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California State Assembly

NATURAL RESOURCES



LUZ RIVAS
CHAIR

AGENDA

Wednesday, June 23, 2021
9 a.m. -- State Capitol, Room 4202

Chief Consultant
Lawrence Lingbloom

Principal Consultant
Elizabeth MacMillan

Senior Consultant
Michael Jarred

Committee Secretary
Sue Fischbach

BILLS HEARD IN FILE ORDER

**** = Bills Proposed for Consent**

1. SB 44 Allen California Environmental Quality Act: streamlined judicial review: environmental leadership transit projects.
2. SB 83 Allen Sea Level Rise Revolving Loan Program.
3. SB 343 Allen Environmental advertising: recycling symbol.
4. SB 433 Allen California Coastal Act of 1976: enforcement: penalties.
5. SB 643 Archuleta Fuel cell electric vehicle fueling infrastructure and fuel production: statewide assessment.
6. SB 1 Atkins Coastal resources: sea level rise.
7. SB 596 Becker Greenhouse gases: cement and concrete production.
8. ****SB 208** Dahle Sierra Nevada Conservancy: Sierra Nevada Region: subregion: definitions: annual report.
9. SB 804 Glazer California Conservation Corps: forestry training center: formerly incarcerated individuals: reporting.
10. SB 726 Gonzalez Alternative fuel and vehicle technologies: Sustainable Transportation Strategy.
11. SB 619 Laird Organic waste: reduction regulations.
12. SB 27 Skinner Carbon sequestration: state goals: natural and working lands: registry of projects.
13. SB 63 Stern Fire prevention: vegetation management: public education: grants: defensible space: fire hazard severity zones: forest management.

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

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

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 44 (Allen) – As Amended April 27, 2021

SENATE VOTE: 37-0

SUBJECT: California Environmental Quality Act: streamlined judicial review: environmental leadership transit projects

SUMMARY: Establishes expedited administrative and judicial review procedures under the California Environmental Quality Act (CEQA) for zero-emission, fixed guideway transit projects, requiring the courts to resolve lawsuits within 270 days, to the extent feasible.

EXISTING LAW:

- 1) CEQA requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA guidelines).
- 2) Authorizes judicial review of CEQA actions taken by public agencies, following the agency's decision to carry out or approve the project. Challenges alleging improper determination that a project may have a significant effect on the environment, or alleging an EIR doesn't comply with CEQA, must be filed in the Superior Court within 30 days of filing of the notice of approval. The courts are required to give CEQA actions preference over all other civil actions.
- 3) Pursuant to AB 900 (Buchanan), Chapter 354, Statutes of 2011, as reenacted by SB 7 (Atkins), Chapter 19, Statutes of 2021, establishes procedures for expedited judicial review (i.e., requiring the courts to resolve lawsuits within 270 days, to the extent feasible) for “environmental leadership development projects” certified by the Governor and meeting specified conditions, including Leadership in Energy and Environmental Design (LEED) Gold-certified infill site projects achieving transportation efficiency 15% greater than comparable projects and zero net additional greenhouse gas (GHG) emissions, clean renewable energy projects, and clean energy manufacturing projects. SB 7 sunsets these provisions on January 1, 2026.

THIS BILL:

- 1) Establishes expedited administrative and judicial review procedures under CEQA for an “environmental leadership transit project”, as defined, limiting public comments, requiring preparation of the record concurrently with the administrative process, and requiring the courts to resolve lawsuits challenging CEQA or other approvals within 270 calendar days from the date the certified record is filed with the court, to the extent feasible.
- 2) Defines “environmental leadership transit project” as a project to construct a fixed guideway and related fixed facilities that meets all of the following conditions:

- a) The fixed guideway operates at zero-emissions.
 - b) The project reduces greenhouse gases directly, without using offsets.
 - i) Requires projects more than two miles in length to reduce greenhouse gas (GHG) emissions by no less than 400,000 metric tons.
 - ii) Requires projects no more than two miles in length to reduce GHG emissions by no less than 50,000 metric tons.
 - c) The project reduces vehicle miles traveled (VMT) no less than 30 million miles.
 - d) The project is consistent with an applicable sustainable communities strategy or alternative planning strategy and applicable regional transportation plan.
 - e) The project applicant incorporates sustainable infrastructure practices as specified.
- 3) Requires contractors and subcontractors to pay to all construction workers employed in the execution of the project at least the general prevailing rate of per diem wages. Provides that this obligation may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to relevant provisions of the Labor Code, unless all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages and provides for enforcement through an arbitration procedure.
 - 4) Requires eligible projects to use a skilled and trained workforce, as defined, to perform all construction work on the project.
 - 5) Requires Judicial Council, on or before April 1, 2022, to adopt Rules of Court that require challenges to eligible projects, including any potential appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 calendar days of the filing of the certified record of proceedings with the court.
 - 6) Specifies procedures and deadlines for the administrative process and for concurrent preparation of the administrative record by the lead agency.

FISCAL EFFECT: According to the Senate Appropriations Committee, potential unknown cost pressure (General Fund) to the state-funded court system to process and hear challenges to the project's environmental review within the timeframes prescribed by the bill.

COMMENTS:

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

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

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

In 2011, AB 900 and SB 292 (Padilla), Chapter 353, Statutes of 2011, established expedited CEQA judicial review procedures for a limited number of projects. For AB 900, it was large-scale projects meeting extraordinary environmental standards and providing significant jobs and investment. For SB 292, it was a proposed downtown Los Angeles football stadium and convention center project achieving specified traffic and air quality mitigations. For these eligible projects, the bills provided for original jurisdiction by the Court of Appeal and a compressed schedule requiring the court to render a decision on any lawsuit within 175 days. This promised to reduce the existing judicial review timeline by 100 days or more, while creating new burdens for the courts and litigants to meet the compressed schedule. AB 900's provision granting original jurisdiction to the Court of Appeal was invalidated in 2013 by a decision in Alameda Superior Court in *Planning and Conservation League v. State of California*. AB 900 was subsequently revised to restore jurisdiction to superior courts and require resolution of lawsuits within 270 days, to the extent feasible. AB 900 sunset January 1, 2021.

In May, the Governor signed SB 7, an urgency measure to reenact and revise AB 900, with a Governor certification deadline of January 1, 2024, a lead agency approval deadline of January 1, 2025, and a sunset of January 1, 2026.

2) **Author's statement:**

SB 44 makes environmentally beneficial, zero-emission mass transit projects throughout California eligible for expedited CEQA review by the Superior Court. The sooner such transformative projects undergo CEQA, are built and begin operating, the faster they will significantly displace less efficient and more pollution-intensive regional trips taken by single passengers in private vehicles...An identified goal of environmental leadership projects has been to achieve a 15% or greater standard for transportation efficiency. It is vexingly incongruous that the law so far has not and still does not explicitly permit transit projects—which are designed to convey passengers from one place to another in a fast, efficient manner—to be eligible for certification. The 17 projects designated under prior law for expedited judicial treatment so far—although impressive—cannot deliver the magnitude of environmental benefits to Californians as is possible with a zero-emission transit project. Quick resolution of legal challenges to transit projects could speed up

construction by years...Each additional day roads are congested, and drivers take trips alone in their vehicles, massive quantities of carbon dioxide, NOx and diesel particulates are emitted throughout our state, often in some of the most polluted air basins in the country. There is exceptional merit in stipulating that large-scale, transformative regional transit projects be awarded a more certain, truncated timeline to undergo review by California's Superior Court.

- 3) **The LA Metro projects behind the bill.** In 2016, Los Angeles Mayor and Metro Board Chair Eric Garcetti announced a "Twenty-Eight by '28 Initiative" to highlight and accelerate construction projects for completion in advance of the 2028 Olympic and Paralympic Games. The 2028 Summer Olympics are currently scheduled to take place from July 21 to August 6, 2028 throughout the greater Los Angeles region.

According to Metro, "(t)he pillar projects must begin construction no later than calendar year 2023 to have a chance of completion and revenue operations by 2028. Staff continues to pursue a 2023 construction start; however, given the estimated completion date for the environmental process of several pillar projects, there continues to be risk that construction may begin at a later date."

According to the Los Angeles Olympics Organizing Committee, "the LA 2028 plan does not require building any new transit infrastructure." In fact, the city's bid to the International Olympic Committee explicitly provided that the region could accommodate the Olympic Games even if no future transportation projects were completed.

Four of the 28 projects—each identified as a high-priority, "pillar" project by Metro—would build new or extended fixed rail transit lines:

- a) Gold Line Eastside Extension Phase 2 – Metro's Gold Line light rail currently links East Los Angeles to Union Station before heading northward into the San Gabriel Valley. Metro plans to build a significant eastward extension of the line which currently terminates at Atlantic Station through a number of Eastern Los Angeles County communities all the way to Montclair, in Southwest San Bernardino County. Phase 2 of this extension would follow one of two alignments currently being studied—one of which would follow State Route 60 to South El Monte, and another which heads south into the City of Commerce and tracks Washington Boulevard into the City of Whittier.
- b) Green Line Extension to Torrance – The Green Line connects the City of Norwalk to Redondo Beach along a route which runs mostly in the median of Interstate 105. Metro is slated to extend the line southward from its current terminus at the Redondo Beach Marine Station to a regional transit center station in the City of Torrance. Two primary alignments are under consideration—one following the Metro-owned Harbor subdivision right-of-way, and another which would align the route further east with Hawthorne Boulevard and include a stop at the South Bay Galleria.
- c) Sepulveda Transit Corridor – The natural barrier created by the Santa Monica Mountains means that most passengers traveling between the San Fernando Valley, the Westside and Los Angeles International Airport (LAX) are funneled primarily through the Sepulveda Pass on Interstate 405, ranked as one of the most traveled urban highways in the nation. The Valley to Westside portion of Metro's ambitious Sepulveda Transit Corridor Project

has been identified as a candidate for potentially accelerated completion by the 2028 Olympic and Paralympic Games. (Though the author indicates this project will be a rail line, Metro has not determined that yet.)

- d) West Santa Ana Branch to Downtown L.A. – The West Santa Ana Branch Transit Corridor project is a new, 20-mile light rail transit line that would connect downtown Los Angeles to southeast Los Angeles County, serving the communities of Vernon, Huntington Park, Bell, Cudahy, South Gate, Downey, Paramount, Bellflower, and Cerritos. The vast majority of the alignment has been settled upon, however two different routes through downtown Los Angeles are still under consideration—one which terminates the line at Union Station, and another which travels through the downtown “core” and ends the line at the 7th Street/Metro Center Station.

In addition, the “fixed guideway” definition in this bill is intended to include a proposed privately-financed gondola from Union Station to Dodgers Stadium.

- 4) **Prior legislation.** This bill is similar to the final version of SB 757 (Allen), which was vetoed by the Governor last year because it was contingent on SB 995 (Atkins), which was not passed by the Senate before sine die adjournment of the 2019-2020 session.

When SB 757 was heard by this committee last August, the bill applied only to the four LA Metro rail projects listed above. The bill was amended in committee, then again on the floor, to apply more broadly to fixed guideway projects meeting specified conditions, including alternative GHG reduction standards for projects of two miles or less. The intent of these amendments was to permit the Dodgers Stadium gondola project to be eligible.

- 5) **Lost in translation?** While the scope of projects eligible under SB 44 is consistent with SB 757, SB 44 lacks several key conditions included in SB 757. These discrepancies may be attributable to the different drafting structure – SB 757 was drafted within the AB 900 chapter, and therefore included relevant conditions of AB 900, while this bill adds a new section that stands alone.

To make SB 44 consistent with SB 757, *the author and the committee may wish to consider* adding the following conditions:

- a) Require project approval by the lead agency by January 1, 2024.
- b) Sunset the section added by the bill on January 1, 2025.
- c) Require the applicant to demonstrate compliance with specified commercial recycling requirements.
- d) Require the applicant to enter into a binding and enforceable agreement that all mitigation measures required to certify the project shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency. Require the applicant to agree, as an ongoing obligation, that environmental mitigation measures will be monitored and enforced by the lead agency for the life of the obligation.

- e) Require the applicant to agree to pay the costs of the trial court and the court of appeal in hearing and deciding any case challenging a lead agency's action on a project, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council.
- f) Require the applicant to agree to pay the costs of preparing the record of proceedings for the project concurrent with review and consideration of the project under CEQA, in a form and manner specified by the lead agency for the project.

In addition, to provide Judicial Council a more reasonable time to adopt the rules of court required to implement the bill, and to make the adoption of those rules more consistent with the expected final approval of eligible projects and commencement of any litigation, *the author and the committee may wish to consider* extending the deadline for Judicial Council from April 1, 2022 to January 1, 2023.

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

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Councils of Governments
California State Association of Electrical Workers
California State Pipe Trades Council
California Transit Association
City of Inglewood
Los Angeles County Business Federation (BIZFED)
Monterey-Salinas Transit
Silicon Valley Leadership Group
State Building and Construction Trades Council of California
Western States Council Sheet Metal, Air, Rail and Transportation

Opposition

California Judges Association
Judicial Council of California (unless amended)
National Right to Work Committee
Western Electrical Contractors Association

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 83 (Allen) – As Amended May 20, 2021

SENATE VOTE: 35-2

SUBJECT: Sea Level Rise Revolving Loan Program

SUMMARY: Requires, upon appropriation, the Ocean Protection Council (OPC), in consultation with the State Coastal Conservancy (SCC), to develop the Sea Level Rise Revolving Loan Program (Program) to provide low-interest loans for the purchase of vulnerable coastal property, as specified.

EXISTING LAW:

- 1) Requires the California Coastal Commission to protect, conserve, restore, and enhance the state's coastal resources.
- 2) Authorizes the San Francisco Bay Conservation and Development Commission (BCDC), in coordination with local governments, regional councils of government, and other agencies and interested parties, to develop regional strategies for addressing the impacts of, and adapting to, the effects of sea level rise and other impacts of global climate change on the San Francisco Bay and affected shoreline areas.
- 3) Requires state agencies to take into account the current and future impacts of climate change when planning, designing, building, operating, maintaining and investing in state infrastructure.
- 4) Requires the Natural Resources Agency (NRA) to update its climate adaptation strategy, the Safeguarding California Plan (Plan), by July 1, 2017, and every three years thereafter, by coordinating adaptation activities among lead state agencies in each sector.
- 5) Establishes the Climate Ready Program to be administered by the SCC.
- 6) 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.
- 7) Protects, pursuant to the common law doctrine of the public trust (Public Trust Doctrine), the public's right to use California's waterways for commerce, navigation, fishing, boating, natural habitat protection, and other water-oriented activities. The Public Trust Doctrine provides that filled and unfilled tide and submerged lands and the beds of lakes, streams, and other navigable waterways (public trust lands) are to be held in trust by the state for the benefit of the people of California.
- 8) Requires the State Lands Commission (SLC) to be the steward and manager of the state's public trust lands. SLC has direct administrative control over the state's public trust lands

and oversight authority over public trust lands granted by the Legislature to local governments.

- 9) Requires a local trustee of granted public trust lands whose annual gross public trust revenues exceed \$250,000 to prepare and submit to the SLC an assessment of how it proposes to address sea level rise.

THIS BILL:

- 1) Defines “local jurisdiction” to mean a city, county, or resource conservation district (RCD) in which a vulnerable coastal property is located. Authorizes a county, RCD, or joint powers authority, which may include a state agency, to act as the local jurisdiction for a city or county upon implementation of a memorandum of understating between the two jurisdictions.
- 2) Requires the OPC, in consultation with the SCC, to develop the Program. Requires the Program to provide low-interest loans to local jurisdictions for the purchase of vulnerable coastal property in their jurisdictions.
- 3) Requires, before January 1, 2023, OPC, in consultation with the Office of Planning and Research, the Strategic Growth Council, the Commission, SLC, and the BCDC to do both of the following:
 - a) Adopt criteria and guidelines for the Program, including, but not limited to, all of the following:
 - i) Required conditions for coastal properties to be identified as vulnerable coastal properties;
 - ii) Specific information required to be included in a vulnerable coastal property plan created by a local jurisdiction in order to determine the risks of sea level rise and related risks to that community, including, but not limited to, flooding and erosion; and,
 - iii) Criteria, including existing applicable laws and other standards, to identify when a vulnerable coastal property is no longer habitable.
 - b) Post all criteria and guidelines on the OPC’s internet website.
- 4) Authorizes a local jurisdiction to apply for, and be awarded, a low-interest loan through the Program only if the local jurisdiction does the following:
 - a) Develops and submits to the SCC a vulnerable coastal property plan, as specified; and,
 - b) Other requirements imposed by the SCC.
- 5) Requires the SCC to review a vulnerable coastal property plan submitted by a local jurisdiction, and determine the plan meets the criteria and guidelines. Requires the SCC to approve or return the plan with an explanation of why the plan fails to meet the criteria.

- 6) Requires, if awarded a loan, a local jurisdiction must use the loan to purchase the vulnerable coastal property through a fair and transparent purchase process.
- 7) Prohibits the local jurisdiction from using eminent domain to acquire vulnerable coastal properties.
- 8) Establishes the Sea Level Rise Revolving Loan Fund (Fund), to be administered by the SCC, for purposes of providing low-interest loans to eligible local jurisdictions pursuant to the provisions of this bill.
- 9) Requires the California Infrastructure and Economic Development Bank to make specified recommendations regarding the successful administration of the Fund.
- 10) Authorizes the SCC to use the Fund, upon appropriation, for administrative costs incurred implementing the Program.
- 11) Makes the Program contingent upon appropriation by the Legislature.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) Ongoing cost pressure of \$907,000 annually (Fund) for the SCC to administer and oversee the program established by this bill.
- 2) One-time cost pressure of \$60,000 to \$80,000 and ongoing cost pressure of \$20,000 annually (Fund) for the Commission to provide input and coordinate with SCC on criteria and guidelines. While SCC would be required to also coordinate with other agencies, the Coastal Commission would likely be the most substantive participant given their existing regulatory authority and extensive work with local governments on sea level rise.
- 3) The OPC estimates that any cost pressure from this bill would be absorbable within existing programs.
- 4) Unknown, likely significant ongoing cost pressure to provide funding for the loans established under this program.
- 5) To the extent that this bill results in an increase or acceleration of adaptation activities, this bill could result in savings due to lowering the risk of loss or damage to state resources, mitigating potential negative impacts on the state economy, and avoiding some disaster response spending.

COMMENTS:

1) **Author's statement:**

California already faces grave impacts from climate change, which will only worsen as global temperatures climb and polar ice caps melt. As home to more coastal residents than any other state, California is uniquely vulnerable to the hazards posed by sea level rise, which has accelerated over the past decade. According to the Ocean Protection Council's Science Advisory Team, projections for sea levels are expected to increase. The coastline could experience a half-foot

rise by 2030, a two-foot rise by 2050, and surge up to a nine feet by 2100. The Legislative Analyst's Office estimates around \$8 billion to \$10 billion worth of existing properties in California are likely to be underwater by 2050.

Coastal communities have struggled to effectively prepare for sea level rise, grappling with controversial and costly options such as coastal armoring (seawalls), beach nourishment, and managed retreat. However, if California acts now to develop creative tools, we can be better prepared for advanced sea level rise impacts. SB 83 creates a revolving loan fund within the State Coastal Conservancy to provide low-interest loans to local governments. The loans would be used to buy properties that will be threatened in the next one or two decades, allowing the owners to sell while the property still has value. The local government can then rent out the property, repay the loan, and potentially earn additional revenue. Once the property is at risk of flooding from the rising sea, the property can be demolished without taxpayers bearing the cost.

- 2) **Sea level rise.** According to the Fourth Climate Change Assessment, California is one of the most “climate-challenged” regions of North America and must actively plan and implement strategies to prepare for and adapt to extreme events and shifts in previously “normal” averages. The report stated that climate change impacts are here, including the following:
 - a) Temperatures are warming, heat waves are more frequent, and precipitation has become increasingly variable.
 - b) Glaciers in the Sierra Nevada have lost an average of 70% of their area since the start of the 20th century.
 - c) The sea level along the central and southern California coast has risen more than 5.9 inches over the 20th century. Recently, even moderate tides and storms have produced extremely high sea levels—La Jolla's all time highest sea level occurred in November 2015 under a high astronomical tide and a moderate storm.

Climate risks in California include sea level rise, changes in precipitation that increase the risk of both drought and flooding, and increases in temperatures that can affect air quality and habitat.

While Climate scientists have developed a consensus that one of the effects of a warming planet is that global sea levels will rise. The degree and timing of sea level rise, however, is still uncertain, and depends in part, upon whether global greenhouse gas (GHG) emissions and temperatures continue to increase. The magnitude of sea level rise is projected to be about a half-foot in 2030 and as much as seven feet by 2100.

The potential changes in sea levels and coastal storms will impact both human and natural resources along the coast. These events will increase the risk of flooding and inundation of buildings, infrastructure, wetlands, and groundwater basins. A 2015 economic assessment by the Risky Business Project estimated that if current global GHG emission trends continue, between \$8 billion and \$10 billion of existing property in California is likely to be underwater by 2050, with an additional \$6 billion to \$10 billion at risk during high tide. A recent study by researchers from the U.S. Geological Survey (USGS) estimates that by 2100,

roughly 6 feet of sea level rise and recurring annual storms could impact over 480,000 California residents (based on 2010 census data) and \$119 billion in property value (in 2010 dollars). When adding the potential impacts of a 100-year storm, these estimates increase to 600,000 people and over \$150 billion of property value.

Rising seas will also erode coastal cliffs, dunes, and beaches—affecting shorefront infrastructure, houses, businesses, and recreation. The state’s Safeguarding California Plan cites that for every foot of sea level rise, 50 to 100 feet of beach width could be lost. Moreover, a recent scientific study by USGS researchers predicted that under scenarios of three to six feet of sea level rise—and absent actions to mitigate such impacts—up to two-thirds of Southern California beaches may become completely eroded by the year 2100.

In December 2019, the Legislative Analyst Office (LAO) released a report entitled “Preparing for Rising Seas: How the State Can Help Support Local Coastal Adaptation Efforts” which outlined the impacts and issues facing state, regional, and local government related to sea level rise. The report stated that “coastal adaptation activities can help lessen sea level rise impacts” and made several policy recommendations to plan and reduce sea level rise impacts.

Sea Level Rise also threatens the state’s infrastructure, such as water and transportation infrastructure, located within and near the coastal zone and in the BCDC’s jurisdiction. The OPC’s State of California Sea-Level Rise Guidance and the CCC’s Sea Level Rise Policy Guidance recommend evaluating the expected impacts to infrastructure caused by approximately 10 feet of sea level rise over the next 80 years, using what is known as the H++ scenario, along with other sea level rise scenarios. In addition, in May 2020, the CCC adopted “Making California’s Coast Resilient to Sea Level Rise: Principles for Aligned State Action” which recommends addressing a minimum of 3.5 feet of sea level rise in the next 30 years.

- 3) **Buy to rent.** Three options exist for adapting to sea level rise – build barriers for protection, adapt to accommodate regular or periodic flooding, or relocate assets out of the flood zone. Each of these options has trade-offs, and may not be feasible or practical in a given location. However, as the LAO noted, undertaking coastal adaptation and resilience activities is likely much less costly than avoiding or delaying action. The LAO cites the Federal Emergency Management Agency’s (FEMA’s) calculation that \$1 spent in various types of pre-disaster mitigation efforts avoids public and private losses of \$6 total. Action today may also provide for more time in the future to mount a more intensive response.

A few states have begun home buyout programs in certain coastal areas after experiencing severe or repeated flooding or extensive storm damage. For instance, after Hurricane/Superstorm Sandy, New Jersey established the “Blue Acres Program” in 2012 to dedicate state funds and leverage federal dollars to purchase at-risk homes. As of September 2019, this program has spent \$375 million to purchase and demolish almost 1,000 properties. Damage from Hurricane Sandy also resulted in New York purchasing 300 homes for \$120 million on Staten Island. Both of these examples used a combination of state and federal public funds. In North Carolina, a regional storm water service agency purchased 460 properties at a cost of \$67 million. Storm water fees financed this program almost entirely. Once frontline properties are purchased, residents are able to relocate to areas at lower risk of flooding or storm damage. The frontline areas can then be restored and managed to promote

resiliency and mitigate the impacts of future floods and storms. Since the 1980s, the Federal FEMA has funded over 43,000 buyouts, in which local or state governments purchase flood-damaged properties from willing sellers at pre-flood values and preserve the land as open space. But once a property is included in a request for FEMA funding, homeowners can be kept in limbo for years, waiting to find out if their homes will or won't be purchased. In the meantime, the home may flood—and be rebuilt—yet again.

The LAO noted that creative and innovative solutions could help address the risks posed by rising sea level. This bill provides a creative and innovative solution that could provide farmers of coastal agricultural land, hotel and motel owners, and possibly home owners an option to receive funding from a local jurisdiction now when the property could still be rented out to the owner or another tenant as part of a plan to transition the land to more appropriate uses as sea level rise increases.

This bill does not clearly define which vulnerable coastal properties would be eligible for loans and does not provide direction to the OPC on what factors to consider when determining eligibility. The author and committee *may wish to consider* amending the bill to outline some factors the OPC must consider when determining which properties are eligible for this Program. Factor should include, but not be limited to, the following:

- a) Whether the property will be able to generate enough revenue to repay the loan;
- b) The cost effectiveness of providing the property a loan;
- c) Whether the property is part of the implementation of a local or regional plan to address the impacts of sea level rise; and,
- d) The public benefits of buying the property.

If there is an appropriation for this bill, the SCC will be required to review a vulnerable coastal property plan submitted by a local jurisdiction and either approve or return the plan with specified comments. However, it is not clear how the SCC would handle a situation where it is appropriated a limited amount of money that is unable to keep up with demand for the program. The author and committee *may wish to consider* amending the bill to allow the OPC to consider its available resources when developing criteria and allowing the SCC to consider available resources when deciding to approve or return a plan. Finally, the author and committee *may wish to consider* allowing the SCC to pause the program when the Fund is diminished to a point where there is an insufficient balance to continue providing loans.

4) **Related/prior legislation.**

AB 897 (Mullen) requires OPR to facilitate the creation of regional climate networks and create standards for the development of a regional climate adaptation action plan to support the implementation of regional climate adaptation efforts. This bill is awaiting hearing in the Senate Environmental Quality Committee.

AB 1500 (E. Garcia) would, subject to approval by the voters in the June 7, 2022 primary election, authorize a \$7.08 billion general obligation bond to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat

mitigation, sea level rise, and workforce development programs. This bill has been referred to the Assembly Rules Committee.

SB 1 (Atkins) establishes the California Sea Level Rise Mitigation and Adaptation Act of 2021 (Act) and declares the purpose of the Act is to establish new planning, assessment, funding, and mitigation tools for California to address and respond to sea level rise. This bill requires the Commission to take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, mitigate the adverse effects of sea level rise. This bill is also scheduled to be heard in this committee on June 23.

SB 45 (Portantino) would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, subject to approval by the voters in the November 8, 2022 general election, would authorize the issuance of \$5.59 billion in general obligation bonds to finance projects for wildfire prevention, safe drinking water, sea level rise, drought preparation, and flood protection. This bill is on the Senate Floor.

SB 576 (Umberg), Chapter 374, Statutes of 2019, establishes the Climate Ready Program to be administered by the SCC. This bill 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.

REGISTERED SUPPORT / OPPOSITION:

Support

Banning Ranch Land Trust
California Coastal Commission
California Coastal Protection Network
City of Santa Monica
Coastwalk
Newport Banning Ranch, LLC
Sierra Club California
South Bay Cities Council of Governments
Surfrider Foundation
The Nature Conservancy

Opposition

None on file

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 343 (Allen) – As Amended June 14, 2021

SENATE VOTE: 31-6

SUBJECT: Environmental advertising: recycling symbol

SUMMARY: Requires the Department of Resources Recycling and Recovery (CalRecycle) to develop a statewide list of the types and forms of plastic products and packaging that are recyclable. Strengthens the requirements for the use of the “chasing arrows” recycling symbol.

EXISTING LAW:

- 1) Pursuant to the Environmental Representations Law:
 - a) Requires any person who represents in advertising or on a label that the consumer good it manufactures or distributes is not harmful to, or is beneficial to, the natural environment through the use of certain terms (e.g., “ecologically friendly,” “earth friendly,” “green product”) or any like term, to maintain in written form certain information and documentation supporting the validity of the representation. This information and documentation must be furnished to the public upon request.
 - b) Prohibits any person from making any untruthful, deceptive, or misleading environmental marketing claim, which includes any claim contained in the “Guides for the Use of Environmental Marketing Claims” published by the Federal Trade Commission (FTC).
 - c) Provides that any violation of these requirements is a misdemeanor punishable by imprisonment in the county jail not to exceed six months, or by a fine of no more than \$2,500, or both.
- 2) Finds and declares that it is the public policy of the state that environmental marketing claims, whether explicit or implied, should be substantiated by competent and reliable evidence to prevent deceiving or misleading consumers about the environmental impact of plastic products.
- 3) Requires CalRecycle, on or before January 1, 2021, to adopt regulations to establish a process and develop criteria for determining the types of food service packaging that are reusable, recyclable, or compostable.
- 4) Requires all rigid plastic bottles and containers sold in the state to be labeled with a code that indicates the resin type of their basic material. The code shall be placed inside a triangle, and letters indicating resin abbreviation shall be placed below the triangle.

THIS BILL:

- 1) Prohibits the sale, distribution, or import of a product or packaging into the state for which a deceptive or misleading claim about the recyclability of the product or packaging is made.

- 2) States that the use of the chasing arrows symbol, the chasing arrows symbol surrounding a resin identification code, or any other symbol or statement indicating recyclability is deemed to be deceptive or misleading unless CalRecycle has determined that the product or packaging is of a material type and form that is determined to be recyclable by CalRecycle. Specifies that this provision does not apply to the use of the chasing arrows symbol with a line through it at a 45-degree angle to convey that an item is not recyclable or to consumer goods that are required by federal or state law to display a chasing arrows symbol.
- 3) Requires, on or before January 1, 2023, CalRecycle to update the regulations relating to the recyclability, compostability, and reusability of food packaging to include the types and forms of plastic products and packaging for which a claim of recyclability, including through the use of chasing arrows, may be made. Requires CalRecycle to evaluate material types and forms that are accepted for recycling by a recycling service provider servicing a jurisdiction with greater than 1 million residents.
- 4) Requires, on or before January 1, 2023, CalRecycle to develop a list of material types and forms that it determines to be recyclable and requires CalRecycle to publish the list on its website within 90 days of adoption of the regulations.
- 5) In determining recyclability, requires the director of CalRecycle to consider:
 - a) Whether the material type and form is eligible to be labeled “recyclable” under the Environmental Representations Law;
 - b) Whether the material type and form is regularly collected, separated, and cleaned for recycling;
 - c) Whether the material type and form is regularly sorted and aggregated into defined streams for recycling processes;
 - d) Whether the material type and form is regularly processed and reclaimed or recycled with commercial recycling processes;
 - e) Whether the material type and form regularly becomes feedstock that is used in the production of new products; and,
 - f) Whether the material type and form is recycled in sufficient quantity, and is of sufficient quality, to maintain a market value.
- 6) Requires CalRecycle to update the list regularly, but at least every five years.
- 7) Establishes a process by which producers can submit a plan to have a material type and form added to the list.
- 8) Requires a person who uses the term “recyclable,” uses a chasing arrows symbol, or otherwise directs consumers to recycle a consumer good to maintain documentation that the consumer good meets all of the criteria for statewide recyclability. Specifies that this requirement does not apply to a consumer good that is required by federal or California law or regulation to display a chasing arrows symbol.

- 9) Defines “chasing arrows symbol” to mean an equilateral triangle, formed by three arrows curved at their midpoints, depicting a clockwise path, with a short gap separating the apex of each arrow from the base of the adjacent arrow, including variants of that symbol that are likely to be interpreted by consumers as an implication of recyclability.
- 10) Prohibits the use of a resin identification code inside a chasing arrows symbol unless the product has been determined to be recyclable in California.
- 11) Declares that it is the public policy of the state that claims related to recyclability of a plastic product be truthful in practice and accurate. Finds that consumers deserve accurate and useful information related to how to properly handle the end of life of a plastic product.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) Unknown costs, likely in the upper hundreds of thousands of dollars annually (special fund), for CalRecycle to promulgate regulations, develop and update a list to determine the material types and forms that are deemed recyclable, and to determine if a product or packaging is of a material type and form that is recyclable if the product or packaging is manufactured 90 days or more after the date the list is published or updated.
- 2) To the extent that this bill results in improved quality of the plastic recycling stream or more robust markets for recycled plastic, unknown potential cost savings to the Beverage Container Recycling Fund due to lower program payments to subsidize plastic recyclers.

COMMENTS:

1) **Author’s statement:**

In California, less than 15% of single-use plastic is recycled. Despite robust curbside recycling programs and decades of public education efforts, the vast majority of single-use items are used once and then landfilled, incinerated, or dumped into the environment. This dismal recycling rate is due to many factors, most notably a severe drop in the market for recycled material and the low cost of virgin petroleum.

Consumers dutifully fill their blue bins with items they believe are recyclable, which contaminate the recycling stream and make it more costly to sort and clean the truly recyclable material. The plastic resin identification coding (RIC) system, which classifies plastic types by numbers one through seven often displayed in the chasing-arrows symbol, further confuses consumers. The RIC system was designed as method for waste facilities to properly sort plastics. Most consumers simply see the chasing arrows and assume a product can be recycled. Manufacturers have used this confusion to their advantage by greenwashing unrecyclable products. Consumers need to know what is truly recyclable.

SB 343 will end consumer confusion about which material is suitable for the blue bin, reduce contamination, lower waste volume, and improve recycling rates. The measure expands the existing “Truth in Environmental Advertising” law that prohibits the use of the word “recyclable” on unrecyclable products to include the

use of the chasing-arrows symbol or any other suggestion that a material is recyclable, unless the material is actually recyclable in most California communities.

- 2) **Statewide Commission on Recycling Markets and Curbside Recycling Report.** The California Recycling Market Development Act [AB 1583 (Eggman), Chapter 690, Statutes of 2019] required CalRecycle to convene a Statewide Commission on Recycling Markets and Curbside Recycling to issue policy recommendations for achieving specified market development and waste reduction goals and to provide regular feedback to the department on public messaging designed to encourage proper recycling and to minimize contamination in curbside recycling programs. A preliminary policy report was published on January 1, 2021, proposing 19 different policies. One proposal, #15: “What is Recyclable?”, recommends that “residential and commercial recycling collection programs only collect material that is capable of being recycled through the collection and processing process.” This bill is consistent with this recommendation.
- 3) **Recycling labels.** The FTC broadly prohibits unfair and deceptive acts or practices in advertising. The FTC issues its “Green Guides” to help manufacturers make accurate environmental claims. The Green Guides specify that “a product or package should not be marketed as recyclable unless it can be collected, separated, or otherwise recovered from the waste stream through an established recycling program for reuse or use in manufacturing or assembling another item,” and “marketers should clearly and prominently qualify recyclable claims to the extent necessary to avoid deception about the availability of recycling programs and collection sites to consumers.” A Greenpeace USA survey of material recovery facilities found that hundreds of plastic products use misleading “recyclable” labels, based on what materials were actually recycled as of 2020.
- 4) **Wishful recycling.** It is often unclear to consumers what is and is not recyclable. According to the 2021 *State of Plastic Recycling: Steps Toward a Circular Economy* report commissioned by Hi-Cone, 75% of adults surveyed in Spain, Mexico, the United States, and the United Kingdom regularly recycle at home; however, 54% of respondents stated that they find recycling different plastics difficult to understand. Of those who don’t regularly recycle plastic, 80% stated that they would recycle more if they had better guidance about recycling and more recycling facilities. Unlike metal and glass, it is difficult for consumers to know which plastics are recyclable. Some consumers participate in “wish cycling” and toss most plastics into their recycling bin hoping that they will be recycled. Others give up attempting to sort plastics altogether because it is so hard to know what is accepted in their curbside program. Wish cycling, while well intentioned, adds to the cost of processing recycled materials as the non-recyclable materials have to be sorted out and disposed. When they are not able to be sorted, unrecyclable materials can contaminate the recycling stream and cause otherwise recyclable plastic to be disposed. When materials are simply disposed due to consumer confusion, highly recyclable materials like polyethylene terephthalate (PET) bottles are landfilled.

In California, rigid plastic bottles and containers are required to display an RIC inside of a triangle or a chasing arrows symbol. Consumers often assume this code means a package is automatically recyclable, but that is not the case. According to CalRecycle, only plastics with the code #1 for PET, used in water and soda bottles, and #2 high-density polyethylene (HDPE), used in milk jugs and shampoo bottles, are commonly recycled. Even other types

of products made from PET or HDPE are not readily recyclable in California, even though they are made from, and labeled as, the same resin type as more recyclable materials. The rest of the resin types #3-7 are generally not recycled. Most of the products made from these materials end up being sent to landfills or incinerated.

Recyclability is further complicated by multi-layered materials such as films, coatings, or labels. Dirty or soiled plastics are worth less due to extra cleaning costs and they can also contaminate paper waste if placed in the same bin.

The ways plastics are recycled are complex and vary by jurisdiction. What is recycled in one area of the state may not be recyclable in another. As of 2015, there were an estimated 161 Material Recovery Facilities (MRFs) statewide. According to a 2020 Recyclability Screening Survey of 76 California MRFs, plastic items made from resins #3-7 were accepted at a rate of 1-82% depending on the type of item. While all MRFs accepted PET and HDPE bottles and jugs, there was variability in other #1 and #2 resin items accepted, such as PET clamshells, cups and HDPE rigid containers. Regardless of what items are collected, the survey indicated that most of those materials are not separated into individual bales and ultimately recycled. According to Californians Against Waste, less than 15% of single-use plastic is recycled in the state.

CalRecycle is currently in the process of developing criteria for determining which materials that are uniformly recycled across the state are considered "recyclable" for food service packaging, as required by the Sustainable Packaging for the State of California Act (SB 1335, Allen, Chapter 610, Statutes of 2018). A list of approved recyclable packaging for SB 1335 will be published later this year.

- 5) **This bill.** This bill is intended to provide clarity to consumers about what is and isn't recyclable in California. This could help consumers make more educated decisions when purchasing products, as they would be able to see which products are recyclable prior to purchase, and provide guidance at the product's end of life so consumers can easily put it in the correct bin. This change may also result in lower processing costs for recyclables and cleaner recycled plastic if it reduces the amount of non-recyclable plastics that must be sorted out for disposal.

As noted above, currently only PET beverage containers and HDPE jugs are readily recyclable in California, which means that they are the only containers in the state that would qualify to use the chasing arrows symbol. However, other types of plastic, such as PET thermoforms (e.g., plastic clamshell containers) are becoming more recyclable. AB 478 (Ting), which is currently awaiting hearing in the Senate Environmental Quality Committee, would establish minimum recycled content requirements for plastic thermoforms sold or distributed in California. The labeling requirements in this bill may create challenges for collecting thermoforms for recycling if they cannot be labeled as recyclable. This bill attempts to address this challenge by allowing producers to submit a plan to CalRecycle detailing how and when a product type and form will meet the bill's criteria, and, if approved, add the new material type and form to the list that allows it to be labeled recyclable.

- 6) **Amendments.** The *committee may wish to adopt amendments* offered by the author to address some of the concerns raised by stakeholders.

- a) Extend, from 90 days to 18 months, the length of time producers have to comply with the labeling requirements.
 - b) Clarify that an RIC placed on a rigid plastic bottle or container as required by existing law is not a statement that the product is recyclable.
 - c) Specify that CalRecycle evaluate the list on or before January 1, 2027, and every five years thereafter.
 - d) Establish a timeline for CalRecycle’s review of a plan submitted by a producer and a process in the case that CalRecycle rejects a plan.
 - e) Make related technical and clarifying amendments.
- 7) **Double referral.** This bill has been double referred to the Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
 350 South Bay Los Angeles
 350 Ventura County Climate Hub
 Active San Gabriel Valley
 Algalita
 Alliance of Mission-based Recyclers
 Alliance of Nurses for Healthy Environments
 Asian Pacific Islander Forward Movement
 Ban Sup (Single Use Plastic)
 California Alliance of Nurses for Healthy Environments
 California League of Conservation Voters
 California Product Stewardship Council
 California Resource Recovery Association
 CALPIRG
 Center for Oceanic Awareness, Research, and Education
 City of Thousand Oaks
 Clean Water Action
 Climate Reality Project, San Fernando Valley
 Colorado Medical Waste, Inc.
 Container Recycling Institute
 County of Los Angeles
 Detroiters Working for Environmental Justice
 Ecology Center
 EDCO Disposal
 Environmental Working Group
 FACTS: Families Advocating for Chemical & Toxins Safety
 Friends Committee on Legislation of California
 Full Circle Environmental

Full Spectrum Strategy
Heal the Bay
Inland Ocean Coalition
League to Save Lake Tahoe
Linkco, Inc.
Marin Sanitary Service
Mariposa Eco Consulting, Inc.
Mendo Recycle
Merced County Regional Waste Management Authority
Ming's Recycling
Monterey Bay Aquarium Foundation
National Recycling Coalition
Natural Resources Defense Council
Northern California Recycling Association
Ocean Conservancy
Plastic Oceans International
Plastic Pollution Coalition
PreZero
RecycleSmart
Republic Services - Western Region
Republic Services, Inc.
Rethink Waste
Richard Watson & Associates, Inc.
Robin's Restaurant
San Gabriel Valley Council of Governments
Santa Barbara Standing Rock Coalition
Save Our Shores
Save the Albatross Coalition
Sea Hugger
Seventh Generation Advisors
Sierra Club California
Special Waste Associates
StopWaste
Story of Stuff
Surfrider Foundation
The 5 Gyres Institute
The Atrium
The Last Beach Cleanup
The Last Plastic Straw
The Nectary
Tri-CED Community Recycling
Turtle Island Restoration Network
UPSTREAM
Waste Management
Wishtoyo Chumash Foundation
Zanker Recycling
Zero Waste Marin
Zero Waste Sonoma
Zero Waste USA

Opposition (unless amended)

American Chemistry Council
American Institute for Packaging and Environment
California Food Producers
California Manufacturers & Technology Association
Californians for Recycling and the Environment
Consumer Brands Association
Consumer Technology Association
Flexible Packaging Association
Food Packaging Institute
Household and Commercial Products Association
National Aerosol Association
Personal Care Products Council
Pet Food Institute
Plastics Industry Association
Western Aerosol Information Bureau

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 433 (Allen) – As Amended May 3, 2021

SENATE VOTE: 36-2

SUBJECT: California Coastal Act of 1976: enforcement: penalties

SUMMARY: Extends the California Coastal Commission's (Commission) existing authority to impose administrative civil penalties for public access violations of the California Coastal Act of 1976 (Coastal Act) to all violations of the Coastal Act.

EXISTING LAW, pursuant to the Coastal Act:

- 1) Establishes the Commission in the Natural Resources Agency and requires the Commission to consist of 15 members (3 non-voting and 12 voting).
- 2) Requires a person planning to perform or undertake any development in the coastal zone to obtain a Coastal Development Permit (CDP) from the Commission or local government enforcing a Local Coastal Program (LCP).
- 3) Defines "development" to mean, among other things, the placement or erection of any solid material or structure on land or in water. "Structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.
- 4) Defines the "coastal zone" as the land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas, the coastal zone extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less. In developed urban areas, the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission (BCDC), nor any area contiguous thereto, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area.
- 5) Provides that any person who violates the Coastal Act may be held civilly liable by a superior court for development that is in violation of the Coastal Act, as specified, in an amount between \$500 and \$30,000. Authorizes a superior court to impose additional civil penalties for intentional and knowing violations of the Coastal Act between \$1,000 and \$15,000 per day for each day in which a violation persists, as provided. Specifies that in certain circumstances exemplary damages are allowed to be sought.
- 6) Requires the following factors to be considered in determining the amount of civil liability:
 - a) The nature, circumstance, extent, and gravity of the violation.

- b) Whether the violation is susceptible to restoration or other remedial measures.
 - c) The sensitivity of the resource affected by the violation.
 - d) The cost to the state of bringing the action.
 - e) With respect to the violator, any voluntary restoration or remedial measures undertaken, any prior history of violations, the degree of culpability, economic profits, if any, resulting from, or expected to result as a consequence of, the violation, as provided.
- 7) Authorizes the Commission to impose administrative civil penalties on a person, including a landowner, who is in violation of the public access provisions of the Coastal Act.

THIS BILL:

- 1) Extends the commission's existing authority to impose administrative civil penalties for public access violations of the Coastal Act to all violations of the Coastal Act.
- 2) Requires for violations of the Coastal Act other than public access, 60 days (rather than 30) are provided for a property owner to correct a violation prior to an administrative penalty being assessed.
- 3) Requires starting January 1, 2024, the Commission staff to prepare and present a written report annually to the Commission, as specified, that includes all of the following related to the implementation of this new authority:
 - a) The number and type of new violations investigated and identified that were reported in the previous year.
 - b) The number of violations resolved in the previous year, as specified.
 - c) The number of administrative penalties assessed and for how much, as specified, in the previous year.
 - d) The number of days from initial notice to resolution of the violations in the previous year, as specified.
- 4) Requires the Commission to provide the report described above to the relevant policy and budget committees in both houses of the Legislature.
- 5) Requires the Commission to provide an opportunity for a local government with a certified LCP to enforce violations of its building codes, as specified.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) The Commission estimates ongoing costs of \$50,000 in the first year and \$20,000-\$30,000 annually thereafter (special fund) to implement this bill.

- 2) Cost pressure of roughly \$1 - \$3 million annually (Violation Remediation Account) for the State Coastal Conservancy to spend the additional penalty revenues resulting from this bill.

COMMENTS:

1) **Author's statement:**

In 2014, the Commission was granted limited authority to issue administrative penalties for access violations. In the first five years of implementation, the Commission resolved 74 percent of such cases. The average time required to close a case shrank from three years to three months. The incentive was so strong that 95 percent of cases were closed with full voluntary cooperation. Alternatively, the Commission has no ability to levy fines for permit violations or unpermitted damage to wetlands, natural habitat, or coastal waters. If a developer, for example, undertakes unpermitted activities such as bulldozing wetlands, diverting, or discharging into coastal streams, or clearing endangered species habitat to build putting greens, there is little fear of consequences and the Commission has little recourse. Cases remain unresolved for years, allowing ongoing damage to public resources and costing hundreds of thousands of dollars annually in staff time and resources.

This demonstrates that threat of monetary penalties is the single most effective tool for quickly resolving violations without litigation. It also proves the Commission can work responsibly with landowners to achieve results for the benefit of the public. SB 433 builds on the Commission's existing, proven process that has worked so well for access violations.

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

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

According to the Commission's mission statement:

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

- 3) **Administrative penalties.** Numerous other state and local agencies currently have the authority to impose administrative civil penalties for violations of applicable code sections, including, but not limited to, BCDC, State Lands Commission, California Energy Commission, State Department of Health Services, California Air Resources Board, Regional Air Pollution Control Districts, the Oil Spill Response Administrator, State Water Resources Control Board, and Regional Water Quality Control Boards. However, the Commission went many decades without this authority. In 2014, after multiple tries, SB 861 (Committee on Budget and Fiscal Review), Chapter 35, Statutes of 2014, provided the Commission administrative penalty authority for public access violations.

In 2019, the Commission submitted a report to the Legislature summarizing the first five years of administrative penalty implementation for public access violations. The report showed that administrative penalty authority assisted the Commission in resolving public access violations. The report showed that the new authority increased the efficiency of the enforcement program in the following ways:

- a) Reduced average processing time for access violations from 1,073 days to 102 days, a reduction of 90%;
- b) Fully resolved 102 access violations in a 4-year period (75% of total violations);
- c) Voluntarily resolved 96 out of 102 violations (96%) with no penalty assessed due to an initial 30-day grace period which allows alleged violators to resolve their cases quickly without penalties;
- d) Resolved 6 out of 102 violations through consent orders with administrative penalties paid in agreement with the violator;
- e) Only 2 of 102 cases contested in litigation; and,
- f) Settled for \$8.8 million in both monetary and non-monetary penalties, including \$3.2 million for the Violation Remediation Account, which funds mitigation for the types of damage done.

Yet despite the added efficiency for access violations, the Commission has seen its backlogged caseload continue to swell. The Commission's six district enforcement analysts are responsible for over 2,600 open cases.

The Commission voted unanimously to support this bill. According to the Commission, "Full administrative penalty authority will help deter future violations, as well as speed remediation for long-standing cases. The last seven years of implementing public access penalties has demonstrated the effectiveness of the policy, as well as the Commission's judicious use of its authority. Commission staff makes every effort to facilitate voluntary compliance to avoid the need for penalties."

This bill adds some requirements that the Commission's public access administrative civil penalties authority does not have. Many of the additional requirements provide more time and due process related to the imposition of administrative civil penalties, and are reasonable for the Commission to adhere to when pursuing administrative civil penalties. However, one

condition that requires the Commission to provide an opportunity for a local government with a certified LCP to enforce violations of its building codes is unclear. What opportunity is the Commission providing if the local government can already enforce their building codes?

4) **Related legislation.**

AB 500 (Ward) requires housing opportunities for persons of low and moderate income to be protected, encouraged, and, where feasible, provided by the Coastal Act. This bill requires, no later than January 1, 2024, specified local governments within the coastal zone to adopt specified LCP amendments related to accessory dwelling units and supportive housing projects. This bill is awaiting hearing in the Senate Natural Resources and Water Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Audubon California
 California Coastal Protection Network
 California Coastkeeper Alliance
 California Native Plant Society
 Coastal Environmental Rights Foundation
 Coastwalk
 Defenders of Wildlife
 Environmental Action Committee of West Marin
 Environmental Center of San Diego
 Environmental Defense Center
 Environmental Protection Information Center
 Friends Committee on Legislation of California
 Friends of Del Norte
 Friends of Harbors, Beaches and Parks
 National Parks Conservation Association
 Natural Resources Defense Council
 Ocean Defenders Alliance
 Preserve Calavera
 San Diego Audubon Society
 Sea and Sage Audubon Society
 SF Bay Physicians for Social Responsibility
 Sierra Club California
 Surfrider Foundation
 Tolowa Dunes Stewards
 Unite Here Local 11
 WILDCOAST

Opposition

None on file

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 643 (Archuleta) – As Amended May 20, 2021

SENATE VOTE: 39-0

SUBJECT: Fuel cell electric vehicle fueling infrastructure and fuel production: statewide assessment

SUMMARY: Requires the Air Resources Board (ARB) to prepare a statewide assessment of the fuel cell electric vehicle fueling infrastructure and fuel production needed to support the adoption of zero-emission trucks, buses, and off-road vehicles.

EXISTING LAW:

- 1) AB 2127 (Ting), Chapter 365, Statutes of 2018, requires the California Energy Commission (CEC) to assess the amount of electric vehicle infrastructure needed to meet the goals of putting at least five million zero-emission vehicles (ZEVs) on the road and reducing greenhouse gas (GHG) emissions 40 percent below 1990 levels by 2030.
- 2) AB 8 (Perea), Chapter 401, Statutes of 2013, requires, from 2014 to 2024, an annual evaluation by ARB of the need for additional publicly available hydrogen-fueling stations and requires an annual allocation by the CEC of \$20 million to fund the number of stations identified by ARB, until there are at least 100 publicly available hydrogen-fueling stations in operation in California.

THIS BILL:

- 1) Requires ARB, in consultation with the CEC and the Public Utilities Commission (PUC), to prepare a statewide assessment of the fuel cell electric vehicle fueling infrastructure and fuel production needed to support the adoption of zero-emission trucks, buses, and off-road vehicles at levels necessary for the state to meet the goals and requirements of Executive Order No. N-79-20 and any ARB regulatory action that requires or allows zero-emission vehicles in the heavy-duty vehicle and off-road sectors.
- 2) Requires the assessment to:
 - a) Consider all necessary fuel production and distribution infrastructure.
 - b) Examine existing and future fuel production and distribution infrastructure needs throughout the state.
 - c) List synergies and estimate the potential for hydrogen to contribute to emissions reductions across sectors.
 - d) Consider the process for creating hydrogen and include an evaluation of the ability of

hydrogen to enable a more renewable grid, provide grid services, decarbonize hard-to-electrify industries and remote locations, contribute to microgrids, and improve energy resilience.

- 3) Requires ARB to regularly seek data and input relating to fuel cell electric vehicle fuel production and fueling infrastructure from the PUC, the CEC, and interested stakeholders.
- 4) Requires ARB to complete the statewide assessment by December 31, 2023 and update the statewide assessment at least once every two years.
- 5) Sunsets January 1, 2030.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- Ongoing costs of about \$800,000 each year for the first two years and roughly \$400,000 annually thereafter (Greenhouse Gas Reduction Fund) to prepare and update an assessment.
- Minor and absorbable costs to the PUC and the CEC to consult with ARB.

COMMENTS:

- 1) **Background.** On September 23, 2020, Governor Newsom signed Executive Order (EO) N-79-20, which established a goal that 100 percent of California sales of new passenger car and trucks be zero-emission by 2035. In addition, the Governor's order set a goal to transition all drayage trucks to zero-emission by 2035, all off-road equipment to zero-emission where feasible by 2035, and the remainder of medium- and heavy-duty vehicles to zero-emission where feasible by 2045. Under the order, ARB is tasked to work with other state agencies to develop regulations to achieve these goals taking into account technological feasibility and cost effectiveness.

On June 26, 2020, ARB adopted the Advanced Clean Truck rule, a first-of-its-kind regulation requiring medium- and heavy-duty truck manufacturers to transition to ZEVs. Beginning in 2024, ARB will require manufacturers' new truck sales in California to be comprised of a certain percentage of ZEVs. For example, 9 percent of the largest classes of trucks in model year 2024 must be zero-emission and that percentage must increase to 75 percent by 2035.

On November 24, 2020, ARB released an updated draft Mobile Source Strategy that demonstrates how California can determine the pathways forward for the various mobile sectors that are necessary in order to achieve California's numerous goals and targets over the next 30 years. The 2020 Strategy intends to maximize the criteria pollutant reductions by going to zero-emission where feasible. Specifically, the 2020 Strategy calls for the deployment of approximately 1.4 million medium- and heavy-duty ZEVs in California by 2045.

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

To meet our climate goals, California needs to adequately plan and implement hydrogen technologies. This bill tasks the Air Resources Board, in consultation with the California Energy Commission and Public Utilities Commission to prepare a statewide assessment of the fueling infrastructure and fuel production needed to support the adoption of zero-emission trucks, buses, and off-road vehicles.

3) Prior legislation:

AB 2127 (Ting), Chapter 365, Statutes of 2018, requires the California Energy Commission (CEC) to assess the amount of electric vehicle (EV) infrastructure needed to meet the goals of putting at least five million zero-emission vehicles (ZEVs) on the road and reducing greenhouse gas (GHG) emissions 40 percent below 1990 levels by 2030.

AB 8 (Perea), Chapter 401, Statutes of 2013, requires, from 2014 to 2024, an annual evaluation by ARB of the need for additional publicly available hydrogen-fueling stations and requires an annual allocation by the CEC of \$20 million to fund the number of stations identified by ARB, until there are at least 100 publicly available hydrogen-fueling stations in operation in California.

- 4) **Double referral.** This bill has been double referred to the Assembly Transportation Committee.

REGISTERED SUPPORT / OPPOSITION:**Support**

Western States Hydrogen Alliance (sponsor)
Advanced Structural Technologies
Alaska Applied Sciences
Ballard Fuel Cell Systems
Golden Gate Zero Emission Marine
GTA
Longitude 122 West
Millennium Reign Energy
Natural Hydrogen Energy
Neo-H2
Next Hydrogen
Sacramento Metropolitan Air Quality Management District
T2M Global
Taylor Wharton America
The Protium Company
U.S. Hybrid Corporation
Ventura County Air Pollution Control District

Opposition

None on file

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 1 (Atkins) – As Amended March 23, 2021

SENATE VOTE: 33-5

SUBJECT: Coastal resources: sea level rise

SUMMARY: Establishes the California Sea Level Rise Mitigation and Adaptation Act of 2021 (Act) and declares the purpose of the Act is to establish new planning, assessment, funding, and mitigation tools for California to address and respond to sea level rise. Requires the California Coastal Commission (Commission) to take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, mitigate the adverse effects of sea level rise.

EXISTING LAW:

- 1) Requires the Commission to protect, conserve, restore, and enhance the state's coastal resources.
- 2) Authorizes the San Francisco Bay Conservation and Development Commission (BCDC), in coordination with local governments, regional councils of government, and other agencies and interested parties, to develop regional strategies for addressing the impacts of, and adapting to, the effects of sea level rise and other impacts of global climate change on the San Francisco Bay and affected shoreline areas.
- 3) Requires state agencies to take into account the current and future impacts of climate change when planning, designing, building, operating, maintaining, and investing in state infrastructure.
- 4) Requires the Natural Resources Agency (NRA) to update its climate adaptation strategy, the Safeguarding California Plan (Plan), by July 1, 2017, and every three years thereafter, by coordinating adaptation activities among lead state agencies in each sector.
- 5) Establishes the Climate Ready Program to be administered by the State Coastal Conservancy (SCC).
- 6) Requires the Ocean Protection Council (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.
- 7) Protects, pursuant to the common law doctrine of the public trust (Public Trust Doctrine), the public's right to use California's waterways for commerce, navigation, fishing, boating, natural habitat protection, and other water-oriented activities. The Public Trust Doctrine provides that filled and unfilled tide and submerged lands and the beds of lakes, streams, and other navigable waterways (public trust lands) are to be held in trust by the state for the benefit of the people of California.

- 8) Requires the State Lands Commission (SLC) to be the steward and manager of the state's public trust lands. SLC has direct administrative control over the state's public trust lands and oversight authority over public trust lands granted by the Legislature to local governments.
- 9) Requires a local trustee of granted public trust lands whose annual gross public trust revenues exceed \$250,000 to prepare and submit to the SLC an assessment of how it proposes to address sea level rise.
- 10) Establishes the Environmental Justice (EJ) Small Grant Program under the jurisdiction of the California Environmental Protection Agency (CalEPA) to provide grants (limited to \$50,000 per grant and \$1.5 million annually for the program) to eligible community groups that are located in areas adversely affected by environmental pollution and hazards that are involved in work to address environmental justice issues.
- 11) Defines disadvantaged communities (DACs) as areas disproportionately affected by environmental pollution or hazards that lead to negative public health effects or environmental degradation, or as 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) Declares as a basic goal of the state in the coastal zone to anticipate, access, plan for, and, to the extent feasible, minimize and mitigate the adverse environmental and economic effects of sea level rise.
- 2) Requires the Commission to take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, mitigate the adverse effects of sea level rise.
- 3) Requires state and regional agencies to identify, assess, and, to the extent feasible and consistent with their statutory authorities, minimize and mitigate the impacts of sea level rise.
- 4) Requires the Commission to adopt, after a public hearing, procedures related to Local Coastal Programs (LCPs) that provide recommendations and guidelines to incorporate new information as it becomes available, for the identification, assessment, minimization, and mitigation of sea level rise.
- 5) Establishes the Act and declares the purpose of the Act is to establish new planning, assessment, funding, and mitigation tools for California to address and respond to sea level rise.
- 6) Establishes within the OPC the California Sea Level Rise State and Regional Support Collaborative (Collaborative).
- 7) Requires the OPC, as the Collaborative, to coordinate with the other state planning and coastal management agencies, including, but not limited to, the Office of Planning and Research (OPR), the Strategic Growth Council, the SLC, the Commission, BCDC, to administer the grants consistent with their statutory authority.

- 8) Requires the Collaborative to provide state and regional information to the public and support to local, regional, and other state agencies for the identification, assessment, planning, and, where feasible, mitigation of the adverse environmental, social, and economic effects of sea level rise with the coastal zone and jurisdiction of BCDC.
- 9) Requires, upon appropriation, the Collaborative to expend not more than \$100 million annually from appropriate bond funds and other sources for purposes of making grants to local governments to update local and regional land use plans to take into account sea level rise, and for investments to implement those plans.
- 10) Requires priority to be given to those local governments that have agreed most effectively and urgently to plan for and implement actions to address sea level rise.
- 11) Requires the Secretaries of NRA and CalEPA to annually appear before the budget committees of both houses of the Legislature regarding implementation of the Act.
- 12) Increases the maximum amount of money that can be awarded under the EJ Small Grant program from \$1.5 to \$2 million dollars, and mandates that not more than \$500,000 be given to organizations working to address and mitigate sea level rise in DACs.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) Ongoing cost pressure of up to \$100 million annually (bond funds, special funds, or General Fund) for grants to local governments to update land use plans to account for sea level rise and implement those plans. Of this amount, roughly five percent would be needed by the NRA to administer the grant program.
- 2) OPC estimates minor costs that would be absorbable under existing programmatic priorities.
- 3) Ongoing cost pressure of \$500,000 (special fund) to provide increased funding for the EJ Small Grants Program up to the higher limit proposed by this bill.
- 4) CalEPA estimates minor and absorbable costs to oversee the increased funding for the EJ Small Grants Program.
- 5) As currently written, this bill could require the Commission to adopt individual recommendations and guidelines for each one of the 126 local coastal plans statewide, which—if even administratively possible—would have significant unknown ongoing costs. However, if the Commission were required only to adopt one set of recommendations and guidelines for all local coastal programs, the cost would be negligible.
- 6) To the extent that this bill results in accelerated adaptation activities, unknown but likely very significant state cost savings due to lowering the risk of loss or damage to state resources, mitigating potential negative impacts on the state economy, and avoiding some disaster response spending.

COMMENTS:

1) **Author's Statement:**

Sea level rise is an immediate and proximate threat to coastal regions of California. The non-partisan Legislative Analyst's Office (LAO) estimates that California could experience up to 7 feet of rise by 2100, having massive impacts on the state's lands, economy, and physical environment. The LAO further states that waiting too long to initiate adaption efforts likely will cost the state and its economy billions of dollars.

Addressing sea level rise is a joint responsibility among local governments, regional and state agencies. Local governments in the coastal zone oversee land use decisions, but are also subject to the California Coastal Act, which requires the development and adoption of local coastal programs which must be reviewed and approved by the Commission. Other public agencies – such as councils of government, regional housing and transportation agencies, and state oceans and resources agencies – all have a piece of jurisdiction over lands and infrastructure affected by sea level rise.

SB 1 (Atkins) enacts the first comprehensive sea level rise program in state government to assess and mitigate sea level rise and to assist local governments and communities in their response to the inevitable challenge of sea level rise.

SB 1 does three things: First, it directs the Commission to take into account sea level rise in its coastal planning, development, and mitigation efforts. Second, the bill establishes an inter-agency collaborative overseen jointly by the Secretaries of CalEPA and the NRA to help provide local and regional planning and mitigation strategies for sea level rise. Third, the measure would make public funding available both for local sea level rise planning efforts, and for community outreach and education for disadvantaged communities along the coast.

- 2) **Sea Level Rise.** According to the Fourth Climate Change Assessment, California is one of the most “climate-challenged” regions of North America and must actively plan and implement strategies to prepare for and adapt to extreme events and shifts in previously “normal” averages. The report stated that climate change impacts are here, including the following:
- a) Temperatures are warming, heat waves are more frequent, and precipitation has become increasingly variable.
 - b) Glaciers in the Sierra Nevada have lost an average of 70% of their area since the start of the 20th century.
 - c) The sea level along the central and southern California coast has risen more than 5.9 inches over the 20th century. Recently, even moderate tides and storms have produced extremely high sea levels—La Jolla's all time highest sea level occurred in November 2015 under a high astronomical tide and a moderate storm.

Climate risks in California include sea level rise, changes in precipitation that increase the risk of both drought and flooding, and increases in temperatures that can affect air quality and habitat.

Climate scientists have developed a consensus that one of the effects of a warming planet is that global sea levels will rise. The degree and timing of sea level rise, however, is still uncertain, and depends in part upon whether global greenhouse gas (GHG) emissions and temperatures continue to increase. The magnitude of sea level rise is projected to be about one-half foot in 2030 and as much as seven feet by 2100.

The potential changes in sea levels and coastal storms will impact both human and natural resources along the coast. These events will increase the risk of flooding and inundation of buildings, infrastructure, wetlands, and groundwater basins. A 2015 economic assessment by the Risky Business Project estimated that if current global GHG emission trends continue, between \$8 billion and \$10 billion of existing property in California is likely to be underwater by 2050, with an additional \$6 billion to \$10 billion at risk during high tide. A recent study by researchers from the U.S. Geological Survey (USGS) estimates that by 2100, roughly 6 feet of sea level rise and recurring annual storms could impact over 480,000 California residents (based on 2010 census data) and \$119 billion in property value (in 2010 dollars). When adding the potential impacts of a 100-year storm, these estimates increase to 600,000 people and over \$150 billion of property value.

Rising seas will also erode coastal cliffs, dunes, and beaches—affecting shorefront infrastructure, houses, businesses, and recreation. The state’s Safeguarding California Plan cites that for every foot of sea level rise, 50 to 100 feet of beach width could be lost. Moreover, a recent scientific study by USGS researchers predicted that under scenarios of 3 to 6 feet of sea level rise—and absent actions to mitigate such impacts—up to two-thirds of Southern California beaches may become completely eroded by the year 2100.

In December 2019, the Legislative Analyst Office released a report entitled “Preparing for Rising Seas: How the State Can Help Support Local Coastal Adaptation Efforts” which outlined the impacts and issues facing state, regional, and local government related to sea level rise. The report stated that “coastal adaptation activities can help lessen sea level rise impacts” and made several policy recommendations to plan and reduce sea level rise impacts.

Sea Level Rise also threatens the state’s infrastructure, such as water and transportation infrastructure, located within and near the coastal zone and in the BCDC’s jurisdiction. The OPC’s State of California Sea-Level Rise Guidance and the CCC’s Sea Level Rise Policy Guidance recommend evaluating the expected impacts to infrastructure caused by approximately 10 feet of sea level rise over the next 80 years, using what is known as the H++ scenario, along with other sea level rise scenarios. In addition, in May 2020, the CCC adopted “Making California’s Coast Resilient to Sea Level Rise: Principles for Aligned State Action” which recommends addressing a minimum of 3.5 feet of sea level rise in the next 30 years.

- 3) **This bill.** As stated above, this bill does three things. The first is to update the Coastal Act to reflect the 21st Century reality that sea level rise should be informing coastal management decisions made by the Commission and all other relevant state agencies. According to the Commission, these provisions are consistent with the Commission’s past actions and ongoing programmatic efforts to avoid, minimize, and mitigate the negative impacts of sea level rise. BCDC’s (the management agencies for the Bay Area) statutes have already been updated to affirm their authority to address sea level rise.

The second thing this bill does is establish the Collaborative within the OPC to provide information, support and grants to local governments to plan for and address sea level rise. The bill also requires the Collaborative to coordinate with specified agencies to administer the grants. The bill limits the amount of grants to not more than \$100 million annually. The coordination between state agencies will be necessary because there are already some state efforts to address sea level rise at other state agencies. Currently, the SCC has a Climate Ready Program, which has awarded over \$12 million for 62 projects to adapt to the impacts of climate change. The Commission manages a Local Assistance Grant Program to support the completion and updates of LCPs. Over the last seven years, the Commission has awarded \$8.3 million to local governments seeking to include sea level rise policies in their LCPs. The Governor's May Revision proposes providing OPC with \$100 million a year for two years for coastal wetland restoration. The Governor also proposed \$25 million in funding over two years to OPR for planning grants related to climate adaptation, including adaptation to sea level rise. This bill does not establish eligibility for the kind of projects that could be included in the local and regional plans, which grants could be provided to implement. However, the bill does require the Collaborative to prioritize those local governments that have agreed most effectively and urgently to plan for and implement actions to address sea level rise. The bill would only allow grants for local governments and does not define what the term local government means, therefore, it is unclear whether regional governments would be eligible. Presumably, these details would be decided by the Collaborative. The bill also does not have the Collaborative coordinate with the other state agencies on the type of information and support it would provide. Finally, it is unclear what level of support would be provided to local, regional, and state agencies. If this bill is signed into law, OPC would likely decide the level of support to be provided and then submit a budget change proposal for the resources needed to provide it. Hopefully, OPC would be able to respond to questions from local and regional governments and provide technical assistance on the development of plans and projects funded by this bill.

The final thing this bill does is increase the annual amount CalEPA can provide for grants to address environmental justice issues and requires that the increase to be used for grants to organizations working to address and mitigate the effects of sea level rise in disadvantaged communities.

- 4) **Amendments.** The author and committee *may wish to consider* the following amendments:
 - a) Require the Collaborative to coordinate with specified state agencies on information and support it provides;
 - b) Clarify that support includes technical assistance to local governments to develop plans and projects;
 - c) Authorize the Collaborative to provide grants to regional governments; and,
 - d) Other clarifying amendments.
- 5) **Related/prior legislation.**

AB 897 (Mullen) requires OPR to facilitate the creation of regional climate networks and create standards for the development of a regional climate adaptation action plan to support the implementation of regional climate adaptation efforts. This bill is awaiting hearing in the Senate Environmental Quality Committee.

AB 1500 (E. Garcia) would, subject to approval by the voters in the June 7, 2022 primary election, authorize a \$7.08 billion general obligation bond to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, sea level rise, and workforce development programs. This bill has been referred to the Assembly Rules Committee.

SB 83 (Allen) requires, upon appropriation, the OPC, in consultation with the SCC, to develop the Sea Level Rise Revolving Loan Program to provide low-interest loans for the purchase of vulnerable coastal property, as specified. This bill is also scheduled to be heard in this Committee on June 23.

SB 45 (Portantino) would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, subject to approval by the voters in the November 8, 2022 general election, would authorize the issuance of \$5.59 billion in general obligation bonds to finance projects for wildfire prevention, safe drinking water, sea level rise, drought preparation, and flood protection. This bill is on the Senate Floor.

SB 576 (Umberg), Chapter 374, Statutes of 2019, establishes the Climate Ready Program to be administered by the SCC. This bill 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.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Humboldt: Grass Roots Climate Action
American Planning Association, California Chapter
Azul
California Association of Zoos & Aquariums
California Coastal Commission
Community Action Partnership of San Bernardino County
Community Nature Connection
East Bay Municipal Utility District
League of California Cities
Midpeninsula Regional Open Space District
Nextgen California
Plug in America
Silicon Valley Democratic Club
Surfrider Foundation
The Nature Conservancy

Opposition

Association of California Cities - Orange County
City of Newport Beach

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 596 (Becker) – As Amended June 16, 2021

SENATE VOTE: 31-9

SUBJECT: Greenhouse gases: cement and concrete production

SUMMARY: Requires the Air Resources Board (ARB) to develop a comprehensive strategy for the state's cement sector to achieve net-zero greenhouse gas (GHG) emissions associated with cement used within the state as soon as possible, but not later than December 31, 2045.

EXISTING LAW, pursuant to the California Global Warming Solutions Act of 2006:

- 1) Requires ARB to approve a statewide GHG emissions limit equivalent to the statewide GHG emissions level in 1990 to be achieved by 2020 and to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030.
- 2) Requires ARB to prepare and approve a Scoping Plan for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions and to update the Scoping Plan at least every five years.
- 3) Requires ARB when adopting regulations, to the extent feasible and in furtherance of achieving the statewide GHG emissions goal, to do the following:
 - a) Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities.
 - b) Ensure that activities pursuant to the regulations do not interfere with efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions.
 - c) Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health.
 - d) Consider cost-effectiveness of these regulations.

THIS BILL:

- 1) By December 21, 2022, requires ARB to develop a comprehensive strategy for the state's cement sector to achieve net-zero GHG emissions associated with cement used within the state as soon as possible, but not later than December 31, 2045. Requires the strategy to be part of, or in coordination with, the Scoping Plan.
- 2) Requires ARB to establish interim targets for reductions in the GHG intensity of cement used within the state relative to the average GHG intensity of cement used within the state during

2019. Establishes a goal to reduce the GHG intensity of cement used within the state to 40% below the 2019 average levels by December 31, 2035, as specified.

- 3) By July 1, 2028, requires ARB to evaluate the feasibility of achieving the interim targets and may propose to adjust the interim targets, as specified. If the ARB proposes to adjust the interim targets downward, requires it to submit a report to the Legislature recommending measures and actions necessary to achieve net-zero GHG emissions.
- 4) In developing the comprehensive strategy, requires ARB to:
 - a) Define a metric for GHG intensity and evaluate the data submitted by cement manufacturing plants for the 2019 calendar year and other relevant data about GHG emissions for cement that was imported in to the state to establish a baseline.
 - b) Assess the effectiveness of existing measures, identify any modifications to existing measures, and evaluate new measures to overcome the market, statutory, and regulatory barriers to achieving the goals of the bill.
 - c) Prioritize actions that reduce adverse air quality impacts and support economic and workforce development in communities neighboring cement plants.
 - d) Include provisions to minimize and mitigate potential leakage and account for embedded GHG emissions in imported cement in a similar manner to GHG emissions for cement produced in the state.
 - e) Coordinate and consult with other state agencies, districts, and experts in academia, industry, and public health, and with local communities.
 - f) Prioritize actions that leverage state and federal incentives, where applicable, to reduce costs of implementing GHG emissions reduction technologies and processes and to increase economic value for the state.
 - g) Evaluate measures to support market demand and financial incentives to encourage the production and use of cement with low GHG intensity, including, but not limited to, consideration of the following:
 - i) Measures to expedite the adoption for use in projects by state agencies;
 - ii) Measures to provide financial support and incentives for research, development, and demonstration of technologies to mitigate GHG emissions from the production of cement with the objective of accelerating industry deployment of those technologies;
 - iii) Measures to facilitate fuel switching; and,
 - iv) Measures to create incentives and remove obstacles for energy efficiency improvements and waste heat recovery at cement manufacturing facilities.
- 5) States related legislative findings and declares the intent of the Legislature that attaining net-zero or net-negative GHG emissions from the cement and concrete sector in a manner that enhances California's competitiveness, supports high-paying jobs, improves public health,

and aligns with local community priorities becomes a pillar of the state's strategy for achieving carbon neutrality.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

SB 596 is about reducing [GHG] emissions from the cement and concrete sector in California. Concrete and its main ingredient, cement, are vital to our economy for building roads, bridges, buildings, and even the infrastructure used to make renewable energy. In fact, concrete is the most widely used building material in the world. Unfortunately, cement is also a major source of GHGs, accounting for about 7% of global CO₂ emissions, and it is the second largest industrial source of GHG emissions in the state, behind only oil refineries. Since we are unlikely to stop using concrete and cement, it is very important that we figure out how to transition to making it with far less impact on our climate.

The good news is that technologies and processes exist for achieving large reductions in emissions from concrete and cement. These technologies have not been deployed at scale, though, because we don't have the right policies in place to encourage emissions reductions and create demand for low carbon building products. The cement industry is a willing partner in achieving these goals, as long as the state can create a supportive policy environment and address barriers that exist today. The California Nevada Cement Association published a paper in March of this year affirming the industry's commitment to achieving carbon neutrality by 2045 and identifying pathways for achieving it, but also pointing out areas where legislative and regulatory changes are needed to unlock those pathways.

This bill aims to create the right supportive policy environment to achieve that goal of carbon neutrality by 2045, with interim targets to spur near term action and a goal of a 40% reduction from 2019 levels by 2035. It directs the Air Resources Board to develop a strategy for achieving these targets and to adopt the necessary regulatory measures to drive demand for low-carbon materials and to create incentives for reducing emissions while protecting producers who do so from unfair competition from out-of-state producers who are not subject to the same rules. This is an opportunity to put one of our "hard-to-decarbonize" industries on a path toward a carbon neutral future.

- 2) **Concrete and Cement.** Concrete is a mixture of cement (a binder usually made from lime or calcium silicate), aggregates (sand, rock, etc.), water, and air. Cement is made by grinding clinker, an intermediary nodular material produced from heating limestone and clay in a rotary kiln to around 2700 °F. Most of the energy used in cement manufacturing is in clinker production. The remaining emissions come from quarrying, transporting, and preparing the other raw materials. In a typical mix, cement represents 10-15% of the material by volume but 80-90% of the life cycle CO₂ emissions for the concrete.

California is the second largest cement producing state, accounting for 10-15% of the cement production and industry employment in the US in 2009. As of 2019, there were eight cement plants in California and more than 300 concrete manufacturing plants. Most of the cement used in California is produced in state. Cement and clinker production is expected to increase significantly in California as the population and economy grow.

- 3) **Cement GHG Emissions.** Cement accounts for 1.8% of the California's GHG emissions and 7% of CO₂ emissions worldwide. It is often referred to as one of the most "hard to abate" industrial sectors. Cement plants are the largest consumer of coal in the state. In 2015, 51% of fuel combustion and energy for California's cement industry came from coal while 12% came from electricity. Due to the high heat required, full electrification is difficult. GHG emissions decreased 20% between 2000 and 2015, mainly due to a decrease in production; however, they have slowly been rising again. According to an Energy Innovation Report, California won't meet 2030 GHG emission reduction goals unless heavy industry like cement producers reduce their emissions. The report notes that this would require plant retrofits, major changes to infrastructure, and would likely lean heavily on technologies that haven't yet been deployed at scale in California, like carbon capture and storage. According to a 2019 report, *California's Cement Industry: Failing the Climate Challenge*, published by Global Efficiency intelligence, an environmental consulting firm, California cement industry had the second highest CO₂ emissions intensity among the countries studied, and 57% higher than that of the cement industry in China, due in part to a higher clinker-to-cement ratio.
- 4) **Decarbonizing Cement.** Approximately 40% of the GHG emissions from making cement are from energy use (for heating and driving the processing) and 60% from the chemical reaction that occurs when limestone is heated at high temperatures to make cement, known as "process emissions."

The California Nevada Cement Association has stated its commitment to achieving carbon neutrality by 2045. According to a report published by the Association, *Achieving Carbon Neutrality in the California Cement Industry: Key Barriers & Policy Solutions*, the industry's most significant challenge to reaching this goal is reducing process emissions. The report identifies four "levers" to reduce these emissions: a) Increasing the use of portland limestone cement; b) Carbon capture utilization and storage; c) Achieve a 70% clinker ration through the addition of alternative raw materials; and, d) Increase the use of alternative cements and clinkers. All of these changes pose regulatory and technological challenges, from acceptance of portland limestone cement by the California Department of Transportation and infrastructure constraints to developing new technologies to for alternative cements and clinkers. In addition to these four levers, the report also identifies the need to reduce combustion emissions by expanding the use of cleaner fuels like natural gas and waste- and biomass-derived fuels, and increasing distributed electricity generation.

- 5) **Community Impacts.** Cement kilns release numerous harmful pollutants, including nitrogen oxides, sulfur dioxide, and particulate matter. Research shows that local air pollution from cement kilns is both damaging to the environment and causes numerous adverse health effects, including heart and lung disease. Communities near cement kilns, especially low-income communities, which often include communities of color and children, bear the brunt

of these health issues. California is home to eight cement plants, many of which are concentrated in the Inland Empire and Eastern Kern County, which have poor air quality.

In 2019, the Lehigh Cement Company reached a settlement for alleged violations of the federal Clean Air Act. As part of the settlement, Lehigh has to invest \$12 million in pollution control technology at 11 of their cement manufacturing plants, 3 of which are in California.

- 6) **Suggested amendment.** This bill requires ARB to evaluate the feasibility of interim targets, but requires ARB to “propose to adjust” the targets upward or downward and to report specified information to the Legislature if they propose to adjust a target downward. *The committee may wish to amend the bill* to allow ARB to adjust the interim targets based on the evaluation and to report the specified information to the Legislature if the adjustment is downward.

7) **Related/prior legislation.**

AB 1365 (Bonta) would require the Department of General Services to establish a maximum acceptable global warming potential for concrete, as specified, and require an awarding authority to require an environmental product declaration prior to the installation of any concrete products. This bill has been referred to this committee.

AB 966 (Bonta, 2019) would have required the state’s cement plants to submit a facility-specific Environmental Product Declaration to ARB to disclose the environmental impacts of the plant. AB 966 was held in the Assembly Appropriations Committee.

AB 1452 (Skinner, 2009) would have required ARB to develop and adopt limitations on GHG emissions that result from the production of all cement sold in the state. AB 1452 was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
 350 Humboldt: Grass Roots Climate Action
 Acterra
 Alameda County Democratic Party
 Benisol, LLC
 Blue Planet
 California Democratic Party Environmental Caucus
 California League of Conservation Voters
 California Nevada Cement Association
 Climate Youth Ambassador Program
 Coalition for Clean Air
 Coalition for Sustainable Cement Manufacturing and Environment
 Environmental Entrepreneurs
 Greentown Los Altos
 Harker Green Team
 Menlo Spark

Mothers Out Front Silicon Valley
Natural Resources Defense Council
Project Green Home
San Diego County Democrats for Environmental Action
Sierra Club California
Silicon Valley Democratic Club
Silicon Valley Youth Climate Action
Sunnyvale Cool
Sunnyvale Democratic Club
Sustainable Rossmoor
The American Institute of Steel Construction & the National Steel Bridge Alliance
The Climate Center
Union of Concerned Scientists
Unitarian Universalist Church of Palo Alto, Green Sanctuary Committee

Opposition

None on file

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 208 (Dahle) – As Amended April 6, 2021

SENATE VOTE: 39-0

SUBJECT: Sierra Nevada Conservancy: Sierra Nevada Region: subregion: definitions: annual report

SUMMARY: Expands the boundaries of the Sierra Nevada Conservancy (SNC) to include additional specified watersheds within Siskiyou, Shasta, and Trinity Counties and redefines the North Sierra subregion. Requires SNC to make recommendations to the Legislature on potential changes to its subregions, board, and name to reflect the new boundaries of the SNC.

EXISTING LAW:

- 1) Defines the Sierra Nevada Region (region) as the area lying within the Counties of Alpine, Amador, Butte, Calaveras, El Dorado, Fresno, Inyo, Kern, Lassen, Madera, Mariposa, Modoc, Mono, Nevada, Placer, Plumas, Shasta, Sierra, Tehama, Tulare, Tuolumne, and Yuba, with specific geographic boundaries in each county specified.
- 2) Establishes the SNC, which is tasked with nine specific purposes including increasing tourism and recreational opportunities, protecting the region's resources, and balancing environmental preservation with local residents' economic well-being.
 - a) Requires the governing board to consist of thirteen voting members and three nonvoting liaison advisors. Six voting members are required to be from each of the six subregions in the Sierra Nevada, selected by representatives from the county boards of supervisors in each subregion. Three members appointed by the Governor, one member appointed by the Speaker of the Assembly, and one member appointed by the Senate Committee on Rules representing statewide interests.
 - b) Requires an additional three nonvoting liaison advisors representing the National Park Service, the US Forest Service, and the US Bureau of Land Management.
 - c) Requires an additional two members of the Senate, appointed by the Senate Committee on Rules, and two members of the Assembly, appointed by the Speaker of the Assembly, to meet with the SNC and participate in its activities. Specifies one appointee from each house of the Legislature represents at least a portion of the SNC boundary and one appointee from each house shall represent a district from outside the SNC boundary.
- 3) Establishes the Sierra Nevada Watershed Improvement Program (WIP) to protect, conserve, and restore the health and resilience of watersheds and communities in the region, as defined. Requires the SNC to include the activities of the WIP in its annual report.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) Unknown but potentially significant cost pressure (bond funds or General Fund) to fund new projects or expand existing projects in the additional SNC territory.
- 2) SNC estimates costs of \$125,000 to \$450,000 ongoing (General Fund) and a need for 1-3 positions to provide support to the newly added counties and cover increases in workload that may result from expanded partnerships and projects.
- 3) Cost pressure of roughly \$125,000 one-time (General Fund) to develop new communications materials, website content, and other materials should the name of SNC be changed as a result of the recommendations made per this bill's directions.
- 4) To the extent that this bill improves the state's management of source watersheds and forest health, unknown but potentially significant savings due to reduced risk of severe wildfire, invasive species and pests, and degradation to water supply and quality.

COMMENTS:

1) **Author's statement:**

I'm pleased to be adding portions of Siskiyou, Shasta and Trinity Counties under the Sierra Nevada Conservancy. The conservancy has a superior reputation for proper management of one of states most important resources, our headwaters. By having all these headwaters under one local agency, it will give more opportunities to expand important forest management projects as well as meadow restoration projects to ensure that we continue to have healthy forests and a robust headwaters system to ensure all Californian's have fresh clean water to drink and safe forests to visit.

- 2) **Background.** The SNC is a California state agency created by bi-partisan legislation and signed into law in 2004. The SNC was created with the understanding that the environmental, economic, and social well-being of the Sierra Nevada and its communities are closely linked and that the region and the State of California would benefit from an organization providing a strategic direction. The Sierra Nevada covers about 25% of California's land area and is the state's principal watershed. The SNC provides funding and technical assistance for local projects and supports collaborative projects in partnership with local government, nonprofit organizations, and tribal entities. Activities supported by SNC include, but are not limited to, aiding in the preservation of working landscapes, reducing the risk of natural disasters such as wildfire, protecting and improving water and air quality, assisting the Regional economy, enhancing public use and enjoyment of lands owned by the public, providing increased opportunity for tourism and recreation in the region; and protecting, conserving, and restoring the region's physical, cultural, archaeological, historical, and living resources. SNC's programs are financed by the California Environmental License Plate Fund; the Federal Trust Fund, Proposition 84 (2006), The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coast Protection Bond Act, Proposition 1 (2014), Proposition 68 (2014), and the Timber Regulation and Forest Restoration Fund. In 2019, the SNC awarded \$36 million for 62 new projects.

On January 8, 2021, the Governor's Budget proposed \$1 billion to support the Forest Management Task Force's Wildfire and Forest Resilience Action Plan; the plan included early action items and an extension of the SB 901 funding commitment for five years. In April, the wildfire early action expenditure plan contained in SB 85 (Committee on Budget and Fiscal Review), Chapter 14, Statutes of 2021, appropriated \$536 million to 15 different state agencies for fire prevention activities. The SNC received \$20 million in the early action funding.

- 3) **Westward expansion.** Since the SNC's inception, the Legislature has not significantly expanded its territory. Existing law divides SNC into six sub-regions, as follows:
- a) North Sierra, which includes Lassen, Modoc, and Shasta Counties;
 - b) North Central Sierra, which includes Butte, Plumas, Sierra, and Tehama Counties;
 - c) Central Sierra, which includes El Dorado, Nevada, Placer, and Yuba Counties;
 - d) South Central Sierra, which includes Amador, Calaveras, Mariposa, and Tuolumne Counties;
 - e) East Sierra, which includes Alpine, Inyo, and Mono Counties; and,
 - f) South Sierra, which includes Fresno, Kern, Madera, and Tulare Counties.

This bill would expand SNC's boundaries to add the western sections of the Pit watershed not currently included in SNC's territory, as well as the Trinity, Upper Sacramento, and McCloud watersheds. The bill would also redefine the North Sierra subregion to include Siskiyou and Trinity Counties. The SNC has already funded important work in portions of Shasta County, including a fire break that lessened the devastation caused by the 2018 Camp Fire in Paradise.

This expansion would cover all of California's source watersheds, which comprise the forests, meadows, and streams that supply water to California's major reservoirs. This includes the Feather, Pit, McCloud, Upper Sacramento, and Trinity watersheds, which supply the Oroville, Shasta, and Trinity reservoirs. SNC's territory currently includes the Feather watershed and much of the Pit watershed. The Legislature has previously targeted the watersheds in this bill through planning requirements in AB 2551 (Wood), Chapter 638, Statutes of 2018. This plan, when finished, could inform SNC's activities to systematically address forest and watershed health challenges in these watersheds.

4) **Previous legislation.**

SB 989 (Dahle), 2020, was almost identical to SB 208. This bill was held in the Assembly Appropriations Committee.

AB 2849 (M. Stone), Chapter 499, Statutes of 2018, creates the WIP in statute; updates the definitions for tribal organizations; and, includes geographic specifications for SNC appointments.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Water Agencies
California Association of Resource Conservation Districts
Rural County Representatives of California
Sierra Business Council
Siskiyou County Board of Supervisors
Siskiyou Outdoor Recreation Alliance
The Nature Conservancy

Opposition

None on file

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 804 (Glazer) – As Amended May 20, 2021

SENATE VOTE: 38-0

SUBJECT: California Conservation Corps: forestry training center: formerly incarcerated individuals: reporting

SUMMARY: Requires the Director of the California Conservation Corps (CCC), upon appropriation and on or before December 31, 2023, in partnership with the Department of Forestry and Fire Protection (CAL FIRE) and the Department of Corrections and Rehabilitation (DCR), to establish a forestry training center in northern California to provide enhanced training, education, work experience, and job readiness for entry-level forestry and vegetation management jobs.

EXISTING LAW:

- 1) Establishes the CCC in the Natural Resources Agency and requires the CCC to implement and administer the conservation corps program.
- 2) Directs CCC program activities, including the management of environmentally important lands and water, public works projects, facilitating public use of resources, assistance in emergency operations, assistance in fire prevention and suppression, energy conservation, and environmental restoration.
- 3) Authorizes the director to recruit and enroll corps members and special corps members to contribute to the objectives of the program, including the Energy Corps, the Backcountry Trails Program, the Veterans Corps Fishery Program, the Watershed Stewards Program, and the Forestry Corps Program.
- 4) Requires the CCC to establish a Forestry Corps Program. Specifies the following as Forestry Corps Program objectives:
 - a) Develop and implement forest health projects;
 - b) Establish forestry corps crews;
 - c) Provide assistance to corps members to obtain forestry and forest technician degrees and certificates;
 - d) Train corps members to operate forestry equipment; and,
 - e) Create pathways from the corps to degree programs and jobs and authorizes the director of the CCC to pursue partnerships with community colleges, trade associations, forest and timber industries, vocational education institutions, and apprenticeship programs to accomplish program goals.
- 5) Requires the CCC to establish four forestry corps crews in specified areas.

- 6) Establishes, upon appropriation, the Education and Employment Reentry Program within the CCC and authorizes the director to enroll formerly incarcerated individuals, as specified.

THIS BILL:

- 1) Requires the Director of CCC (Director), upon appropriation and on or before December 31, 2023, in partnership with CAL FIRE and DCR, to establish a forestry training center in northern California to provide enhanced training, education, work experience, and job readiness for entry-level forestry and vegetation management jobs.
- 2) Requires the training center to focus on forestry and include additional specified supportive services.
- 3) Requires the Director to enroll formerly incarcerated individuals at the training center and prioritizes enrollment for those formerly incarcerated individuals who have done either of the following:
 - a) Successfully served on a CCC program crew and were recommended by CAL FIRE and DCR; or,
 - b) Successfully served on a hand crew at the county level and were recommended for participation by county probation and county fire departments.
- 4) Authorizes the Director to enroll corps members and local community conservation corps members at the training center if funding and resources allow.
- 5) Specifies that successful completion of a training program at the training center constitutes qualifying experience for an entry-level forestry or vegetation management position at a state agency.
- 6) Requires, commencing December 31, 2023, and annually thereafter, the CCC to include in an existing report specified information related to the training center that could be established by this bill, the existing Ventura Training Center (VTC), and other programs used to exclusively serve formerly incarcerated individuals.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) CCC estimates one-time capital outlay costs of about \$65 million (General Fund or bond funds) to construct a new residential center.
- 2) CCC estimates ongoing costs of approximately \$5.8 million (General Fund) annually to operate a new residential facility. The CCC notes that \$5.8 million is the cost to operate a typical residential center that supports 80 traditional corps members.
- 3) DCR estimates ongoing costs of roughly \$2 million annually (General Fund), which is the cost for DCR activities at the VTC. DCR notes that as the program is developed, its Division of Adult Parole Operations may identify additional fiscal impact, and that costs are still largely unknown and dependent on program size.
- 4) Unknown costs, likely in the low millions of dollars annually (General Fund), for CAL FIRE to support the new training center. CAL FIRE stated that it is not analyzing this bill and that no CAL FIRE costs have been identified at this time. However, staff notes that the state

budget provides CAL FIRE with \$2 million annually (General Fund) to support the VTC, which is the model utilized for the training center in this bill. Staff believes that the costs of this bill for CAL FIRE would be similar to that of its costs related to the VTC.

- 5) Unknown, likely significant ongoing costs (General Fund) for CCC to meet the additional reporting requirements.

COMMENTS:

1) **Author's statement:**

This legislation would create a center to train formerly incarcerated people in forestry management, thereby reducing the risk of deadly wildfires, while offering these qualified individuals a pathway to gainful employment. One way to reduce the devastation of wildfires is to proactively engage in forestry and vegetation management, including brush clearing. One of the greatest obstacles to this practice, however, is a lack of a trained workforce. This bill seeks to fill that void by establishing a program where graduates would be eligible for an entry-level forestry positions throughout the state.

- 2) **Corps.** The CCC, established by Governor Brown during his first term in 1976, is the oldest and largest state conservation corps program in the country. It is modeled after the 1930s Civilian Conservation Corps. The CCC's motto is "Hard work, low pay, miserable conditions ... and more!" Since the CCC creation, it has provided over 11 million hours of emergency response for nearly every major California natural disaster including floods, fires, and earthquakes.

Although the CCC was originally conceived as a labor source for trail maintenance and restoration, it has evolved to a workforce development program. Corps members learn skills, such as forestry management, energy auditing and installation, emergency services management, and firefighting. Many corps members also receive their high school diplomas and industry certifications at the conclusion of their service. The CCC provides health care (including mental health) to all of its members. More than 120,000 young adults have participated in the CCC.

Approximately 3,000 corps members apply each round for the 1,529 available corps member slots. Across California, the CCC operates 24 centers; nine are residential where corps members live on-site. CCC's residential centers house more than 600 corps members. Corps members must be California residents between the ages of 18 and 25.

- 3) **Ventura Training Center.** CAL FIRE, CCC, and DCR created a firefighter training and certification program at the VTC in Camarillo. Trainees are people on parole who participated in the Conservation Camp Program. VTC provides firefighter training, certifications, and job readiness support to create a pathway for formerly incarcerated individuals to compete for entry-level firefighting jobs with state, federal and local agencies. VTC participants are trained and available to assist in fire suppression, emergency incident response and to perform fire prevention and resource management work. Onsite counselors help participants develop skills to successfully reintegrate into the community. Services include employment skill assessments, money management, technology training, tutoring, career planning, and searching and applying for jobs.

A maximum of 80 cadets are housed at VTC at any one time. The program enrolled 21 cadets in the first year and 45 in the second year. The average age was 32-34. The CCC and its VTC partners have not released outcomes data yet for this program.

- 4) **Is this bill necessary?** The CCC has broad authority to enroll formerly incarcerated people as regular corps members or in its programs. AB 2126 (Eggman), Chapter 635, Statutes of 2018, established the Forestry Corps, which already has crews in northern California. In addition, AB 1668 (Carrillo), Chapter 587, Statutes of 2019, created the Education and Employment Reentry Program to train formerly incarcerated people. Like this bill, AB 1668 was upon appropriation, but never received an appropriation and therefore has not trained anyone. Rather than create yet another program at CCC it may make more sense to expand one of the existing programs or provide the CCC more funding through the budget process to do so. In addition, the CCC uses its broad authority to provide workforce development and education services to formerly incarcerated individuals and is exploring other opportunities to create training centers for this population in other areas of the state. The CCC could create a training center in northern California without this bill.
- 5) **Double referral.** The bill has also been referred to the Assembly Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

American Forest Foundation
East Bay Municipal Utility District
Humboldt Redwood Company, LLC

Opposition

None on file

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 726 (Gonzalez) – As Amended June 16, 2021

SENATE VOTE: 31-6

SUBJECT: Alternative fuel and vehicle technologies: Sustainable Transportation Strategy

SUMMARY: Requires the Air Resources Board (ARB) and the California Energy Commission (CEC), in coordination with specified state agencies, to jointly develop a Sustainable Transportation Strategy (Strategy) focused on achieving greenhouse gas (GHG) and criteria pollutant emissions reductions in the transportation sector. Revises the CEC's Clean Transportation Program (CTP) to increase focus on clean air and equity investments.

EXISTING LAW:

- 1) The federal Clean Air Act and its implementing regulations set National Ambient Air Quality Standards (NAAQS) for six criteria pollutants, designate air basins that do not achieve NAAQS as nonattainment, and require states with nonattainment areas to submit a State Implementation Plan (SIP) detailing how they will achieve compliance with NAAQS.
- 2) Establishes the ARB as the air pollution control agency in California and requires the ARB, among other things, to control emissions from a wide array of mobile sources and coordinate with local air districts to control emissions from stationary sources in order to implement the Clean Air Act.
- 3) Designates ARB as the state agency charged with monitoring and regulating statewide greenhouse gas (GHG) emissions, and requires ARB to ensure that GHG emissions are reduced to at least 40 percent below the 1990 level by December 31, 2030.
- 4) Requires ARB to prepare and approve a scoping plan at least once every five years for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions from sources or categories of sources of GHGs.
- 5) Requires ARB, in consultation with the Department of Transportation (Caltrans), CEC and the Governor's Office of Business and Economic Development (GO-Biz), to update ARB's 2016 mobile source strategy to include a comprehensive strategy for the deployment of medium- and heavy-duty vehicles for the purpose of bringing the state into compliance with NAAQS and reducing GHG emissions.
- 6) Establishes the Alternative and Renewable Fuels and Vehicle Technology Program (Clean Transportation Program, or CTP), to be administered by the CEC, to develop and deploy technologies and alternative and renewable fuels to help attain the state's climate change policies. The CTP is funded by vehicle and vessel registration, vehicle identification plates, and smog-abatement fees that provide up to \$100 million annually for grants, revolving loans, loan guarantees, and other financial assistance to accelerate the development and deployment of low carbon alternative fuels and technologies. The fees that fund CTP sunset January 1, 2024.

THIS BILL:

- 1) Requires ARB and the CEC, in coordination with the Public Utilities Commission, GO-Biz, Caltrans, the California Transportation Commission, and the Department of General Services, to jointly develop the Strategy by January 1, 2024 to identify the plans, actions, and required funding needed to reach the state's transportation GHG emissions and criteria pollutant reduction goals in a cost-effective and efficient manner.
- 2) Requires the Strategy to identify overall GHG emissions and criteria pollutant reduction goals for the transportation sector, and the sustainable transportation goals and programs that are intended to achieve those emissions reductions goals. For each identified goal or program, requires the Strategy to:
 - a) Describe the current state of deployment.
 - b) Develop deployment goals to meet the emissions reductions goals and so that the success of the goal or program can be measured.
 - c) Identify any existing implementation barriers and propose deployment strategies, specifically by considering deployment strategies in low-income, disadvantaged, and disproportionately emissions-overburdened communities.
 - d) Identify the programs, funding sources and levels, and appropriate regulatory mandates which, through their collective implementation, would result in meeting overall emission reduction goals.
- 3) Requires the Strategy to include a roadmap to achieve the goal of 100 percent of in-state sales of new passenger cars and trucks being zero emission by 2035, and 100 percent of medium- and heavy-duty vehicles in California being zero emission by 2045 where feasible and for all drayage trucks to be zero emission by 2035.
- 4) Requires the Strategy to be equity focused and prioritize investments for market penetration and investments that will support low-income and disproportionately emissions-overburdened communities.
- 5) Requires the deployment goals and strategies developed for goal and program to be adopted by each state agency involved in developing the Strategy.
- 6) Requires ARB, as part of the 2026 update to the mobile source strategy, to consider the Strategy and authorizes ARB to include any portion of the Strategy in the mobile source strategy.
- 7) Requires ARB, as part of the 2027 update to the AB 32 scoping plan, to consider the overall GHG emissions reduction goal for the transportation sector identified in the Strategy.
- 8) Requires the Governor to identify and appoint one key lead agency to steer the coordination of zero-emission vehicle (ZEV) deployment across state agencies and to implement the ZEV component of the Strategy.

9) Revises the CTP to focus on reducing criteria air pollutants and air toxics, in addition to the current focus on climate change, and requires the CEC to ensure the CTP supports specified clean transportation, equity, air quality, and climate goals.

10) Requires the CEC, beginning with the 2022–2025 CTP investment cycle, to:

a) Ensure program investments support all of the following:

i) Annually increasing deployment of infrastructure and other projects that advance or support the deployment of medium- and heavy-duty vehicles.

ii) Annually increasing deployment of light-duty vehicle infrastructure technology to fill identified deployment gaps.

iii) Multiyear market development strategies.

b) Expend at least 50 percent of CTP funds on programs and projects that directly benefit or serve residents of disadvantaged and low-income communities and low-income Californians, and at least 50 percent of the funds for tangible location-based investments in disadvantaged and low-income communities.

c) Prioritize projects that do the following:

i) Provide non-state matching funds.

ii) Provide economic benefits for California by promoting California-based technology firms, jobs, and businesses, especially in disadvantaged communities.

iii) Transition workers to, or promotes employment in, the alternative and renewable fuel and vehicle technology sector.

iv) Provides GHG and criteria air pollutant reductions in areas classified as nonattainment pursuant to the federal Clean Air Act, with priority given to the highest designation of nonattainment in descending order.

11) Makes related findings.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- ARB estimates ongoing costs of \$1.5 million annually (Greenhouse Gas Reduction Fund [GGRF]) to jointly develop a Sustainable Transportation Strategy by January 1, 2024, that identifies GHG and criteria pollutant emission reduction goals for the transportation sector. ARB would additionally be tasked to consider the strategy as a part of the 2026 update to the mobile source strategy and the 2027 update to the scoping plan.
- CEC estimates costs of \$150,000 (Alternative and Renewable Fuel and Vehicle Technology Fund) to support one position either limited-term or ongoing depending on whether the strategy is one-time or updated on a periodic basis, which is not clear from this bill.

- Minor costs for other departments to consult with ARB and CEC to develop the strategy.

COMMENTS:

- 1) **Background.** On September 23, 2020, Governor Newsom signed Executive Order (EO) N-79-20, which established a goal that 100 percent of California sales of new passenger car and trucks be zero-emission by 2035. In addition, the Governor's order set a goal to transition all drayage trucks to zero-emission by 2035, all off-road equipment to zero-emission where feasible by 2035, and the remainder of medium- and heavy-duty vehicles to zero-emission where feasible by 2045. Under the order, ARB is tasked to work with other state agencies to develop regulations to achieve these goals taking into account technological feasibility and cost effectiveness.

On November 24, 2020, ARB released an updated draft Mobile Source Strategy that demonstrates how California can determine the pathways forward for the various mobile sectors that are necessary in order to achieve California's numerous goals and targets over the next 30 years. The 2020 Strategy intends to maximize the criteria pollutant reductions by going to zero-emission where feasible. Specifically, the 2020 Strategy calls for the deployment of approximately 1.4 million medium- and heavy-duty ZEVs in California by 2045.

Led by GO-Biz, the ZEV Market Development Strategy is an ongoing collaborative effort to accelerate large scale, affordable, and equitable ZEV market development to achieve the state's ZEV goals.

ARB's most recent updated climate change scoping plan was released in November 2017. The scoping plan included GHG emissions from numerous sectors including transportation, industrial, electricity generation, commercial and residential, agriculture, high global warming potential GHGs, and recycling and waste. In 2018, total GHG emissions from these sources totaled 425.3 million metric tons of carbon dioxide equivalent, with transportation making up 41 percent of the total.

AB 118 (Núñez, Chapter 750, Statutes of 2007) originally established the CTP, which was reauthorized by AB 8 (Perea, Chapter 401, Statutes of 2013). The statutory direction for the program is to provide funding measures to specified entities to develop and deploy technologies and alternative and renewable fuels in the marketplace, without adopting any one preferred fuel or technology, to help attain the state's climate change policies. The fees authorized in AB 8 that fund the CTP sunset January 1, 2024. The Governor's fiscal year 2021-22 budget proposal includes extending the sunset for AB 8 fees until 2046 and securitizing CTP revenue to accelerate funding for ZEV infrastructure. The Governor's proposal was not included in the recently-passed 2021-22 Budget Act.

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

California's CTP has been critical to advancing clean charging infrastructure, developing clean technology, and getting clean cars and trucks on the road. However, this program was last updated in 2013, and the market, technology, and goals of the program have all progressed in the intervening decade, leaving the program in grave need of revitalization.

SB 726 will reassess the funding priorities of the CTP to prioritize equity and reduce harmful air pollutants that disproportionately affect low-income, disadvantaged, and emissions-overburdened communities. Updating and improving our CTP means standing up for our communities. It means defending our right to breathe clean air, invest in future generations, and to live healthy lives. In addition to focusing the CTP on equity-driven goals that reflect the current state of available technology, SB 726 also requires cross-agency planning to align clean transportation strategies with emissions-reductions goals. Investment in and critical, level-headed planning for the future of clean transportation is necessary to pave the road toward a brighter, healthier, thriving future for all Californians.

- 3) **ZEV-heavy.** Both provisions of this bill heavily emphasize one aspect of achieving a cleaner, more sustainable transportation system – technology deployment (as opposed to such things as planning and investments that support less driving). Within technology deployment, the bill seems to favor ZEVs. Evidently, this reflects the focus of the bill’s sponsor, CALSTART. While the bill’s emphasis is relatively consistent with recent legislative and administrative actions regarding ZEV adoption, it does not necessarily lend itself to a truly comprehensive and equitable transportation strategy.
- 4) **Air districts given short shrift in the Strategy?** In developing the Strategy, this bill requires ARB and CEC to “coordinate” with state agencies that play a relatively minor role in clean vehicle deployment, while consigning local air districts, which have administered the Carl Moyer Program and other significant clean vehicle programs, to a “consultation” role with other local entities.
- 5) **Related legislation.** AB 1389 (Reyes, et al), pending hearing in the Senate Energy, Utilities and Communications Committee, makes similar changes to the CTP, refocusing the program on clean air and equity investments.
- 6) **Double referral.** This bill has been double referred to the Assembly Transportation Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

CALSTART (sponsor)
 ABB
 ABC Companies
 Advanced Energy Economy
 Amply Power
 Anaheim Transportation Network
 Antelope Valley Transit Authority
 Arrival
 Ballard Power Systems
 California Electric Transportation Coalition
 Center for Sustainable Energy
 Chanje Energy
 eNow
 Greenpower Motor Company

J.B. Poindexter & Co.
Momentum Dynamics Corporation
Motiv Power Systems
Nikola Corporation
Odyne Systems
Pheonix Motorcars
Proterra
Sea Electric
Sunline Transit Agency
The Lion Electric Co.
Veloce Energy
Volvo Group North America

Opposition (unless amended)

Black Business Association
California African American Chamber of Commerce
California Association of Black Pastors
California Hydrogen Coalition
California Manufacturers and Technology Association
Kern County Black Chamber of Commerce
Latin Business Association
Southern California Black Chamber of Commerce
Western States Petroleum Association

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 619 (Laird) – As Amended June 16, 2021

SENATE VOTE: 35-0

SUBJECT: Organic waste: reduction regulations

SUMMARY: Prohibits the Department of Resources Recycling and Recovery (CalRecycle) from imposing penalties against local jurisdictions that have not met the organic waste recycling requirements pursuant to SB 1383 (Lara), Chapter 395, Statutes of 2016 before January 1, 2023, unless the jurisdiction did not make a reasonable effort to comply.

EXISTING LAW:

- 1) Requires the Air Resources Board (ARB) to complete, approve, and implement a comprehensive strategy to reduce emissions of short-lived climate pollutants (SLCPs) in the state to achieve, among other things, a reduction in the statewide emissions of methane by 40%.
- 2) Establishes a target of 50% reduction in the statewide disposal of organic waste from the 2014 level by 2020 and a 75% reduction by 2025, and requires CalRecycle and ARB to adopt regulations to achieve the organic waste reduction targets.
- 3) Requires CalRecycle, in consultation with ARB, to adopt regulations to achieve the organic waste reduction targets (SB 1383 regulations). Requires the regulations to take effect on or after January 1, 2022.
- 4) Specifies that penalties may be assessed for noncompliance, but shall not exceed the \$10,000 per day.

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

COMMENTS:

1) **Author's statement:**

SB 619 supports continued efforts by local jurisdictions to achieve statewide organic waste recycling targets and climate goals. Local governments across California face severe budget shortfalls in response to the COVID-19 pandemic and state leaders must support local efforts to meet our statewide climate goals. SB 619 provides the support needed by all local governments in their ongoing endeavors to design and implement thoughtful and successful organic waste recycling program.

- 2) **California's recycling goals.** CalRecycle is charged with implementing California's Integrated Waste Management Act (IWMA), which includes the state's 75% source

reduction, recycling, and composting goal by 2020. According to CalRecycle's State of Disposal and Recycling Report for Calendar Year 2019, published in February 2021, approximately 77.5 million tons of material was generated in 2019; with about 55% sent to landfills; 19% exported as recyclables; 12% composted, anaerobically digested or mulched; and, 6% either recycled or source reduced. The amount of material sent to landfills has been steadily increasing over the last several years, with an estimated 43 million tons of waste disposed of in California's landfills in 2019. Organic materials account for more than a third of California's waste stream, and food continues to be the highest single item disposed at approximately 18% of materials landfilled. Leaves, grass, prunings, and trimmings represent just under 7% of the total waste stream.

The Legislature has enacted various laws to increase the amount of waste that is diverted from landfills. AB 341 (Chesbro) Chapter 476, Statutes of 2011 required 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, required generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material.

- 3) **Short-Lived Climate Pollutants.** Greenhouse gas (GHG) emissions such as carbon dioxide work to warm the earth by trapping solar radiation in the earth's atmosphere. These pollutants can vary greatly in their ability to trap heat, also known as their global warming potential (GWP), and the length of time they remain in the atmosphere. Carbon dioxide remains in the atmosphere for centuries, which makes it critical to reduce in order to limit long-term climate change. SLCPs, which include methane, tropospheric ozone, hydrofluorocarbons (HFCs), and soot (black carbon), are relatively short-lived (anywhere from a few days to a few decades), but when measured in terms of their GWP, can be tens, hundreds, or even thousands of times greater than that of carbon dioxide.
- 4) **SB 1383 Regulations.** Methane emissions from the decomposition of organic waste in landfills are a significant source of SLCP emissions; organic waste in landfills emit 20% of the state's methane, which is a climate super pollutant 84 times more potent than carbon dioxide. As noted above, organic materials – including waste that can be readily prevented, recycled, or composted – account for a significant portion of California's overall waste stream. Food waste alone accounts for approximately 17 – 18% of total landfill disposal. Increasing food waste prevention, encouraging edible food rescue, and expanding the composting and in-vessel digestion of organic waste throughout the state will significantly reduce methane emissions from organic waste disposed in California's landfills.

SB 1383 (Lara) established methane emissions reduction targets to reduce emissions of SLCPs in various sectors. Reducing SLCPs is essential to minimize the impacts of climate change on human health, especially in California's most at-risk communities, and on the environment. SB 1383 required ARB to approve and implement a comprehensive SLCP strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon, by 2030. In order to accomplish these goals, the bill specified that the methane emission reduction goals include reducing landfill disposal of organic waste 50% by 2020 and 75% by 2025 from the 2014 level; and to rescue at least 20% of surplus edible food by 2025. CalRecycle was

tasked with promulgating regulations to achieve these organic waste reduction requirements.

CalRecycle's regulations were approved by the Office of Administrative Law (OAL) in November 2020 and take effect January 1, 2022. The regulatory package is comprehensive, placing various responsibilities on local jurisdictions. The six main requirements of the regulations are: a) Providing mandatory organic waste collection services; b) Edible food recovery program; c) Education and outreach to the community; d) Procurement requirements for products made from organic materials; e) Providing access to edible food and composting facilities; and, f) Monitoring and enforcement by the local jurisdictions. Pursuant to statutory requirements, local jurisdictions cannot issue enforcement penalties until two years after the operative date of the regulations – January 1, 2024.

- 5) **SB 1383 Enforcement.** Achieving California's SLCP targets is essential to reaching our overall climate goals. According to CalRecycle, the SB 1383 enforcement structure allows CalRecycle to focus on compliance assistance before pursuing penalties. CalRecycle has stated its intent to focus enforcement efforts on serious offenders. CalRecycle also states that its regulations allow for flexibility and deadline extensions in some instances for extenuating circumstances that cause compliance issues in spite of a jurisdiction's substantial effort to comply.

Beginning January 1, 2022, when the regulations become effective, enforcement may begin against jurisdictions. The enforcement process begins when a Notice of Violation (NOV) is issued. CalRecycle has discretion, but not a requirement, to address compliance issues with a jurisdiction through compliance evaluations before commencing enforcement proceedings. Prior to issuance of an NOV, CalRecycle will consider the totality of circumstances surrounding a jurisdiction's compliance and has discretion, depending on circumstances, to not seek penalties. When an NOV is issued, a jurisdiction has 90 days, which may be extended up to 180 days at the discretion of CalRecycle, to come into compliance. When taking enforcement action, CalRecycle can consider "extenuating circumstances" whether a jurisdiction has made a "substantial effort" to comply and place the jurisdiction on a Corrective Action Plan (CAP), which may include a longer timeline for compliance. A CAP allows up to 24 months for a jurisdiction to come into compliance, and, in some cases, may be extended for an additional 12 months. Extenuating circumstances include acts of God, including pandemics, delays in obtaining permits or other government agency approvals, and inadequate organic waste recycling infrastructure capacity. Substantial effort is defined by CalRecycle to mean a jurisdiction has done "everything within its authority and ability" to comply. After NOV and CAP processes, or if a jurisdiction fails to comply with the NOV or CAP, penalties will be imposed.

Enforcement of SB 1383 regulations have some local jurisdictions worried due to the comprehensiveness of the regulations and the short timeframe in which they have to comply. While SB 1383 was enacted in 2016, the regulations weren't finalized until November 2020, giving local jurisdictions 14 months to adopt compliant organic waste management programs that would fulfill the requirements of the regulations. Stakeholders have also indicated that because city budgets have been impacted by COVID-19, some cities will be forced to dramatically increase the collection rates for their constituents to cover the costs of implementing the regulations.

- 6) **Compliance concerns.** Stakeholders have expressed concern that if they are found to be in noncompliance of the regulations, they could be subject to large fines beginning January 1, 2022. However, according to CalRecycle, the focus will be on assisting local jurisdictions to come into compliance; enforcement actions such as fines will only be imposed on serious offenders and, in some cases, not for three years. Because the extended compliance process is largely discretionary, local jurisdictions still seek assurances that they will not be subject to hefty fines when the regulations go into effect next year.

While the regulations were adopted late, jurisdictions have been aware of SB 1383's requirements and involved in the development of the regulations since 2016. Further, the state has a demonstrated history of strong waste management requirements, including organic waste, including SB 341 (Chesbro) Chapter 476, Statutes of 2012 and AB 1826 (Chesbro) Chapter 727, Statutes of 2014. While the details of the regulations were not known until late last year, jurisdictions should have been ramping up their organic waste management efforts in preparation for the January 1, 2022 implementation date.

CalRecycle's SB 1383 regulations also require local jurisdictions to provide mandatory organic waste collection service for all residents and businesses statewide beginning January 1, 2022, with very limited exceptions or delays. This requirement is critical in many areas of the state to ensure that organic waste is collected so that it can be recycled; however, it does not take into account that some rural areas have very low population density, and inaccessible roads to garbage trucks. Other areas have high percentages of vacation homes or cabins that are unoccupied much of the year. Many of these areas rely on "self-haul," in which residents haul their own material to a solid waste facility as needed. Many rural areas also have favorable conditions for on-site management of organic waste through backyard composting and mulching. One jurisdiction that does not currently provide residential waste collection is projecting an increase in residential rates of nearly \$80 per month. Given the low-populations of these areas and low-quantities of organic waste they generate, it seems unreasonable to require mandatory collection for every residence. Moreover, SB 1383 requires a reduction in organic waste *disposal*. In those rural areas where organic waste has been historically managed on site and not disposed, the regulatory requirement for mandatory collection service appears to go beyond the intent of statute.

Some stakeholders have also raised concerns with the procurement requirement in the SB 1383 regulations, which also go into effect on January 1, 2022. The regulations require local jurisdictions to annually procure an amount of recovered organic waste products, such as compost, mulch, or renewable energy, as determined by CalRecycle based on the jurisdiction's population. At this time, CalRecycle has not notified jurisdictions what the procurement requirements will be for 2022. It is not clear if the quantities required to be procured will be available by the time the regulations go into effect. Additionally, some compost producers have raised concerns about the procurement requirement's impact on their ability to maintain adequate supply for the existing retail market.

There are consequences if CalRecycle's ability to meaningfully enforce the regulations is impacted. For instance, if jurisdictions do not make a substantial effort to comply, not only would it affect the state's ability to meet its SLCP reduction goals, it could undermine the confidence of entities looking to invest in California's organic waste infrastructure. If investors are unsure whether a local jurisdiction will be required to comply, for example with the procurement requirements, they may be less willing to invest in the technologies and facilities necessary to achieve the SLCP targets.

- 7) **Finding balance.** This bill pauses CalRecycle's ability to impose penalties on local jurisdictions for one year if the local jurisdiction made a "reasonable effort" to comply with the regulations; however, this approach does not ensure that jurisdictions continue to make progress toward compliance by 2023. The author has been actively engaged with stakeholders and the administration to balance the challenges that local jurisdictions have faced over the last year due to the pandemic with ensuring that the state stays on track to achieve its SLCP targets. Those discussions are ongoing. The author may wish to consider amending the bill to establish a process for a local jurisdiction that is facing continuing violations to enter into a CAP with CalRecycle for the 2022 calendar year and, if it complies with the CAP, have the appropriate penalties waived for the duration of the CAP. This model could ensure that the state remains on track to achieve its SLCP targets and that local jurisdictions continue to make demonstrable progress toward compliance while giving jurisdictions that are making an effort to comply additional time before accruing penalties.

REGISTERED SUPPORT / OPPOSITION:

Support

American Public Works Association California Advocacy Committee
California Association of Food Banks
California State Association of Counties
City of Arcata
City of Camarillo
City of Carmel-by-the-Sea
City of Corona
City of Cupertino
City of Cypress
City of Diamond Bar
City of Escalon
City of Fountain Valley
City of Glendora
City of Goleta
City of Irwindale
City of La Canada Flintridge
City of La Verne
City of Lakewood
City of Long Beach
City of Los Alamitos
City of Moorpark
City of Murrieta

City of Pleasanton
City of Rancho Cucamonga
City of Salinas
City of San Jose
City of Santa Clara
City of Scotts Valley
City of South Pasadena
City of Torrance
City of Tustin
City of Walnut Creek
City of Whittier
City of Yucaipa
CleanEarth4Kids.org
County of Napa
League of California Cities
Madera County
RecycleSmart
RethinkWaste
Rural County Representatives of California
San Diego Food Bank
Second Harvest Food Bank Santa Cruz County
Town of Apple Valley
Town of Danville
Ventura Council of Governments
West Contra Costa Integrated Waste Management Authority

Opposition

City of Winters Councilmember Jesse Loren
Yolo Climate Emergency Coalition
Yolo Food Bank

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 27 (Skinner) – As Amended June 16, 2021

SENATE VOTE: 34-3

SUBJECT: Carbon sequestration: state goals: natural and working lands: registry of projects

SUMMARY: Establishes the Carbon Sequestration and Climate Resilience Project Registry (Registry), in order to maintain a list of eligible but unfunded projects, which then may be funded by public or private entities for voluntary mitigation of greenhouse gas (GHG) emissions; directs the Natural Resources Agency (NRA) and other state agencies to establish the Natural and Working Lands Climate Smart Strategy (NWL Strategy) to increase adoption of NWL-based carbon sequestration that advances the state’s climate goals; and requires the Air Resources Board (ARB) to add carbon sequestration targets to the AB 32 scoping plan.

EXISTING LAW:

- 1) Requires, pursuant to the California Global Warming Solutions Act [AB 32 (Núñez), Chapter 488, Statutes of 2006], ARB to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020 and to adopt rules and regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions.
- 2) Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030.
- 3) Requires any direct regulation or market-based compliance mechanism to achieve GHG reductions that are real, permanent, quantifiable, verifiable, and enforceable by ARB.
- 4) Requires ARB to adopt methodologies for the quantification of voluntary GHG emission reductions, and adopt regulations to verify and enforce any voluntary GHG emission reductions that are used to comply with GHG emission limits established by ARB.
- 5) Establishes, pursuant to Executive Order B-55-18, a statewide goal to achieve carbon neutrality by 2045 and maintain net negative emissions thereafter.
- 6) Requires ARB to prepare and approve a scoping plan at least once every five years for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions from sources or categories of sources of GHGs.
- 7) Declares it is the policy of the state that the protection and management of natural and working lands (NWL) is an important strategy in meeting the state’s GHG emissions reduction goals. Requires all state agencies, including the 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.

- 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.
- 11) 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.
- 12) Defines "working lands" as lands used for farming, grazing, or the production of forest products.

THIS BILL:

- 1) Requires the NRA, by July 1, 2023, in coordination with CalEPA, ARB, CDFA, and other relevant state agencies, to establish the NWL Strategy to serve as a framework to increase adoption of NWL-based carbon sequestration and that advances the state's climate goals. Requires these agencies to do all of the following:
 - a) Create a framework to advance the state's climate goals and build climate resilience, and propose carbon sequestration goals for various natural and working lands.
 - b) Consider how increasing fire risk, warming temperatures, decreasing precipitation, and other climate change impacts will affect the ability of the state to sequester carbon on natural and working lands.
 - c) Support the economic and resource value of the lands and consider multiple benefits.
 - d) Support pathways for sectors, such as agriculture and forestry, to participate in the transition to a carbon neutrality economy.
 - e) Collect public feedback and conduct outreach.
 - f) Seek to align funding mechanisms to advance the strategy.
- 2) Requires ARB, as part of the AB 32 scoping plan, to establish carbon dioxide removal targets for 2030 and beyond, considering the NWL Strategy, science-based data, cost-effectiveness, and technological feasibility.

- 3) Requires the Governor's Office of Planning and Research (OPR), beginning on January 1, 2022, to establish and maintain the Registry for purposes of identifying and listing carbon removal projects in the state that are seeking funding from state agencies or private entities, including NWL-based carbon sequestration projects and direct air capture projects. Requires OPR to consider the environmental and public health impacts of any direct air capture project before adding the project to the Registry.
- 4) Requires projects to be listed on the Registry if they have applied for, but did not receive, funding from one of the state programs funded from the Greenhouse Gas Reduction Fund (GGRF), or any state program that funds NWL-based carbon sequestration, and the project meets minimum program requirements, established by ARB.
- 5) Authorizes OPR, in collaboration with the Strategic Growth Council (SGC) and in consultation with diverse stakeholders, to create an application process for project applicants to add carbon removal projects located in the state to the Registry.
- 6) Requires OPR to track carbon removal and GHG emission reduction benefits derived from projects funded through the Registry and report those benefits to ARB for inclusion, as appropriate, in calculations pertaining to the statewide GHG limits or other AB 32 emissions goals.
- 7) Prohibits projects listed on the Registry from creating credits for the purposes of ARB market-based compliance mechanisms, or being used by a state or private entity to offset a statutory or regulatory obligation to reduce emissions under AB 32.
- 8) Authorizes OPR to contract with a third-party organization to develop and operate the Registry.
- 9) Establishes definitions and related findings.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- Ongoing costs of about \$800,000 annually (Cost of Implementation Account) in order for ARB to implement this bill.
- The California Department of Agriculture (CDFA) estimates ongoing costs of \$160,000 annually (General Fund) to coordinate and develop the strategy to increase adoption of natural and working lands-based carbon sequestration.
- Ongoing costs of about \$150,000 annually (General Fund) for OPR to maintain a registry, seek funding for projects, and potentially create an application process, as well as one-time initial costs of \$100,000 (General Fund) to start up the database, and ongoing costs of \$50,000 annually (General Fund) thereafter for database updates and maintenance.
- Potential cost pressure (various funds) to provide funding for the eligible projects on the list.

COMMENTS:

1) **Author's statement:**

As California advances to a carbon-neutral future and leads the globe in creating a green economy, SB 27 seeks to address climate change by complementing the state's GHG reduction targets with an additional focus on sequestering carbon that has already been released into the atmosphere. Effective natural carbon removal solutions, also known as carbon sequestration, exist today. A 2020 report by Lawrence Livermore National Labs concluded that carbon sequestration can be among the least expensive ways to mitigate climate change. Land-based carbon retention projects like healthy soils agricultural practices, rangeland improvements, wetlands restoration, and sustainable forestry management use nature's own systems to suck carbon out of the atmosphere. These natural systems also help farmers and communities be more resilient to drought, flood, and fire. Linking quality carbon sequestration with companies and local governments is a unique way to make communities more resilient to the impacts of climate change.

- 2) **Background.** 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, CALFIRE's Forest Health Initiative invests money from the 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, CDFG'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 co-benefits.

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 to evaluate implementation scenarios and develop long-term sequestration goals. 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 plan 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 SGC 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.

ARB intends to fold the NWLs plan into the 2022 update to the scoping plan, which will focus on achieving carbon neutrality by 2045.

3) **Voluntary projects, with lower standards, should not be mixed with AB 32 compliance.**

This bill establishes the following minimum criteria for projects to meet before OPR lists them on the Registry:

- Achieve greenhouse gas reduction or carbon removal.
- Include monitoring and reporting of carbon removal benefits over time.
- Improve, to the extent feasible, the state's resilience to climate change.

These criteria fall well short of the standards required in statute and ARB regulations for GHG emissions reductions, including compliance offset protocols. AB 32 requires any direct regulation or market-based compliance mechanism to achieve GHG reductions that are *real, permanent, quantifiable, verifiable, and enforceable* by ARB. AB 32 further requires ARB to adopt methodologies for the quantification of voluntary GHG emission reductions, and adopt regulations to verify and enforce any voluntary GHG emission reductions that are used to comply with GHG emission limits established by ARB.

Further, AB 398 (Eduardo Garcia), Chapter 135, Statutes of 2017, establishes limits on the use of offsets for AB 32 compliance. From January 1, 2021 to December 31, 2025, a total of 4%, and from January 1, 2026 to December 31, 2030, a total of 6%, of a covered entity's compliance obligation may be met by surrendering offset credits of which no more than one-half may be sourced from projects that do not provide direct environmental benefits in state (i.e., the reduction or avoidance of emissions of any air pollutant in the state or the reduction or avoidance of any pollutant that could have an adverse impact on waters of the state).

This bill sets a much lower standard for carbon projects that may be listed in the Registry, which may be used for voluntary mitigation or corporate climate pledges. There should be no mixing of the GHG emissions benefits claimed by Registry projects and AB 32 compliance, including accounting for meeting AB 32's statewide GHG emissions limits. To make this clear, *the author and the committee may wish to consider* striking the following language on page 7, lines 24-26:

and report those benefits to the state board for inclusion, as appropriate, in calculations pertaining to the statewide greenhouse gas emissions limits or other emissions goals under this division (i.e., AB 32)

In keeping with this amendment, *the author and the committee may wish to consider* codifying the provisions of this bill outside of the AB 32 division, instead adding a new chapter within Part 2 or Division 26.

4) **Related legislation:**

AB 284 (Robert Rivas), pending in the Senate Environmental Quality Committee, requires ARB, in the scoping plan update, to identify a 2045 climate goal, with interim milestones, for NWLs to sequester carbon and reduce atmospheric GHG emissions. One of this bill's three major provisions requires ARB to do a very similar thing: Establish carbon dioxide removal targets for 2030 and beyond in the scoping plan. While the two provisions overlap, they do not seem incompatible.

AB 1395 (Muratsuchi), pending in the Senate Environmental Quality Committee, declares the policy of the state to achieve "carbon neutrality" as soon as possible, but no later than 2045, and to achieve and maintain net negative GHG emissions thereafter. AB 1395 also requires ARB to work with relevant state agencies to ensure that by 2045 statewide anthropogenic GHG emissions are reduced to at least 90% below the statewide GHG emissions limit.

REGISTERED SUPPORT / OPPOSITION:

Support

American Forests
California Habitat Conservation Planning Coalition
Land Trust of Santa Cruz County
League of Women Voters of California
Procter & Gamble
State Building and Construction Trades Council of California
The Climate Center
The Nature Conservancy
Zero Foodprint

Opposition

None on file

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

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 63 (Stern) – As Amended June 16, 2021

SENATE VOTE: 38-0

SUBJECT: Fire prevention: vegetation management: public education: grants: defensible space: fire hazard severity zones: forest management

SUMMARY: This bill makes multiple changes in state law to enhance fire prevention efforts by the California Department of Forestry and Fire Prevention (CAL FIRE), including, among other things, improved vegetation management and expanding the area where fire safety building standards apply.

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 outside the SRA 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 a person who owns, leases, controls, operates, or maintains a building or structure on land that is covered with flammable material in the SRA or VHFHSZ to maintain 100 feet of defensible space around the structure. Requires a more intense fuels management within 30 feet of the structure, and an ember-resistant zone within five feet of a structure based on regulation promulgated by the Board.
- 4) Specifies that clearing beyond the property line can only be required if the state law, local ordinance, rule, or regulation includes findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Specifies that requirements on clearance of adjacent property can only be conducted following written consent by the adjacent landowner.
- 5) Requires the State Fire Marshal (SFM), in consultation with fire services, local government, building officials, utility companies and other identified stakeholders, to develop a model defensible space program for use by local governments.
- 6) Requires CAL FIRE to develop and update a guidance document on fuels management that includes 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. Requires the guidelines to include suggestions to minimize or eliminate the risk of flammability of

non-vegetative sources of combustion, such as woodpiles, propane tanks, decks, and outdoor lawn furniture.

- 7) Requires, no later than January 31, 2020, the 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.
- 8) 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.
- 9) Establishes a local assistance grant program to improve fire prevention in California and ensure that fire prevention activities happen year round.
- 10) Requires the Board to develop criteria and maintain a "Fire Risk Adapted Community" list of local agencies that meet best practices for local fire planning. Prioritizes local agencies on the list for CAL FIRE's local assistance fire prevention grants.
- 11) 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.

THIS BILL:

- 1) Requires CAL FIRE to identify lands, in addition to VHFHSZ, outside the SRA as moderate and high fire hazard severity.
- 2) Modifies the definition of fuel to include cultivated landscape plants, grasses, and weeds.
- 3) Removes references to "clearance" from defensible space requirements and instead uses the term "fuel modification."
- 4) Authorizes fuel modification to be done on adjacent property if required by state law, local ordinance, rule, or regulation to maintain 100 feet of defensible space from a structure, without specified findings and according to conditions specified in a local ordinance.
- 5) Requires the defensible space guidance document on fuels management to include suggestions to minimize the spread of flammable nonnative grasses and weeds and for fuel modifications beyond the property line.

- 6) Requires the SFM model defensible space program to include provisions for fuel modification beyond the property line, including on unimproved lots, to maintain 100 feet of defensible space.
- 7) Requires, upon identification of high and moderate severity zones, the SFM, in consultation with CAL FIRE and HCD to propose to the State Building Standards Commission (BSC), and for the BSC to adopt, expanding building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk to high fire severity zones and to consider after a public process whether to propose expanding to moderate fire severity zones.
- 8) Requires, on or before January 1, 2023, CAL FIRE, in consultation with the State Air Resources Board and the Forestry Management Task Force (FMTF), to report to the relevant fiscal and policy committees of the Legislature on GGRF funds spent pursuant SB 901 (Dodd) Chapter 626, Statutes of 2018. Requires the report to include, but not be limited to, the following information:
 - a) The outcomes of the projects implemented including, but not limited to, a description of the benefits for public safety, fire prevention, habitat, climate resiliency, and protection of important natural resources, including water quality and water supply;
 - b) A description of the projected greenhouse gas emission and carbon sequestration impacts for the year of implementation of a project and for five-year intervals thereafter to at least 50 years after implementation;
 - c) Recommendations for modifying the forest health grant program and local assistance grant program to improve outcomes, benefits, durability of benefits, and statewide benefits; and,
 - d) An assessment of the potential benefits, including unmet need, for continuing the specified commitment made pursuant to SB 901 beyond the 2023–24 fiscal year.
- 9) Defines "fire threatened communities" to mean those communities in high and very high fire hazard severity zones in the Local Responsibility Area (LRA) and SRA or on the Fire Risk Reduction Community list.
- 10) Expands eligible activities for CAL FIRE's local assistance grant program to include the following:
 - a) Projects to improve public safety, including, but not limited to, access to emergency equipment and improvements to public evacuation routes;
 - b) Vegetation management along roadways and driveways to reduce fire risk. Requires, where appropriate, the Department of Transportation to be consulted if state infrastructure will be affected;
 - c) Public outreach on defensible space training;
 - d) Projects to reduce the flammability of structures and communities to prevent their ignition from wind-driven embers; and,

- e) Development of a risk reduction checklist for communities that includes defensible space criteria, structural vulnerability potential, and personal evacuation plans.
- 11) Increases the percentage of advanced payment that CAL FIRE is authorized to provide for the local assistance grant program from 25% to 50%.
- 12) Requires, until January 1, 2026, CAL FIRE to develop a statewide defensible space assessments program by trained representatives of Fire Safe Councils, University of California fire advisors, registered professional foresters, and resource conservation districts in the SRA.
- 13) Requires, until January 1, 2026, CAL FIRE to develop and implement a training program to train individuals to support and augment CAL FIRE's defensible space and home hardening assessment and public education efforts.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) Unknown ongoing costs, likely in the low millions of dollars annually (General Fund or special fund), for CAL FIRE to implement the provisions of this bill.
- 2) The California Air Resources Board estimates ongoing costs of \$445,000 annually (GGRF) to update existing quantification methodologies and create new quantification methodologies for greenhouse gas reductions for GGRF expenditures, as well as to produce and analyze data for the report that would be required by this bill.
- 3) HCD estimates one-time costs of \$174,000 spread over two years (General Fund or special fund) to propose the building standards in high fire hazard severity zones, recommend adoption of standards in moderate fire hazard severity zones, discuss building code updates with the SFM, meet with stakeholders, and assist jurisdictions with the changes.
- 4) To the extent the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service, unknown costs (General Fund) to reimburse local government claims made pursuant to existing statutory provisions.
- 5) To the extent the bill encourages activities that reduce the occurrence or severity of catastrophic wildfires from what otherwise would have occurred, this bill would result in potentially significant savings due to avoided fire suppression costs (General Fund).

COMMENTS:

1) **Author's statement:**

The 2020 wildfire season has made it clear, the risk of a deadly fire season is forcing communities in the wildland-urban interface to face a treacherous future. A combination of higher temperatures and underbrush accumulation is a ticking time bomb waiting to be ignited. California's population is estimated to reach 44 million by 2030 and developments have continued to build out in more rural and high-fire risk areas.

We must reduce California's wildfire risk and empower organizations and trained volunteers in their fire prevention efforts. SB 63 will increase home and community wildfire resiliency by using CAL FIRE grants to fund residential vegetation management programs, including defensible space training, and public wildfire resistance education outreach. Managing and monitoring vegetation on each residential property will help slow or stop an active wildfire from growing while simultaneously protecting a building from catching fire.

Vegetation management and creating defensible spaces are proven and cost-effective tools to reduce fire danger in California.

- 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. In April, the wildfire early action expenditure plan contained in SB 85 (Committee on Budget and Fiscal Review), Chapter 14, Statutes of 2021, appropriated \$536 million to 15 different state agencies for fire prevention activities. This included \$2 million for

defensible space inspectors. The Legislature and the Governor have both advocated for additional spending on fire prevention activities, including for programs this bill affects.

- 3) **Chapter 7A building standards.** New homes within the Very High Fire Hazard Severity Zone in the LRA 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.

This bill would expand Chapter 7A building standards to moderate and high fire severity zones within the LRA. Current law authorizes 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.

- 4) **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 VHFHSZ in the local responsibility area must maintain 100 feet of defensible space. CAL FIRE requires, within 30 feet of a structure, the removal of all dead plants, grass, and weeds; removal of dry leaves and pine needles; and, keeping tree branches 10 feet away from a chimney and other trees. Current law allows clearance beyond the property line to be required by state law, local ordinance, rule or regulation only if it includes specified findings and there is written consent from the adjacent property owner. Some local ordinances do require work beyond the property line. Napa County is an example; their ordinance states, "when a structure is less than one hundred feet from a property line and prohibited materials on an adjacent parcel present a fire hazard for the structure, the property owner of the adjacent parcel where the fire hazard exists shall be responsible for clearing the area on that owner's parcel that is within one hundred feet of the

structure, so as to provide the necessary fire protection in the manner and to the extent required by the Napa County Defensible Space Guidelines.”

This bill would make it easier for a local government to do local ordinances that include provisions covering adjacent properties by removing restrictions on doing those ordinances and including provisions on adjacent property fuel management in the SFM model ordinance that is still under development. This bill would also create a training program so volunteers could conduct defensible space assessments. This could help address the lack of defensible space inspections in the SRA. A KQED analysis of almost a half-million inspection records shows CAL FIRE's inspection rate was just 17% of properties in 2018, far below the agency's 33% goal. Other contract counties' and local governments' inspection rate is between 60% and 100% of properties annually.

5) **Related/Prior legislation.**

AB 9 (Wood) establishes the Regional Forest and Fire Capacity Program in the Department of Conservation to support regional leadership, build local and regional capacity, and develop, prioritize, and implement strategies and projects that create fire-adapted communities by improving watershed health, forest health, community wildfire preparedness, and fire resilience. This bill is awaiting hearing in the Senate Natural Resources and Water 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 is scheduled for hearing on June 29 in the Senate Natural Resources and Water Committee.

AB 3074 (Friedman), Chapter 259, Statutes of 2020, establishes, 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. This bill 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.

SB 1348 (Stern, 2020) is nearly identical to SB 63. This bill was never taken up on the Assembly Floor.

- 6) **Double referral.** The bill has also been referred to the Assembly Housing and Community Development Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Breathe California
Building Owners and Managers Association of California
California Apartment Association
California Association of Local Conservation Corps

California Association of Resource Conservation Districts
California Building Industry Association
California Business Properties Association
California Fire Chiefs Association
California Fire Safe Council
City of Thousand Oaks
East Bay Municipal Utility District
Edison International and Affiliates, Including Southern California Edison
Fire Districts Association of California
International Council of Shopping Centers
NAIOP of California, the Commercial Real Estate Development Association
Tree Care Industry Association

Opposition

None on file

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