPA prior to those changes would still be able to use this exemption even if the Secretary does not certify it for 2021. This certification process is important because it gives California a seat at the table in modifications to NEPA that affect federal forest land.

4) **Related legislation.**

AB 697 (Chau) requires CAL FIRE to establish a program for the purposes of conducting ecological restoration and fire resiliency projects on national forest lands. This bill will also be heard on March 24th in this 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. This bill will also be heard on March 24th in this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Water Agencies
 California Cattlemen's Association
 California Farm Bureau Federation
 California Forest Watershed Alliance
 California Forestry Association
 California Professional Firefighters
 Edison International and Affiliates, Including Southern California Edison
 Humboldt Redwood Company LLC
 LP Building Solutions
 Pacific Forest Trust
 Rural County Representatives of California
 The Nature Conservancy
 The Watershed Research and Training Center
 Western United Dairywomen

Opposition

Center for Biological Diversity
 Sierra Club

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 697 (Chau) – As Introduced February 16, 2021

SUBJECT: Forest resources: national forest lands: Good Neighbor Authority Fund: ecological restoration and fire resiliency projects.

SUMMARY: Requires the Department of Forestry and Fire Protection (CAL FIRE) to establish a program for the purposes of conducting ecological restoration and fire resiliency projects on national forest lands.

EXISTING LAW:

- 1) Authorizes CAL FIRE to enter into an agreement, including a grant agreement, for prescribed burning or other hazardous fuel reduction. Authorizes the state to assume a proportionate share of the costs of site preparation and prescribed burning or other hazardous fuel reduction on wild lands.
- 2) Authorizes CAL FIRE to provide grants or enter into agreements with entities, including, but not limited to, private or nongovernmental entities to improve forest health and reduce greenhouse gas emissions. Requires moneys appropriated to CAL FIRE for landscape-scale projects to be allocated as follows:
 - a) To subsidize the removal of small diameter material, especially surface fuels and ladder fuels, as well as dead trees, in order to help develop markets for beneficial uses of the material, including, but not limited to, animal bedding, biochar, cross-laminated timber, mulch, oriented strandboard, pulp, post, shredding, and veneer products.
 - b) For multiple benefit projects, such as tree thinning, carbon sequestration, forest resilience, and improved ecological outcome projects, including, but not limited to, restoring watershed health and function and supporting biodiversity and wildlife adaptation to climate change. Requires CAL FIRE to prioritize grant funding to landowners who practice uneven-age forest management with a resilient forest of diverse age, size, and species class within the boundaries of the project and whose activities are conducted pursuant to an approved timber harvest plan, nonindustrial timber harvest plan, or working forest management plan. Requires an application for a grant for a project to include a description of how the proposed project will increase average stem diameter and provide other site-specific improvement to forest complexity, as demonstrated by the expansion of the variety of tree age classes and species persisting for a period of at least 50 years.
 - c) For activities on National Forest lands to increase tree stand heterogeneity, create forest openings of less than one acre, and increase average tree stand diameter of residual trees. Requires collaboration with the Air Resources Board (ARB) for grant approvals for projects on National Forest lands.
- 3) Exempts, until January 1, 2023, prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that had been

reviewed under the federal National Environmental Policy Act (NEPA), from the California Environmental Quality Act (CEQA). This allowance is contingent on the Secretary of the Natural Resources Agency certifying on or before January 1 of each year that NEPA has not been substantially amended on or after August 31, 2018.

- 4) 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) \$165,000,000 for healthy forest and fire prevention programs and projects that improve forest health and reduce greenhouse gas emissions caused by uncontrolled wildfires.
 - b) \$35,000,000 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.
- 5) Establishes the Good Neighbor Authority Fund (Fund) in the State Treasury. Requires the Fund to be administered by CAL FIRE under the direction of the Secretary of the Natural Resources Agency. Specifies money in the Fund be available for expenditure, upon appropriation by the Legislature, for state departments or agencies to undertake forest health and fuel reduction projects on federal lands executed through these agreements, including specified associated activities.
- 6) Requires the Fund to be the depository for revenues derived from the sale of forest products from federal lands.

THIS BILL:

- 1) Defines “Forest Collaborative” as a functioning collaborative group that includes multiple persons or entities representing diverse interests, that is transparent and inclusive, and that has sufficient expertise, capacity, and scientific support to effectively plan, implement, and monitor landscape-level, ecological-based forest restoration activities.
- 2) Requires CAL FIRE to establish a program to conduct ecological restoration and fire resiliency projects on national forest lands, with priority given to forest restoration and fuels reduction projects that are landscape scale, are focused on ecological restoration and are based on the best available science, emphasize the use of prescribed fire, and include community fire protection and protection of water and other infrastructure as important goals.
- 3) Specifies eligible activities under the program, consistent with the federal Good Neighbor Authority (GNA) law and agreement between the state and federal government, may include any of the following:
 - a) The development of NEPA and CEQA documents;
 - b) Other activities related to project planning;

- c) Implementation and maintenance of selected projects, including ecological thinning, prescribed fire, replanting, and related activities; and
- d) Authorizes CAL FIRE to contract with Native American tribes, local governments, forest collaboratives, resource conservation districts, and qualified nongovernmental organizations to assist in planning, implementing, and maintaining landscape scale restoration projects on national forest lands.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's statement:

The federal government owns and manages 57% of California's 33 million acres of forestland, while the state and local governments own and manage only 3% of the forestlands. Wildfires are a continuing and growing problem in California. The frequency, size, and intensity of wildfires is increasing every year, causing severe damage to infrastructure, life, our forest ecosystem, and property. In fact, the top seven largest wildfires all occurred since 2017, and were amongst the deadliest. Five of the top six occurred in 2020 alone, which resulted in more than 4.1 million acres burned. Many major wildfires start on federal forestlands then spread to and damage communities throughout our state. Recognizing the importance of working together to address forest health and wildfire risk, Congress expanded the Good Neighbor Authority (GNA) nationwide in 2014 to authorize the states and federal government to share funds, staff and other resources, across jurisdictional boundaries, through signed agreements. AB 697 would create a program for the State to plan, manage and implement forest restoration projects on U.S. Forest Service lands through an expanded and formalized GNA that would accelerate the pace and scale of ecologically based forest management.

- 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 Governor's 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.

- 3) **Good neighbor authority.** GNA allows the United States Department of Agriculture's Forest Service to enter into agreements with state forestry agencies to do the critical management work to keep our forests healthy and productive.

Since GNA was first authorized, the number of projects and participating states has grown. In 2018, Congress expanded authorities for forest management projects related to the GNA, setting the stage for more growth in cooperative forest management.

There are 33 million acres of forestland in California. The federal government owns and manages 57% of forestland, while 40% is owned by companies, families, individuals, or Native American tribes. The remaining 3% is owned and managed by state and local governments.

Major wildfires have started on federal forestlands then spread to and damaged communities throughout our state. The health of federally managed forests has a significant impact on all Californians, because it provides clean air, clean water, carbon storage, and recreational opportunities. High-intensity wildfires threaten all of these values. At least four western states, including Idaho, Montana, Oregon, and Washington, have established formal programs where the state either contributes to or is primarily responsible for planning, managing, and implementing forest restoration projects on Forest Service lands.

California recently entered into a Memorandum of Understanding with the United States Forest Service, known as the Shared Stewardship Agreement, to reduce wildfire risks on federal, state and private lands by sustainably treating one million acres of forest lands annually by 2025. In addition, CAL FIRE has funded work through its Healthy Forest grant program on federal land using GNA.

AB 92 (Committee on Budget, Chapter 18, Statutes of 2020) among other things, enacted Public Resources Code Section 4810 that establishes the Fund in the State Treasury to facilitate the implementation of forest management projects on federal lands. AB 697 would take the next step by formalizing a GNA program in California.

4) Related legislation.

AB 267 (Valladares) eliminates the sunset on provisions that exempt prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that had been reviewed under NEPA from CEQA. This bill will also be heard on March 24th in this 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. This bill will also be heard on March 24th in this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Water Agencies
California Association of Resource Conservation Districts
California Native Plant Society
Defenders of Wildlife
Sierra Business Council
The Nature Conservancy
The Watershed Research and Training Center

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 642 (Friedman) – As Introduced February 12, 2021

SUBJECT: Wildfires

SUMMARY: This bill 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 the Department of Forestry and Fire Protection (CAL FIRE), and requires a proposal for creating a prescribed fire training center in California.

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, no later than January 31, 2020, the State Fire Marshal (SFM), in consultation with CAL FIRE and the Department of Housing and Community Development (HCD), to recommend building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk, based on information learned from the 2017 wildfire season.
- 4) Requires, no later than January 31, 2020, the SFM, in consultation with CAL FIRE and HCD to develop a list of low-cost retrofits that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk. Requires CAL FIRE to incorporate the list in its fire prevention education and outreach efforts.
- 5) Declares compliance with a CAL FIRE burn permit constitutes prima facie evidence of due diligence.
- 6) Authorizes a person with a CAL FIRE burn permit to use fire to abate a fire hazard.
- 7) Requires CAL FIRE to actively engage the University of California Extension Services, fire safe councils, resource conservation districts, and any other entity with demonstrated expertise to enhance its public education efforts regarding fire prevention and public safety.
- 8) 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 on individual prescribed burns with a cooperator taking more control.

- 9) 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%.
- 10) Requires, on or before January 1, 2021, the SFM to develop a curriculum, or amend into an existing curriculum, a certification program for fire bosses for both CAL FIRE and private prescribed fire users.
- 11) Requires, to the extent feasible and only in portions of the state, the Board's vegetation treatment program programmatic environmental impact report, when certified, to serve as the programmatic environmental document for persons conducting prescribed fires with a CAL FIRE burn permit.
- 12) Authorizes prescribed burning, mastication, herbicide application, mechanical thinning, or other vegetative treatments of chaparral or sage scrub to only occur if CAL FIRE finds that the activity will not cause "type conversion" away from the chaparral and coastal sage scrub currently on site.

THIS BILL:

- 1) Makes various findings and declarations, including that it is the intent of the Legislature that the Department of Insurance and CAL FIRE develop or facilitate innovative solutions within the next year to ensure certified burn bosses and the organizations they work for have access to appropriate insurance to enable them to contribute to the fire resilience of the state.
- 2) Requires, on or before July 1, 2023, CAL FIRE to identify certain areas outside the SRA as moderate and high fire severity zones and adds possible lightning cause ignitions and regional winds to the criteria for identifying those areas.
- 3) Requires, upon identification of high and moderate severity zones, the SFM, in consultation with CAL FIRE and HCD to propose to the Building Standards Commission (BSC), and for the BSC to adopt, building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk in high fire severity zones and to consider after a public process whether to propose expanding to moderate fire severity zones in the LRA.
- 4) Requires the Director of CAL FIRE to appoint a Cultural Burning Liaison to do all of the following:
 - a) Advise CAL FIRE on developing increased cultural burning activity;
 - b) Engage with Native American tribes, tribal organizations, and cultural practitioners on opportunities to partner with CAL FIRE;
 - c) Serve on the SFM's Statewide Training and Education Advisory Committee; and,
 - d) Work with unit chiefs across the state to ensure prescribed fire and cultural burning objectives are understood and supported by CAL FIRE.

- 5) Requires CAL FIRE to actively engage with relevant California State Universities, Native American tribes, tribal organizations, and cultural practitioners. Requires CAL FIRE to respect tribal sovereignty, customs, and culture.
- 6) Requires CAL FIRE to support, to the extent feasible, the programs of Native American tribes.
- 7) Requires, on or before, July 1, 2023, CAL FIRE, in consultation with the SFM and Insurance Commissioner, to make recommendations on how to understand and model wildfire risk for communities and specific parcels within the LRA or SRA through the input of mitigating factors. Requires CAL FIRE to establish, and consult with, an advisory workgroup to develop the recommendations.
- 8) Requires, on or before July 1, 2022, CAL FIRE, in consultation with the California Conservation Corps, the Regional Forest and Fire Capacity Program, a statewide inter-tribal organization or indigenous stewardship network, and the Sierra Nevada Conservancy, to develop a proposal to establish a prescribed fire training center, as specified.
- 9) Requires, on or before July 1, 2022, the SFM and the Cultural Burning Liaison, to develop a streamlined process to certify members of Native American tribes with cultural burning experience as burn bosses to recognize and account for their experience.
- 10) Requires, on or before January 1, 2023, the SFM to post and update on its internet website the number of burn bosses who have been certified.
- 11) Specifies adherence to the best practices outlined in the curriculum and certification process constitutes prima facie evidence of due diligence.
- 12) Authorizes CAL FIRE to order remediation for any type conversion in violation of the prohibition of specified vegetation management in chaparral or sage scrub.
- 13) Requires CAL FIRE to consider when issuing a burn permit non-department contingency resources when determining required precautions.
- 14) Requires CAL FIRE, to the extent feasible, employ burn suspensions at the unit level, and not at the state or regional level to not unreasonably restrict prescribed burning operations.
- 15) Requires CAL FIRE to develop and deploy an automated system for burn permits.
- 16) Requires CAL FIRE to take into consideration the salary, classification, and recruitment efforts for its personnel that conduct fuel reduction to fill vacancies and retain seasoned fuel reduction experts.
- 17) Requires CAL FIRE, to the extent feasible, to engage in recruitment efforts with Native American tribes to fill vacancies in positions that engage in fuel reduction on behalf of the department.

FISCAL EFFECT: Unknown

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

On January 8, 2021, the Governor's Forest Management Task Force (FMTF) released a comprehensive action plan to reduce wildfire risk for vulnerable communities, improve the health of forests and wildlands, and accelerate action to combat climate change. The FMTF's action plan, among other things, called for expanding the use of prescribed fire and cultural burning. The FMTF's action plan also called for the support of community wildfire risk reduction. AB 642 will assist in implementing portions of the FMTF's plan.

The recent Creek Fire, which burned over 370,000 acres, provides an example of the effectiveness of prescribed burns. The Southern California Edison property in Shaver Lake, one of the impacted communities, experienced substantially less damage on and near the property than other parts of the county. The resiliency of this property is attributed to the prescribed burning program that the utility has carried out since the 1960s. AB 642 would increase the pace and scale prescribed fire and takes important steps to restoring cultural burning in California by improving prescribed fire training, permitting, and through the creation of a cultural burning liaison at CAL FIRE. This bill would also require partnerships and engagement with Native American tribes, tribal organizations, and cultural practitioners while respecting their tribal sovereignty.

AB 642 also takes important steps to harden homes. The bill would expand the number of new homes that comply with fire safety building standards, which will reduce the number of homes lost in wildfires. This bill will also require CAL FIRE to make recommendations on how Californian's can better understand their wildfire risk and what actions they can take to reduce that risk.

I believe California must take bold action to become more fire resilient and reduce the damage caused by high-severity wildfires. AB 642 will facilitate that action by embracing new ideas and ideas that have been in practice for a millennium

- 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 FMTF'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.

- 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 a type 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. As part of the SB 901 funding commitment CAL FIRE received funding for dedicated fuel reduction crews to increase the amount of prescribed fire the agency does. There has been concern about retention within those crews because crew members can be transferred to fire suppression duties for additional pay.

Partnering with California tribes to reintroduce the practice of cultural burns onto landscape provides an opportunity to restore an important cultural practice while also improving forest health and decreasing the risk of catastrophic wildfires. Several California tribes are working to create and maintain these types of partnerships. For example, the Cultural Fire Management Council aims to facilitate the practice of cultural burning on the Yurok Reservation and Ancestral Lands. The Lomakatsi Restoration Project, a nonprofit organization that works with tribal communities in Oregon and California, aims to advance efforts to repair fire-adapted ecosystems. Representatives of the North Fork Mono have entered into an agreement with state and federal agencies near Fresno to perform more prescribed burns to restore mountain meadows that have become overgrown due to fire suppression.

A Stanford-led study with the U.S. Forest Service in collaboration with the Yurok and Karuk tribes found that incorporating traditional techniques into current fire suppression practices could help revitalize American Indian cultures, economies and livelihoods, while continuing to reduce wildfire risks. This bill would increase the state's engagement with Native American tribes, tribal organizations, and cultural practitioners to expand the practice of cultural burning.

- 4) **Chapter 7A building standards.** New homes within the VHFHSZ and the SRA must meet Chapter 7A building standards for new construction (including ignition-resistant roofs, under eaves, siding, windows, and decking). Home hardening standards started with a prohibition on new wooden roofs in the early nineties and were dramatically improved in 2008 to make homes that have adequate defensible space ignition resistant. The standards are periodically updated to be improved even further. These standards have been shown to work. An analysis by the Sacramento Bee showed that approximately 51% of the 350 single-family homes built after 2008 in the path of the Camp Fire were undamaged. By contrast, only 18% of the 12,100

homes built prior to 2008 escaped damage. Factors that can cause post 2008 homes to combust include not having adequate defensible space and proximity to neighboring non-fire hardened homes.

A 2018 Headwaters Economics report found negligible cost differences between a typical home and a home constructed using wildfire-resistant materials and design features. Decades of research and post-fire assessments have provided clear evidence that building materials and design, coupled with landscaping on the property, are the most important factors influencing home survivability during a wildfire.

In the informational hearing this committee held in February 2019, former Fire Marshal Kate Dargan estimated there are 2 million homes in high fire threat areas that do not meet Chapter 7A building standards. According to the Building Industry Association, only 860,000 homes and apartments have been built statewide since the code went into effect. According to Paradise Town Councilman Michael Zuccolillo, the average home in Paradise was built in the 1970s, which means most homes did not meet the 2008 standard and likely many homes still had wooden roofs.

According to the SFM, property owners in high fire hazard zones who replace at least half their roof are required to install fire-retardant materials on the entire roof.

This bill would expand Chapter 7A building standards to moderate and high fire severity zones within the LRA. Current law authorized the SFM to require Chapter 7A building standards in the moderate and high severity zones in the SRA, which the SFM has done through regulation. Currently, fire severity maps in the LRA do not include high and moderate severity zones like SRA maps do. This bill would require the identification of those zones. It is unclear if during that process the LRA maps will be updated to reflect the increased fire severity in the state since the map was published in 2007. If new maps include increased fire severity zones, they will affect the expansion of the Chapter 7A building standards required by this bill.

5) 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.

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 Natural Resources and Water Committee.

SB 332 (Dodd) requires certified burn bosses and property owners where the certified burn boss conducted the prescribed fire to not be 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 Planning Association, California Chapter
California Association of Resource Conservation Districts
California Building Industry Association
California Fire Chiefs Association
California Native Plant Society
Defenders of Wildlife
Edison International and Affiliates, Including Southern California Edison
Fire Districts Association of California
Intertribal Sinkyone Wilderness Council
Pacific Forest Trust
Peninsula Open Space Trust
Personal Insurance Federation of California
Save the Redwoods League
Sierra Business Council
Sierra Club
Southern California Edison
The Fire Restoration Group
The Nature Conservancy
The Watershed Research and Training Center
Wine Institute

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AJR 4 (Cristina Garcia) – As Introduced January 12, 2021

SUBJECT: Basel Convention: ratification

SUMMARY: Declares that the Legislature supports the goals of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention) and the May 2019 Amendment to include plastic as a hazardous material for purposes of the Basel Convention. Declares that California is in favor of the United States' ratification of the Basel Convention at the earliest opportunity and requests that the Biden Administration accomplish the ratification as a matter of urgency.

EXISTING LAW: Pursuant to the Integrated Waste Management Act, requires that local governments divert at least 50% of solid waste from landfill disposal and establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020 through source reduction, recycling, and composting.

FISCAL EFFECT: Nonfiscal

COMMENTS:

1) **Author's Statement:**

Right now, floating in the Pacific Ocean is a patch of plastic trash twice the size of the state of Texas. The effects of that plastic patch negatively impact ocean life and island and mainland communities from Japan, to the Philippines, to Australia, to Peru, to the United States—no one is spared. That's the chilling reality of the state of plastics management on our planet. Ratifying the Basel Agreement will show the United States takes responsibility for our role in this crisis and that we are willing to work toward solutions.

- 2) **Basel Convention.** The Basel Convention was originally adopted on March 22, 1989 by the Conference of Plenipotentiaries in Basel, Switzerland, in response to the discovery that toxic wastes were being exported to the developing world. Increasing regulation and costs associated with the disposal of hazardous waste in developed countries led to a search for cheap disposal elsewhere. The Basel Convention went into effect in 1992. The Basel Convention has 187 parties; only the United States and Haiti have failed to ratify it. In May of 2019, it was amended to include most plastic scrap (i.e., recycled plastic) destined for recycling or disposal beginning January 1, 2021. The specific types of plastic material covered by the amendment are: plastic scrap and waste that is contaminated (e.g., with food residue or other non-hazardous waste); plastic scrap and waste mixed with other types of scrap and waste; and, plastic scrap and waste containing halogenated polymers; mixed plastic scrap and waste, with the exception of shipments consisting of polyethylene (PE), polypropylene (PP), and polyethylene terephthalate (PET) that meet specified criteria. Generally, plastic scrap that is “almost exclusively” limited to one polymer or resin type, as specified, are not subject to the Basel Convention.

The Basel Convention has two components. The system of “prior informed consent” is the cornerstone of the Basel Convention. Before material subject to the Basel Convention can be

exported, the authorities of the country of export must notify the authorities of the prospective country of import (or transit), providing them with detailed information on the intended shipment. The shipment may only proceed if and when all countries concerned have given their written consent. In the event of a transboundary movement of hazardous wastes having been carried out in violation of the Basel Convention, or cannot be completed as foreseen, it attributes responsibility to one or more of the countries involved, and imposes the duty to ensure safe disposal, either by re-import into the country of generation or as otherwise specified.

Additionally, the Basel Convention requires member countries to observe the “fundamental principles of environmentally sound waste management.” Member countries are required to minimize the quantities of hazardous wastes that are exported, treat and dispose of hazardous wastes as close as possible to the place of generation, and to prevent and minimize the generation of hazardous wastes. It requires appropriate management of the material from generation through storage, transport, treatment, reuse, recycling, recovery, and final disposal.

- 3) **California’s recycling goals.** An estimated 35 million tons of waste are disposed of in California’s landfills annually. The Department of Resources Recycling and Recovery (CalRecycle) is tasked with diverting at least 75% of solid waste from landfills statewide by 2020. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro), Chapter 476, Statutes of 2011, requires commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep the material out of the landfill. California’s recent recycling rate, which reached 50% in 2014, dropped to 37% in 2019.
- 4) **Ocean plastic pollution.** Plastics are estimated to comprise 60-80% of all marine debris and 90% of all floating debris. By 2050, by weight there will be more plastic than fish in the ocean if we keep producing (and failing to properly manage) plastics at predicted rates, according to *The New Plastics Economy: Rethinking the Future of Plastics*, a January 2016 report by the World Economic Forum.

Ocean plastic predominantly enters the ocean from river runoff. The largest contributors are rivers primarily located in Southeast Asia. While some have used this information to place the blame on those countries, a significant portion of the plastic pollution is generated in the United States and transported to those countries as mixed plastic scrap for recycling. The material is sorted and the material with value is recycled while the rest burned for energy generation or discarded. In countries with inadequate waste management systems, waste plastic finds its way into waterways that flow to the ocean.

Most plastic marine debris exists as small plastic particles due to excessive UV radiation exposure and subsequent photo-degradation. Expanded polystyrene breaks down more rapidly into these smaller particles than rigid plastics. These plastic pieces are confused with small fish, plankton, or krill and ingested by birds and marine animals. Over 600 marine animal species have been negatively affected by ingesting plastic worldwide.

In addition to the physical impacts of plastic pollution, hydrophobic chemicals present in the ocean in trace amounts (e.g., from contaminated runoff and oil and chemical spills) bind to plastic particles where they enter and accumulate in the food chain.

- 5) **Recycling markets.** In spite of generating the most plastic waste in the world, the United States has not developed significant processing or markets for recycled plastic. Approximately 50% of plastic waste collected for recycling in the United States is exported; in 2016, 88% of that material was exported to countries that lack the infrastructure to properly manage it. After sorting out the material with value, the rest, an estimated 0.15 to 0.99 million metric tons of plastic exported by the United States for recycling, winds up in the environment through open dumping or burning.

The Basel Convention Amendment follows several years of increasing efforts to manage the flood of plastic waste exported from countries like the United States. China, a Basel Convention member and historically the largest importer of recycled plastic, enacted Operation Green Fence in 2013, under which it increased inspections of imported bales of recyclables and returned bales that did not meet specified requirements at the exporters' expense. In 2017, China established Operation National Sword, which included additional inspections of imported recycled materials and a filing with the World Trade Organization (WTO) indicating its intent to ban the import of 24 types of scrap, including mixed paper and paperboard, PET, PE, polyvinyl chloride (PVC), and polystyrene (PS) beginning January 1, 2018. In November 2017, China announced that imports of recycled materials that are not banned would be required to include no more than 0.5% contamination. In January 2019, China announced that it would be expanding its ban even further – to encompass 32 types of scraps for recycling and reuse, including post-consumer plastics such as shampoo and soda bottles.

Following China's actions, other Southeast Asian countries have enacted policies limiting or banning the importation of recycled materials, primarily plastic and mixed paper. Last year, Malaysia and Vietnam implemented import restrictions. Last year, India announced that it would ban scrap plastic imports. Thailand has announced a ban that will go into effect this year. These policies create serious challenges for recyclers. Recycling requires markets for recycled materials to create new products and close the loop.

- 6) **This resolution.** California, and the United States, rely on international markets to recycle the vast quantities of plastic waste that they generate. This resolution urges President Biden to join the Basel Convention, which would have the benefit of ensuring that the state can continue to export clean, sorted plastic for recycling.
- 7) **Previous resolution.** SR 47 (Wieckowski) of 2019 describes how California's ambitious solid waste reduction goals may be advanced by the United States ratifying the Basel Convention, and resolved that the State Senate urge the United States Congress to take the needed actions to ratify the Convention.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Silicon Valley
7th Generation Advisors

American Chemistry Council
BAN SUP
Beyond Plastics
Breast Cancer Prevention Partners
California Product Stewardship Council
Californians Against Waste
CALPIRG
Clean Water Action
Contra Costa County
Ecology Center, Berkeley
Elders Climate Action, NorCal and SoCal Chapters
Environment California
Full Circle Environmental
Heal the Bay
Los Angeles County Solid Waste Management Committee/Integrated
Waste Management Task Force
Marin Sanitary Service
Merced County Regional Waste Authority
Ming's Resource East Bay Corp
National Stewardship Action Council
Natracare
Nature Conservancy
Northern California Recycling Association
Plastic Pollution Coalition
PreZero US, Inc.
Resource Recovery Coalition of California
RethinkWaste
Save Our Shores
Sea Hugger
Stopwaste
Surfrider Foundation
The 5 Gyres Institute
The Center for Oceanic Awareness, Research, and Education
The Last Plastic Straw
Tomra
Tri-CED Community Recycling
Upcyclers Network
Upstream
Zanker Recycling
Zero Waste Sonoma

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 504 (McCarty) – As Introduced February 9, 2021

SUBJECT: Solid waste: commercial and organic waste: recycling bins

SUMMARY: Clarifies the requirements for food service facilities to make recycling bins available to consumers for buffet-style, self-service, and mobile food facilities located in entertainment parks.

EXISTING LAW:

- 1) Establishes a state recycling goal of 75% of solid waste generated by diverting from landfill disposal by 2020 through source reduction, recycling, and composting.
- 2) Requires each local jurisdiction to divert 50% of solid waste from landfill disposal through source reduction, recycling, and composting.
- 3) Requires commercial waste generators, including multi-family dwellings, to arrange for recycling services and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste from businesses.
- 4) Requires generators of organic waste (food and yard waste) to arrange for recycling services for that material and requires local governments to implement organic waste recycling programs designed to divert organic waste from those businesses.
- 5) Establishes methane emission reduction goals that include targets to reduce the landfill disposal of organic waste by 50% by 2020 and 75% by 2025 from the 2014 level to reduce greenhouse gas (GHG) emissions. Requires the Department of Resources Recycling and Recovery (CalRecycle), in consultation with the Air Resources Board (ARB), to adopt regulations to achieve the organics reduction targets, which go into effect in 2022.
- 6) Requires commercial waste generators and organic waste generators that provide customers access to the business to provide, by July 1, 2020, a commercial solid waste recycling bin or an organic waste recycling bin to collect materials purchased on the premises.
- 7) Exempts full-service restaurants from these requirements if the restaurant, by July 1, 2020, provides its employees with a bin to collect the material and implements a recycling program.
- 8) Defines “full service restaurant” as an establishment with the primary business purpose of serving food, where food may be consumed on the premises, and an employee of the establishment takes all of the following actions:
 - a) The consumer is escorted or assigned to an assigned eating area;

- b) The consumer's food and beverage orders are taken after the consumer has been seated;
 - c) The food and beverage orders are delivered directly to the consumer;
 - d) Any requested items associated with the consumer's food or beverage order are brought to the consumer; and,
 - e) The check is delivered directly to the consumer at the assigned seating area.
- 9) Defines "park" as a theme park, amusement park, water park, resort or entertainment complex, zoo, attraction, or similar facility.

THIS BILL:

- 1) Specifies that buffet style and self-service restaurants are full service restaurants if they meet the other specified criteria.
- 2) Clarifies that a bin or container for recyclables and organics may be provided in the same area as, rather than adjacent to, a bin or container for trash.
- 3) Exempts temporary, mobile food service facilities without dedicated seating areas that are located in a park, as defined, from the requirement to provide a recycling bin or container to consumers.
- 4) For food service facilities in parks:
 - a) Exempts temporary, mobile facilities without dedicated seating areas from the requirement to provide an organics recycling bin or container to consumers; and,
 - b) Allows them to implement a process for recycling organic waste from customers that yields results comparable to or greater in volume and quantity to results attained by providing an organic waste recycling bin or container.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

This bill complements our 2019 Green Restaurants bill, which will help California reach its ambitious climate goals by having restaurants and other food service facilities provide bins for recyclables and compostable waste. This bill is a simple clarification measure to ensure compliance for amusement parks' mobile food areas.

- 2) **Background.** An estimated 35 million tons of waste are disposed of in California's landfills annually. CalRecycle has been tasked with diverting at least 75% of solid waste from landfills statewide by 2020; however, the state's recycling rate, which reached 50% in 2014, dropped to 37% in 2019. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000.

AB 341 (Chesbro), Chapter 476, Statutes of 2011, requires commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep the material out of the landfill. SB 1383 (Lara) Chapter 395, Statutes of 2016, required the ARB to approve and implement the comprehensive short-lived climate pollutant strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon, by 2030. In order to accomplish these goals, the bill specified that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste 50% by 2020 and 75% by 2025 from the 2014 level.

In 2019, AB 827 (McCarty), Chapter 441, was enacted with the intent of educating and involving consumers in achieving the state's recycling goals by requiring businesses to make recycling bins available to consumers with clear labels to indicate what materials are appropriate for each bin. This bill clarifies these requirements for buffet style, self-service, and mobile food facilities located in entertainment parks.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Attractions and Parks Association
California Travel Association
Californians Against Waste
Los Angeles County Solid Waste Management Committee/Integrated
Waste Management Task Force

Opposition

None on file

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 585 (Luz Rivas) – As Amended March 17, 2021

SUBJECT: Climate change: Extreme Heat and Community Resilience Program

SUMMARY: Establishes the Extreme Heat and Community Resilience Program (Program) within the Office of Planning and Research (OPR) to coordinate the state's efforts to address extreme heat and to facilitate the implementation of regional and state climate changes planning into effective programs.

EXISTING LAW:

- 1) Requires the Natural Resources Agency (NRA) to update its climate adaptation strategy, the Safeguarding California Plan, by July 1, 2017, and every three years thereafter, by coordinating adaptation activities among lead state agencies in each sector.
- 2) Requires the state to continue its rigorous climate change research program focused on understanding the impacts of climate change and how best to prepare and adapt to expected impacts.
- 3) Requires OPR to establish a technical advisory group to help state agencies incorporate climate change impacts into planning and investment decisions.
- 4) Requires state agencies' planning and investment to be guided by the principles of climate preparedness, flexibility and adaptive approaches for uncertain climate impacts, to be protective of vulnerable populations, and to prioritize natural infrastructure solutions.
- 5) Establishes the Integrated Climate Adaptation and Resiliency Program (ICARP) within OPR to coordinate regional, local and state efforts to adapt to climate change. Requires ICARP to:
 - a) Pursue an emphasis on climate equity across sectors and strategies that benefit both greenhouse gas (GHG) emissions reductions and adaptation efforts;
 - b) Require program efforts including, but not limited to, working with and coordinating local and regional efforts for climate adaptation and resilience; and
 - c) Maintain a data clearinghouse on climate change and climate adaptation for the purposes of facilitating state and local policy decisions.

THIS BILL:

- 1) Establishes the Program within OPR. Requires OPR to coordinate the state's efforts to address extreme heat and to facilitate the implementation of local, regional, and state climate change planning into projects that:
 - a) Mitigate the impacts of extreme heat through the use of reflective surface materials in the built environment and other activities consistent with the purposes of the Program. Eligible projects include, but aren't limited to:

- i) Cool roofs to increase solar reflectance and reduce structural temperatures;
 - ii) Cool pavements on roadways and other active transportation surfaces and school playgrounds to increase solar reflectance, reduce heat transmitted, and improve water permeability;
 - iii) Cool building surfaces and other cool surface materials that increase shade, increase solar reflectance, or otherwise reduce heat island impacts; and,
 - iv) Building design, including heating, ventilation, and air conditioning systems that reduce heat.
- b) Reduce the public health risks of extreme heat and related climate change impacts and enhance the resilience of affected populations by establishing community resilience centers and supporting community resilience planning efforts and other activities consistent with the purposes of the Program. Eligible projects include, but are not limited to:
- i) The construction of new facilities or the retrofit of existing facilities that will serve as community resilience centers to mitigate the public health impacts of extreme heat and related climate change impacts on local populations;
 - ii) Local planning activities to adapt community infrastructure, the built environment and natural systems to the impacts of climate change, including heat action plans to prepare for and respond to extreme heat events;
 - iii) Updating local plans to improve community resilience to the impacts of climate change; and,
 - iv) Public education campaigns and other measures to increase awareness of the public health risks of extreme heat and the services available to reduce those risks.
- 2) Requires OPR to consult with the Natural Resources Agency (NRA) on climate resilience, Department of Transportation, the State Energy Resources Conservation and Development Commission, the State Department of Public Health, and other state agencies, as appropriate, in awarding grants.
- 3) To maximize the effectiveness of the projects, requires OPR to seek input from, and promote interagency coordination among public agencies, as appropriate.
- 4) Requires OPR's administration of the Program to be informed by California's Fifth Climate Change Assessment and any subsequent climate assessments, the climate science research programs administered by the Strategic Growth Council, and other relevant climate science research.
- 5) Requires OPR to seek to minimize greenhouse gas emissions in administering the Program.
- 6) Requires OPR to manage and award competitive grants for extreme heat and community resilience projects to eligible entities through an application process.

- 7) Requires OPR to adopt guidelines for grants, including eligibility criteria and amount, as specified.
- 8) Requires OPR to give priority to projects that:
 - a) Serve disadvantaged communities;
 - b) Demonstrate participation in a regional climate collaborative program; and,
 - c) Serve those populations most vulnerable to the impacts of extreme heat, as determined by the relevant local health department, the California Department of Public Health, or both.
- 9) Defines “eligible entities” to mean nonprofit organizations or coalitions of nonprofit organizations, community-based organizations, community development corporations or financial institutions, local and regional public agencies, joint powers authorities, and tribal governments that demonstrate partnerships with multiple stakeholders in the development and implementation of a project.
- 10) Requires OPR to submit a report to the Legislature, by July 1, 2020, detailing all actions taken within the last twelve months by all state agencies, departments, and programs to mitigate the urban heat island effects and to prepare for, and reduce the impacts from, extreme heat events. The report shall also document the cost, budget allocations, and staff dedicated to addressing high heat.
- 11) Establishes the Extreme Heat and Community Resilience Fund.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author’s Statement:

Year after year, our state faces record-breaking heat waves that have left local governments to grapple with how best to protect residents from these life threatening weather events. Extreme heat is one of the deadliest natural hazards and causes more emergency room visits and deaths each year in the United States than any other weather-related disaster. Inaction will lead to unnecessary increases in negative health effects and additional hardships on local governments that are already struggling because of the economic impacts of COVID-19. AB 585 creates the Extreme Heat and Community Resilience Program, which requires statewide coordination to insure the state’s actions and expenditures promote cooling. The measure also establishes the guidelines for a competitive grant process that local entities will be able to utilize to protect themselves and vulnerable communities from the dangers of extreme heat.

- 2) **Climate change impacts in California.** California’s climate is generally expected to become hotter, drier, and more variable over the coming decades, increasing the risk of catastrophic wildfires, droughts, floods, extreme weather, biodiversity loss, and sea level rise. These changes will impact California’s residents, water supply, ecosystems, and economy. California’s Fourth Climate Assessment estimates the economic cost to California for these losses by 2050 will be over \$100 billion annually. The scale and type of impacts will vary

across regions. People who are already vulnerable, including lower-income and other marginalized communities, have lower capacity to prepare for and cope with extreme weather and climate-related events and are expected to experience greater impacts.

Average global temperatures have increased since 1895, with the fastest relative increase beginning in the 1980s. The ten hottest years on record are 2016, 2020, 2019, 2015, 2017, 2018, 2014, 2010, 2013, and 2005. Nine of the ten hottest years recorded have occurred in the last decade. In California, the statewide average temperature is predicted to increase 1.9°F by 2025 and 4.6°F by 2050. Historically, California experienced an average of four extreme heat days per year; by 2050, extreme heat days are projected to increase to 40-53 annually. The increased temperatures are expected to translate to up to 4,300 excess deaths in 2025 and up to 11,300 in 2050. Populations in cooler parts of the state, particularly along the coast, are generally at a greater risk for health-related illness because they are less acclimatized to heat, people may be less aware of behaviors to reduce exposure, and the built environment is not designed for warmer temperatures.

Urban areas have higher temperatures than in surrounding areas due to pavement and building materials that absorb sunlight and heat. This phenomenon is referred to as the urban heat island effect. Average daytime temperatures in urban areas are 1-6 °F warmer than surrounding areas, but at night that increases to as much as 22°F as the heat is gradually released from buildings and paved surfaces. The urban heat island effect increases the health risks associated with extreme heat for populations living in those areas. A number of strategies can be used to mitigate the urban heat island effect, such as shading, green spaces, and the use of cool building and paving materials.

- 3) **Integrated Climate Adaptation and Resiliency Program.** ICARP was established in 2015 to require OPR to develop a cohesive and coordinated response to the impacts of climate change across the state and develop strategies to coordinate climate activities at the state, regional and local levels, while advancing social equity. ICARP has two components: the State Adaptation Clearinghouse and the Technical Advisory Council. The State Adaptation Clearinghouse is a centralized source of information and resources to assist decision makers at the state, regional, and local levels when planning for and implementing climate adaptation projects to promote resiliency across California. The Technical Advisory Council brings together local government, practitioners, scientists, and community leaders to help coordinate activities that better prepare California for the impacts of climate change. It supports OPR in its goal to facilitate coordination among state, regional and local adaptation and resiliency efforts, with a focus on opportunities to support local implementation actions that improve quality of life.
- 4) **This bill.** This bill is intended to increase coordination to help urban and rural communities combat extreme heat and provide funding for projects to mitigate extreme heat impacts.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Silicon Valley
California Interfaith Power & Light
California Solar & Storage Association

California State Parks Foundation
Climate Resolve
Community Nature Connection
County Health Executives Association of California
Edison International and Affiliates, Including Southern California Edison
Elders Climate Action, NorCal and SoCal Chapters
Environmental & Energy Consulting

Opposition

California Asphalt and Pavement Association (unless amended)

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

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 976 (Luz Rivas) – As Introduced February 18, 2021

SUBJECT: Resilient Economies and Community Health Pilot Program

SUMMARY: Establishes the Resilient Economies and Community Health Pilot Program (Pilot Program) within the Strategic Growth Council (SGC).

EXISTING LAW:

- 1) Establishes the SGC, consisting of the Director of the Governor’s Office of Planning and Research (OPR), the Secretary of the Natural Resources Agency (NRA), the Secretary for Environmental Protection, the Secretary of Transportation, the Secretary of California Health and Human Services, the Secretary of Business, Consumer Services, and Housing, the Secretary of Food and Agriculture, three members of the public selected independently by the Speaker of the Assembly, the Senate Committee on Rules, and the Governor. Specifies that the SGC shall:
 - a) Identify and review activities and funding programs of state agencies that may be coordinated to improve air and water quality, improve natural resources protection, increase the availability of affordable housing, improve transportation, meet the goals of the California Global Warming Solutions Act [AB 32 (Nuñez), Chapter 488, Statutes of 2006], encourage sustainable land use planning, and revitalize urban and community centers in a sustainable manner.
 - b) Require the public members to have a background in land use planning, local government, resource protection and management, or community development or revitalization.
- 2) Requires the SGC to administer the Transformative Climate Communities (TCC) Program.
- 3) Requires state agencies to maximize, where applicable and feasible, regional collaborative planning efforts to address regional climate change impacts and adaptation strategies.
- 4) Establishes the Regional Climate Collaborative Program to provide technical assistance with state funding programs and project implementation related to climate change mitigation and adaptation to collaboratives representing under-resourced communities, as defined.
- 5) Establishes the Integrated Climate Adaptation and Resiliency Program (ICARP) in OPR to coordinate regional, local and state efforts to adapt to climate change. Requires ICARP to:
 - a) Pursue an emphasis on climate equity across sectors and strategies that benefit both GHG emissions reductions and adaptation efforts;
 - b) Requires program efforts including, but not limited to, working with and coordinating state, local, and regional efforts for climate adaptation and resilience; and,

- c) Maintain a continued data clearinghouse (clearinghouse) on climate change and climate adaptation for the purposes of facilitating educated state and local policy decisions.
- 6) Establishes the Greenhouse Gas Reduction Fund Investment Plan and Communities Revitalization Act (Communities Revitalization Act) and requires the California Environmental Protection Agency (CalEPA) to identify disadvantaged communities for investment purposes. These communities are identified based on geographic, socioeconomic, public health, and environmental hazard criteria, and may include, but are not limited to, either of the following:
- a) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation; and,
 - b) Areas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.

THIS BILL:

- 1) Establishes the Pilot Program to be administered by SGC from January 1, 2022 until December 31, 2026 as a grant pilot program for eligible community-based organizations to provide a comprehensive suite of coordinated incentives and services to disadvantaged communities at the resident household level to provide economic savings, reduce GHG emissions and air pollution, and improve resiliency to the impacts of climate change.
- 2) Defines terms used in the bill, including:
 - a) “CalEnviroScreen” to mean the California Communities Environmental Health Screening Tool developed by the Office of Environmental Health Hazard Assessment;
 - b) “Community-based organization” to mean a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community and provides educational or benefit-related services to resident households of a community;
 - c) “Disadvantaged community” as a community identified by CalEPA as disadvantaged for purposes of the Communities Revitalization Act; and,
 - d) “Electrical corporation,” “gas corporation,” “local publicly owned electric utility,” and “water corporation” as having the same meanings as in the Public Utilities Code.
- 3) Requires SGC to give priority to plans and projects that cover areas that have a high proportion of census tracts identified as disadvantaged communities and that focus on communities that are most disadvantaged. Establishes a preference for awards in regions identified on the 91st to 100th percentiles of CalEnviroScreen.
- 4) Requires SGC to develop guidelines that do all of the following:
 - a) Criteria for determining the eligibility of, and awarding grants to, community-based organizations;

- b) Maximize community-based outreach and resident household eligibility review to disadvantaged communities using a network of community-based organizations that have demonstrated neighborhood, city, or county-level ties to the local community;
 - c) Promote specified incentives and rebate programs;
 - d) Coordinate incentive and rebate programs administered by, but not limited to, the Natural Resources Agency, California Energy Commission, Public Utilities Commission, Air Resources Board, local governments, and utility programs, including those offered by electrical corporations, gas corporations, water corporations, and local publicly owned electric, gas, and water utilities;
 - e) Prioritize disadvantaged communities that have the highest pollution burden and highest poverty rates;
 - f) Maximize through the application process the economic savings, GHG emissions reductions, and climate adaptation benefits to each household, to the extent feasible; and,
 - g) Require a streamlined process for households to apply for and receive services and incentives, to the extent feasible.
- 5) By January 1, 2026, requires SGC to evaluate and report to the Legislature on the Pilot Program:
- a) The impact of reducing GHG emissions and other cobenefits in disadvantaged communities, including cost-effectiveness and efficiency of different outreach methodologies and strategies; and,
 - b) The ability for the Pilot Program to support hard-to-reach resident households.
 - c) The best model for maximizing low-income and disadvantaged community participation while maximizing the goals of the program.
- 6) Sunsets the bill's provisions on January 1, 2027.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's statement:

The state's disadvantaged communities suffer the brunt of its environmental pollution. While California has established multiple programs to offer economics savings and environmental benefits to these areas, their reach has been limited in accessing the households who need the most help. Furthermore, there is little to no coordination occurring between these various outreach programs to expand their reach and impact.

These are missed opportunities to do more for these communities. We need to ensure that we are helping the most disadvantaged households first. Community-based organizations are well-suited liaisons to these impoverished and marginalized families and can help increase these households' access to these programs. We need to empower

these CBOs to not only help increase participation rates from these households, but also help them qualify for even more programs. By coordinating these various outreach programs, the state can deliver greater economic savings and environmental benefits on a per household basis and allow for more efficient administration of these programs' outreach efforts.

AB 976 would create a 3-year pilot grant program at the Strategic Growth Council to empower community-based organizations to conduct outreach in disadvantaged communities to increase their participation in these various incentive programs.

- 2) **State programs.** At the state level, technical assistance efforts are underway, largely at the level of individual grant programs. Technical assistance is important because the stringent reporting requirements for funding sources like the Greenhouse Gas Reduction Fund can be difficult for small, less resourced groups to handle with in-house expertise and staffing levels. If capacity-building services to meet the needs of under-resourced areas are not developed in a robust manner, it may be challenging to meet the requirements for 25% of GGRF funds benefitting disadvantaged communities and 10% of GGRF funds being spent directly in disadvantaged communities.

Pursuant to SB 862 (Senate Budget and Fiscal Review Committee), Chapter 862, Statutes of 2014, 20% of cap-and-trade auction revenues collected in the GGRF are appropriated to the Affordable Housing and Sustainable Communities Program (AHSC), administered by SGC and the Department of Housing and Community Development. Under the AHSC, 50% of funding is required for the construction of affordable housing projects with demonstrated GHG reductions, and 50% of funding is required to benefit disadvantaged communities. To date, the AHSC has received \$915 million. In response to the first round of AHSC funding, where it was perceived that areas with existing technical capacity were more competitive in the granting process, SGC created a technical assistance pilot program. This pilot ultimately provided \$500,000 spread across three teams of technical assistance providers. In 2016, SGC contracted with UC Davis to evaluate the program, which found that comprehensive technical assistance for groups serving disadvantaged communities significantly increased the competitiveness of their applications. Further, technical assistance providers identified substantial challenges in coordinating with the state agencies involved with the granting process. These findings highlight the need to expand technical assistance capacity for both community groups and state agencies.

The Transformative Climate Communities Program (TCC), established by AB 2722 (Burke), Chapter 371, Statutes of 2016, is administered by SGC, and funds community-led development and infrastructure projects that achieve environmental, health, and economic benefits in disadvantaged communities. In the 2016-17 fiscal year, TCC awarded a total of \$140m, with \$70 million going to the City of Fresno, \$35 million to the Watts neighborhood in Los Angeles, and \$35 million to the City of Ontario. These projects are required to form a Collaborative Stakeholder Structure to develop a shared vision for community transformation. Specifically, TCC projects are required to reduce GHG emissions significantly over time, leverage additional funding sources, and provide additional health, environmental, and economic benefits. Award recipients that implement a TCC-funded program are required to monitor and report emissions reductions and specified co-benefits associated with their project. SGC released its TCC Draft Program Guidelines for the 2018-

2019 fiscal year in June 2018, and is gathering written public comment and is convening public comment meetings on the draft in Oakland and Los Angeles.

The Regional Climate Collaborative Program (RCCP), established by SB 1072 (Leyva), Chapter 377, Statutes of 2018, is also administered by the SGC to help “under-resourced communities” across California build regional capacity and collaboration to develop and implement climate change mitigation and adaptation projects. Each collaborative will bring together key partners to build community-driven leadership, knowledge, skills, experience, and resources to develop a vision for a sustainable region and access public funding to support it. SB 1072 requires SGC to establish criteria for developing the regional collaboratives and a grant program to support their activities. By July 1, 2020, SGC expects to publish guidelines that outline technical assistance policies, standards, and best practices for delivering technical assistance to under-resourced communities.

In addition to the TCC and the AHSC, SGC engages in other activities related to technical assistance for disadvantaged communities, and received \$2 million for the 2016-2017 Budget to provide support for applicants across a range of GGRF-funded programs. In March 2018, the SGC convened a Community Leadership Summit focused on Best Practices for Building Successful Projects. The aim of this summit was to connect communities with information about state funding opportunities. In addition to these state programs, the Alliance of Regional Collaboratives for Climate Adaptation (ARCCA), a coalition within the Local Government Commission, works to foster collaboration related to climate adaptation and resiliency at the local and regional level. ARCCA is comprised of five existing collaboratives representing the Sacramento, Bay Area, Los Angeles, San Diego, and Sierra regions.

- 3) **emPOWER.** This bill is modeled after the emPOWER program in Los Angeles (LA). emPOWER is a county-wide outreach program designed to overcome barriers to sustainable energy usage experienced in low-income and working class communities of color.

The program is operated by Liberty Hill, a social justice organization located in LA, which works with nine community-based organizations with historic ties to the communities of South LA, Boyle Heights, East LA, Pomona, El Monte, Commerce, Bell, Bell Gardens, South Gate, Pacoima, North and West Long Beach, and Inglewood to expand access to, and encourage the use of, available energy rebates, upgrades and other incentives.

emPOWER works to pair household needs with local and statewide resources to help residents achieve energy savings and access incentive programs by: 1) ensuring that low-income households are taking advantage of all available financial aid options; 2) promoting low- or no-cost energy efficiency programs, solar panel installations, home improvements and appliance rebates to meet basic energy needs and save even more on energy bills; and, 3) consulting with residents to determine the feasibility of clean vehicle or transit and shared mobility vouchers with trade-ins of older high-polluting vehicles.

In 2019, the program’s first year, 2,272 households participated in the program out of 11,000 that were “reached.” On average, the program determined eligibility for nine different incentive programs. Approximately 42% of households provided the information necessary to apply for the incentives, and 23% received benefits.

REGISTERED SUPPORT / OPPOSITION:

Support

California Municipal Utilities Association
Coalition for Clean Air
Communities for a Better Environment
Community Power Collective
East Yard Communities for Environmental Justice
Environmental Working Group
Latino and Latina Roundtable of the San Gabriel and Pomona Valley
Liberty Hill Foundation
Pacoima Beautiful
Redeemer Community Partnership
Sierra Club California
Social Justice Learning Institute
Strategic Actions for a Just Economy
Valley Clean Air Now

Opposition

None on file

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