California State Assembly

NATURAL RESOURCES

LUZ RIVAS
CHAIR

AGENDA

Monday, March 21, 2022
2:30 p.m. -- State Capitol, Room 447

BILLS HEARD IN FILE ORDER

** = Bills Proposed for Consent

1.	AB 1611	Davies	Oil spills: potential casualties with submerged oil pipelines: vessels: reporting.
2.	AB 2026	Friedman	Recycling: plastic packaging and carryout bags.
3.	AB 1749	Cristina Garcia	Community Air Protection Blueprint: community emissions reduction programs: toxic air contaminants and criteria air pollutants.
4.	AB 1857	Cristina Garcia	Solid waste.
5.	AB 2177	Irwin	Coastal recreation: designated state surfing reserves.
6.	AB 1956	Mathis	Solid waste: woody biomass: collection and conversion.
7.	**AB 1657	Nguyen	Oil spills: reporting: waters of the United States.
8.	**AB 1658	Nguyen	Oil spill response and contingency planning: oil spill elements: area plans.
9.	**AB 1832	Luz Rivas	Tidelands and submerged lands: hard mineral extraction.
10.	AB 2076	Luz Rivas	Extreme Heat and Community Resilience Program: Extreme Heat Hospitalization and Death Reporting System.
11.	AB 2238	Luz Rivas	Extreme heat: statewide extreme heat ranking system.
12.	**AB 1985	Robert Rivas	Organic waste: list: available products.
13.	AB 1642	Salas	California Environmental Quality Act: water system well and domestic well projects: exemption.
14.	AB 2048	Santiago	Solid waste: franchise agreements: database.
15.	AB 2075	Ting	Energy: electric vehicle charging standards.
16.	AB 2607	Ting	Tidelands and submerged lands: City and County of San Francisco: Port of San Francisco.(Urgency)
17.	AB 1640	Ward	Office of Planning and Research: regional climate networks: regional climate adaptation and resilience action plans.
18.	AB 2225	Ward	Resource conservation: traditional ecological knowledge: land management plans.

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 1611 (Davies) – As Amended March 15, 2022

SUBJECT: Oil spills: potential casualties with submerged oil pipelines: vessels: reporting

SUMMARY: Establishes new notification requirements for an operator of a vessel involved in a potential casualty with a submerged oil pipeline to report to the California Office of Emergency Services (CalOES).

EXISTING LAW:

1) Requires, pursuant to the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, the administrator for the Office of Spill Prevention and Response (OSPR), acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup. (Government Code (GC) § 8670.1)

2) Requires, without regard to intent or negligence, any party responsible for the discharge or threatened discharge of oil in waters of the state to report the discharge immediately to CalOES. (GC § 8670.25.5)

3) Requires CalOES to notify the administrator of OSPR, the State Lands Commission (SLC), the California Coastal Commission (CCC), the appropriate California regional water quality control board, and the appropriate local governmental agencies in the area surrounding the discharged oil, and take required actions, as specified (?). (GC § 8670.25.5 (b))

4) Requires the 24-hour emergency telephone number of CalOES to be posted at every railroad dispatch, pipeline operator control center, marine terminal, area of control of every other facility, and on the bridge of every tank ship in marine waters. (GC § 8670.25.5 (c))

THIS BILL:

1) Defines "anchorage designated as proximate to a duly-published submerged oil pipeline zone" as an anchorage labeled by the U.S. Coast Guard (USCG) or National Oceanic and Atmospheric Administration (NOAA) as proximate to a submerged oil pipeline zone.

2) Defines "vessel" means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross tons or more.

3) Provides that, without regard to intent or negligence, when a vessel has an anchor down in an anchorage designated as proximate to a duly-published submerged oil pipeline zone, that vessel is a vessel involved in a potential casualty with a submerged oil pipeline when it moves outside of the anchorage with its anchor down.

4) Treats a potential casualty with a submerged oil pipeline as a threatened discharge of oil in waters of the state pursuant to section 8670.25.5 of the Government Code.

5) Requires the operator of a vessel involved in a potential casualty with a submerged oil pipeline to a report of a potential casualty with a submerged oil pipeline immediately to CalOES. Provides that violation of this requirement is not subject to enforcement under section 8670.64.

6) Requires CalOES, within 24 hours, to notify the operator of a submerged pipeline about the potential casualty.

7) Requires CalOES to coordinate with the USCG and either the Marine Exchange of Northern California or the Marine Exchange of Southern California and to designate anchorages which should be designated as proximate to submerged oil pipelines, and propose duly-published designation of these anchorages in the official navigation charts maintained by NOAA.

8) Subjects any person convicted of a violation of the aforementioned notification provisions to a civil fine of not less than ten thousand dollars ($10,000) and not more than one million dollars ($1,000,000) for each violation.

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's statement.**

> Currently in California, an entity is only required to report to the California Office of Emergency Services if there is a discharge of oil. However, this leaves a grey area in that if a vessel hits a pipeline, but sees no immediate oil, they are free to continue their operations and journey to the destination. Our notification laws should be updated to make sure even if there is a chance a pipeline was hit or damaged, the proper authorities are immediately notified so actions and plans can be put into place. AB 1611 would require a person to notify various state and federal agencies if a vessel hits or likely hit a pipeline in state waters within 24 hours of the potential incident. Failure to do so may result in civil penalties of up to $50,000.

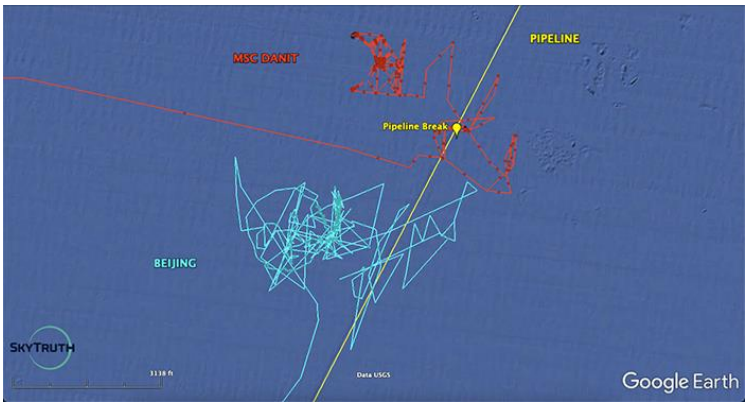
2) **Orange County oil spill.** On the evening of October 2, 2021, an oil spill was detected in Southern California, originating from an underwater pipe owned by Amplify connected to the Elly platform about 4-miles offshore near Long Beach that spilled approximately 24,696 gallons. (It was initially reported that the leak spilled more than 100,000 gallons of oil.)

   A vessel's anchor likely hooked and tore the underwater pipeline that spilled tens of thousands of gallons of crude oil into the ocean off Southern California, according to federal investigators who also found the pipeline owner didn't quickly shut down operations after a safety system alerted to a possible spill.

   However, the pipeline was struck months before by potentially two vessels on January 25, 2021, causing initial damage, and it was the subsequent strike on October 2 that led to the leak and resultant oil spill. As reported by E&E Energy Wire, two container ships were anchored at the two designated anchorages closest to the Amplify oil pipeline. The vessels' transponder data show the two vessels, despite anchorage, moved back and forth repeatedly across the pipeline on the sea floor during a storm on the morning of January 25. Though the

vessels anchored in the designated anchorage areas, those areas only work for a dropped anchor, not a dragging one.

Federal regulations specifically state that "when sustained wind speeds exceed 40 knots, all anchored commercial vessels greater than 1600 gross tons shall ensure their propulsion plant is placed in immediate standby and a second anchor is made ready to let go. Vessels unable to comply with this requirement must immediately notify the Captain of the Port." (Code of Federal Regulations (CFR) CFR 33 § 110.214 (a)(3)(iii)) Investigations are ongoing, so the timeline of required notifications and when the pipeline crack began to leak oil remain uncertain. However, if notification of a real or potential anchor strike had been required before January 2021, those vessels would have notified CalOES that their anchors swung outside the designated anchor zone and the oil spill potentially could have been avoided.



*This image shows the transponder data of the anchored ships during the storm last January and the movement of their anchors.

Federal rules require pipelines to have leak detection systems, but don't have any performance measures about how sensitive, accurate or reliable they must be.

Anchor strikes on pipelines are relatively rare, but have caused problems in the past. An Associated Press review of more than 10,000 reports submitted to federal regulators found at least 17 accidents on pipelines carrying crude oil or other hazardous liquids have been linked to anchor strikes or suspected anchor strikes since 1986.

3) **Designated anchorage areas.** The federal Ports and Waterways Safety Act of 1972 (Public Law 92-340) provides that the U.S. Secretary of Homeland Security is authorized to establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of the U.S., and the federal rules and regulations for anchorage are enforced by the USCG.

All vessels must drop down their anchor in a federally-designated anchorage area – a 'swing circle' that is a diameter of space that takes into account the length of an anchor plus a buffer zone if the ocean current swings the anchor. If the anchor drops outside that circle, an internal alarm on the vessel notifies the operator to reposition the anchor.

NOAA establishes the designated anchorage spots and maintains the accuracy of the anchorage circle charts. NOAA does consider the location of underwater structures in addition to other concerns considered prior to deciding whether to establish an anchorage.

USCG provides intel to NOAA when those circles need to be updated or adjusted, and will note navigational hazards for vessel operators on the anchorage chart. Both within state waters and in federal waters, the USCG is responsible for addressing anchorage rights, and it is largely covered by federal regulations.

USCG regulations establish anchorage assignments, propulsion/anchor readiness, anchorage duration limitations, and notification requirements for the Los Angeles and Long Beach harbors, and provides that *"within* Los Angeles Harbor, Long Beach Harbor, and the Los Angeles-Long Beach Precautionary Area, except for emergency reasons, or with the prior approval of the Captain of the Port, vessels are prohibited from anchoring outside of designated anchorage areas." (33 CFR §110.214)

In the event of a violation of those rules and regulations by the owner, master, or person in charge of any vessel, that individual shall be liable for a penalty of up to ten thousand dollars ($10,000).

4) **Pipeline buffer zones.** Any pipeline in state waters (out to the 3-mile limit) would require a lease from the SLC, and, if constructed after 1973, would also need a coastal development permit from the CCC. Neither the SLC nor the CCC, however, have jurisdiction over anchorage rights, and neither have regulatory recognition for the areas around pipeline. It is all federally regulated.

   According to the Marine Exchange of Southern California & Vessel Traffic Service Los Angeles and Long Beach, there are actually no common 'buffer zones' around pipelines. The NOAA chart of Long Beach Harbor anchor designations shows various pipelines and cables. A vessel is not supposed to anchor in the cable and pipeline area, and not on the pipe, but there is no commonly accepted buffer/standoff distance.

   The federal Pipeline and Hazardous Materials Safety Administration (PHMSA) was created in 2004 to ensure the safe and secure movement of hazardous materials to industry and consumers by all transportation modes, including the nation's pipelines. PHMSA recognizes and has an alternative federal definition for the area around underwater oil pipelines. Per PHMSA's regulations for pipeline integrity management in high consequence areas (HCAs) (CFR 195.452), oil pipeline operators are required to maintain an integrity management program that includes a process for identifying pipeline segments that could affect an HCA, defined as a commercially navigable waterway, which means a waterway where a substantial likelihood of commercial navigation exists. PHMSA does not have numeric or calculable areas or spaces around pipelines.

   Due to the ubiquitous placement of pipelines in the navigable waters and the varying waterway conditions where pipelines and anchorages are located, the USCG's regulation also do not specifically define or acknowledge the space around an underwater pipeline or subsurface transmission cables in relation to location of anchorage grounds/areas.

   AB 1611 would provide that, without regard to intent or negligence, when a vessel has an anchor down in a designated anchorage spot near a known oil pipeline zone, that vessel is considered involved in a potential casualty with a submerged oil pipeline when it moves outside of the anchorage with its anchor down. Additionally, the bill would require the

operator of a vessel involved in a potential casualty with a submerged oil pipeline to report to CalOES.

Furthermore, to address the issue with the delayed communications from the Orange County oil spill, the bill would require CalOES to notify the pipeline owner of the notification from the vessel within 24-hours.

CalOES may not be the appropriate entity to provide that subsequent notification due to the transfer of liability from the responsible party (the vessel operator) to the state. The author may wish to identify the appropriate entity for providing that notification to the pipeline operator that facilitates most expedient notification without obfuscating the spill notification requirements for the vessel operator.

5) **Existing penalties for failure to provide notification of an oil spill.** Under current law, it is a felony to, among other things, knowingly engage in or cause the discharge or spill of oil into waters of the state or knowingly fail to begin cleanup, abatement, or removal of spilled oil, as specified. Doing so is a crime punishable by a fine of not less than $5,000 or more than $500,000 for each day or partial day a violation occurs. It is also a felony to fail to notify CalOES regarding an oil spill or to knowingly fail to follow the material provisions of an applicable oil spill contingency plan, which is punishable by a fine of not less than $2,500 or more than $250,000 for each day or partial day a violation occurs for a first conviction, and by a fine of not less than $5,000 or more than $500,000 for each day or partial day a violation occurs for a 2nd conviction.

   AB 1611 would subject any person found in violation for failure to notify CalOES of a potential casualty with a submerged oil pipeline to a civil fine of not less than ten thousand dollars ($10,000) and not more than one million dollars ($1,000,000).

6) Related legislation:

AB 1657 (Nguyen, 2022) would require specified facilities to report a spill or potential spill in federal that threaten state waters to CalOES. This bill is scheduled to be heard in the Assembly Natural Resources Committee on March 21.

AB1658 (Nguyen, 2022) requires OSPR to create and post on its internet website best practices, which may include, but are not limited to, a model ordinance, for local jurisdictions that would like to adopt a local oil spill response plan. This bill is scheduled to be heard in the Assembly Natural Resources Committee on March 21.

SB 953 (Min, 2022) 2ould require the State Lands Commission to terminate all remaining oil and gas leases under its jurisdiction in tidelands and submerged lands within state waters by December 31, 2023. This bill is scheduled to be heard in the Senate Natural Resources and Water Committee on March 22.

AJR 24 (Nguyen, 2022) requests that the United States government locate unified command centers based on proximity and access to oil spills to make the unified command centers easily accessible to local agencies and local governments directly affected by the oil spill. This resolution has not been referred.

AJR 25 (Nguyen, 2022) requests the U.S. Congress and the President to immediately take action to increase resources for the enforcement of regulating vessel anchorages to both regulate the backlog of cargo ships and prevent future oil spills related to anchor strikes. This resolution has not been referred.

AB 3214 (Limon), Chapter 119, Statutes of 2020, doubled the minimum and maximum amounts of the fines for specified violations, including failing to notify specified state and federal agencies of the discharge of oil and the discharging of oil into waters of the state. The bill also authorizes the courts to impose upon a person convicted of violating specified provisions of the Lempert Keene Act a fine of up to $1,000 dollars per gallon spilled in excess of 1,000 gallons of oil.

6) **Double referral.** Should this committee approve the bill, it will be re-referred to the Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 2026 (Friedman) – As Introduced February 14, 2022

SUBJECT: Recycling: plastic packaging and carryout bags

SUMMARY: Prohibits online retailers from using single-use plastic packaging in the state. Reinstates the At-Store Recycling Program (Program) for plastic bags.

EXISTING LAW:

1) Under the federal Marine Plastic Pollution Research and Control Act of 1987 (Public Law 100-220, Title II), prohibits the at-sea disposal of plastic and other solid materials for all navigable waters within the United States. The law also requires the US Environmental Protection Agency (US EPA), the National Oceanic and Atmospheric Administration, and the US Coast Guard to jointly conduct a public education program on the marine environment.

2) Under the federal Clean Water Act, requires the state to identify a list of impaired water-bodies and develop and implement Total Maximum Daily Loads for impaired water bodies.

3) Under the Porter Cologne Water Quality Control Act, regulates discharges of pollutants in stormwater and urban runoff by regulating, through the National Pollution Discharge Elimination System, industrial discharges and discharges through the municipal storm drain systems.

4) Establishes the Preproduction Plastic Debris Program, which requires the State Water Resources Control Board and regional boards to develop a program that requires plastic manufacturing, handling, and transportation facilities to implement best management practices to control discharges of preproduction plastic pellets. The program includes inspections, stakeholder outreach efforts, and enforcement activities.

5) Under the Integrated Waste Management Act, requires that local jurisdictions divert at least 50% of solid waste from landfill disposal and establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020.

6) Requires local jurisdictions to prepare, adopt, and submit to the Department of Resources Recycling and Recovery (CalRecycle) a source reduction and recycling element (SRRE) that includes a program for the management of solid waste generated within the jurisdiction. The SRRE is focused on the implementation of all feasible source reduction, recycling, and composting programs and identifying the amount of landfill capacity needed for the jurisdiction.

7) Prohibits a state food service facility from dispensing prepared food using a type of food service packaging unless the packaging is on a specified list maintained by CalRecycle and has been determined to be reusable, recyclable, or compostable.

8) Established the Program, which sunset on January 1, 2020, which:

   a) Required operators of stores, defined as supermarkets and stores over 10,000 square feet that includes a pharmacy, to establish an at-store recycling program. Under the Program:

      i) Plastic bags provided by the store were required to include a label encouraging customers to return the bag to the store for recycling.

      ii) Required stores to provide clearly labeled and easily accessible recycling bins for plastic bags.

      iii) Required that all plastic bags collected must be recycled in a manner consistent with the local jurisdiction's SRRE.

      iv) Required a store to maintain records relating to the program for at least three years and to make the records available to the local jurisdiction or CalRecycle upon request.

   b) Authorized a city, county, or the Attorney General to levy fines for stores for violations.

THIS BILL:

1) Defines terms used in the bill, including:

   a) "Online retailer" as a business that sells goods over the internet and transports goods by mail or parcel delivery, including business-to-business and business-to-consumer sales. Specifies that an online retailer does not include retailers that are online or mobile applications that facilitate sales solely from third-party sellers to third-party buyers, as specified.

   b) "Large online retailer" as an online retailer that has annual gross sales equal to or more than $1 million and that has equal to or more than 2,500 shipping units sold and transported in or into the state annually.

   c) "Small online retailer" as an online retailer that has annual gross sales of less than $1 million in or into the state and less than 2,500 shipping units sold and transported in or into the state annually.

   d) "Packaging" to include primary, secondary, and tertiary packaging, as specified.

   e) "Reusable packaging" as packaging that is designed for reuse; highly durable; repeatedly recovered, inspected, and repaired; and, prevented from becoming solid waste with a process in place for recovery and recycling.

   f) "Single-use packaging" as packaging that is intended for a single use; is regularly discarded, recycled, or otherwise disposed of after a single use; and, is not reusable packaging.

2) Prohibits online retailers that sell or offer for sale and delivers products in or into the state from using single-use plastic packaging that consists of shipping envelopes, cushioning, or

void fill for packaging and transport. Specifies that large online retailers must meet this requirement by January 1, 2024, and small online retailers must meet this requirement by January 1, 2026.

3) Prohibits a manufacturer, retailer, producer, or other distributor that sells or offers for sale and delivers products in or into the state from using expanded polystyrene (EPS) packaging to package or transport the products. Exempts manufacturers, retailers, producers, or other distributors from this requirement for televisions, printers, computer screens, and large appliances until January 1, 2026. Exempts manufacturers, retailers, producers, or other distributors from this requirement for prescription drugs that require cold storage, fragile medical devices, drugs that are used for animal medications that require cold storage, medical food, and fortified oral nutritional supplements.

4) Exempts from the requirements of the bill:

   a) Packaging used as primary packaging for raw, uncooked, or butchered meat, fish, poultry, or seafood sold for the purpose of cooking or preparing;

   b) Packaging necessary to prevent contamination or extend the shelf life of fresh produce; and,

   c) Packaging for which the bill's requirements would conflict with the federal Food Safety Modernization Act or regulations issued by the federal Food and Drug Administration or the United States Department of Food and Agriculture.

5) Clarifies that this bill does not prohibit the adoption, implementation, or enforcement of a local ordinance, resolution, regulation, or rule governing curbside or dropoff recycling programs operated by, or pursuant to a contract with, a city, county, or other public agency, including fees for these programs.

6) Specifies that a city, county, or the Attorney General may impose civil liability for small online retailers in the amount of $1,000 for the first violation of the bill's requirements, $2,000 for the second violation, and $5,000 for the third and subsequent violations and up to $50,000 per day for large online retailers. Requires penalties collected to be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General that brought the action. Specifies that penalties collected by the Attorney General be deposited into the Plastic Packaging Reduction Penalty Account, which this bill establishes. Authorizes funds to be used, upon appropriation, to enforce the bill's requirements.

7) Reinstates and updates the At-Store Recycling Program (Program) and expands the Program to include durable plastic bags, as defined. Sunsets the Program on January 1, 2031.

FISCAL EFFECT: Unknown; however, according to the Assembly Appropriations Committee, a similar bill introduced last year, AB 1371 (Friedman), had unknown, likely significant Attorney General costs in the hundreds of thousands to low millions of dollars annually to enforce the provisions of the bill depending upon the number of causes referred by CalRecycle, partially offset by penalty revenue (General Fund). The bill authorizes the Attorney General to seek costs and attorney's fees.

COMMENTS:

1) **Author's statement**:

> Globally, the e-commerce industry used nearly 2.9 billion pounds of plastic packaging in 2020 and of that, e-commerce businesses in the U.S. generated 601.3 million pounds of plastic packaging waste. And in 2020, consumers spent $861 billion online with U.S. merchants, up 44% over 2019. With more than one quarter of the world's population now buying online, the amount of plastic packaging generated is estimated to more than double by 2026. This staggering growth – expected to outlast the pandemic – is creating a wave of single-use packages and packaging, almost all of which is headed for landfill, incineration, or the environment where it pollutes waterways and oceans.
>
> As an online retail consumer, I have been appalled at the amount of plastic packaging that accompanies my orders. No one wants these materials. We can't put them in our recycling bins, and they are overflowing curbside trash bins and taken to landfills at a huge expense to local governments. We know we can do better here in California because alternatives already exist and are being implemented elsewhere.

2) **California's recycling goals**. An estimated 35 million tons of waste are disposed of in California's landfills annually. CalRecycle is tasked with diverting at least 75% of solid waste from landfills statewide by 2020. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro), Chapter 476, Statutes of 2011, requires commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep the material out of the landfill. California's recent recycling rate, which reached 50% in 2014, dropped to 42% in 2020.

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

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

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

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

4) **Climate impacts**. Plastic production poses climate impacts. According to a 2019 report by the Center for Environmental Law, by 2030 plastic greenhouse gas (GHG) emissions could reach 1.34 gigatons per year – equivalent to nearly 300 500-megawatt coal-fired power plants. Nearly all plastic begins as fossil fuel, and GHGs are emitted at each stage of the production lifecycle: fossil fuel extraction and transport; plastic refining and manufacture; and end-of-life management. Even microplastics in the ocean has climate impacts, by impeding the ocean's ability to absorb and sequester carbon dioxide.

5) **Environmental justice impacts**. Plastic production and use disproportionately impact disadvantaged communities throughout the world. Oil extraction and refining result in habitat destruction, polluted runoff, waste, and oil spills that directly impact indigenous and disadvantaged communities. Refineries emit toxic air contaminants, including benzene, formaldehyde, hydrogen sulfide, sulfur dioxide, and sulfuric acid. Oil drilling and refining disproportionally impact low-income communities of color. In the Los Angeles area, more than 580,000 people live within five blocks of an active oil or gas well. Every step in the production of plastic, from extraction to manufacturing, impacts air and water quality and human health.

   Ocean plastic pollution doesn't only threaten ocean ecosystems; it also impacts the people that rely on them. Plastic debris on beaches and snorkeling spots discourages tourism to those areas, damaging local economies. Globally, 820 million people rely on fishing for income. Plastics not only impact the quality of the fish, but also causes lower yields.

6) **Economic impacts**. The proliferation of litter along our coastline and plastic in our oceans negatively impacts California's economy. Local governments in California spend more than $420 million annually in efforts to prevent and cleanup plastic and other litter. California's fisheries support 19,750 recreational fishing jobs, with the commercial fishing and seafood industry generating 155,258 jobs and $28.8 billion in sales in 2017. Coastal tourism and recreation industries in California are valued at approximately $27 billion annually. California's marine wildlife – including whales, dolphins, and the threatened southern sea otter – attract millions of visitors a year to our coastline. California's coastline counties are home to 68% percent of the state, and millions of people visit California coastal areas every year.

7) **This bill**. The United States Environmental Protection Agency estimates that 14.5 million tons of plastic containers and packaging were generated in the country in 2018. While some plastic packaging is technically recyclable, markets for this material are scarce and it is not accepted in curbside recycling programs. According to the author, plastic packaging and film make up more than 10% of residual waste from material recovery facilities in California,

because consumers continue to throw these materials into their recycling bins in the hope they will be recycled. When consumers put plastic mailers, for example, into their curbside recycling, they end up a contaminant in the recycling stream. Plastic film jams up equipment and requires time and labor to stop the machinery and retrieve the plastic. Additionally, plastic film gets into bales of paper bound for recycling, contaminating entire bundles. According to a 2017 report by Closed Loop, only 7% of plastic bags accrued by households is recycled through collection programs at grocery and big-box stores, and only 3% of non-retail bag film is collected for recycling. The rest winds up in landfills, or is littered and contributes to plastic pollution in the environment.

This bill reduces the amount of plastic packaging generated by prohibiting online retailers from using single-use plastic packaging and increases opportunities for recycling for consumers by requiring certain retailers to collect and recycle the plastic packaging they distribute.

8) **Suggested amendments**. The committee may wish to amend the bill correct a drafting error on page 6, line 13, by striking "millimeters" and replacing it with "mils."

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

REGISTERED SUPPORT / OPPOSITION:

Support

1000 Grandmothers, Bay Area
350 Bay Area
350 Bay Area Action
350 Humboldt
350 Silicon Valley
350 Southland Legislative Alliance
350 Ventura County Climate Hub
5 Gyres Institute
7th Generation Advisors
Active San Gabriel Valley
Ban SUP
California Environmental Voters
California Institute for Biodiversity
California Interfaith Power & Light
California Product Stewardship Council
California Wildlife Center
Californians Against Waste
CalPIRG (co-sponsor)
CalPIRG Students
Center for Food Safety
Center for Oceanic Awareness, Research, & Education
Chop Wood Carry Water CA Newsletter
Climate Reality Project, San Fernando Valley
Climate Reality Project, Silicon Valley
Defenders of Wildlife

Ecology Center
Elders Climate Action, NorCal and SoCal Chapters
Environment California (co-sponsor)
Ethos
Feminists in Action
Fillgood
Friends Committee on Legislation of California
Greenpeace USA
Greentown Los Altos
Habits of Waste
Heal the Bay
Indivisible Alta Pasadena
Indivisible California Green Team
Indivisible South Bay LA
Interfaith Solidarity Network
League to Save Lake Tahoe
Lemon Frog Shop Vintage Bazaar
Marine Mammal Care Center LA
Monterey Bay Aquarium Foundation
Mountain Lion Foundation
Napa Climate Now
National Stewardship Action Council
Natural Resources Defense Council
Northern California Recycling Association
Ocean Conservancy
Oceana (co-sponsor)
Pacific Marine Mammal Center
Plastic Oceans International
Plastic Pollution Coalition
Sacramento Area Congregations Together
Sailors for The Sea
San Diego 350
San Diego Coastkeeper
San Francisco Baykeeper
Save Our Shores
Save the Albatross Coalition
Shark Stewards
Sierra Club California
Surfrider Foundation
Sustainable St. Helena
The Climate Center
The Last Plastic Straw
The Nature Conservancy
The NELA Climate Collective
The Plot
The Refill Shoppe
Urban Ecology
Wholly H2O
Wildcoast

Wishtoyo Chumash Foundation
Wrench & Rodent Seabasstropub
Zero Waste USA
1,175 Individuals

Opposition

Air Conditioning, Heating & Refrigeration Institute
American Chemistry Council
American Cleaning Institute
American Institute for Packaging and Environment
Ameripen
Berry Global
California Chamber of Commerce
California League of Food Producers
California Manufacturers & Technology Association
California Retailers Association
Civil Justice Association of California
Consumer Technology Association
Flexible Packaging Association
Personal Care Products Council
Plastics Industry Association
Sealed Air Corporation
The Toy Association

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 1749 (Cristina Garcia) – As Amended March 14, 2022

SUBJECT: Community Air Protection Blueprint: community emissions reduction programs: toxic air contaminants and criteria air pollutants

SUMMARY: Updates requirements of AB 617 (Cristina Garcia), Chapter 136, Statutes of 2017, to permit an additional year for completion of community emissions reduction programs (CERPs), require the Air Resources Board (ARB) to identify specified emissions reduction measures, and enhance reporting by local air districts.

EXISTING LAW:

1) The federal Clean Air Act (CAA) 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 ARB as the air pollution control agency in California and requires the ARB, among other things, to control emissions from a wide array of mobile sources and coordinate with local air districts to control emissions from stationary sources in order to implement the CAA.

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

4) Requires air districts to develop plans, as specified, and submit those plans to ARB detailing how they will achieve state air quality standards.

5) Establishes the Air Toxics Hot Spots Information and Assessment Act of 1987 to, among other things, require a health risk assessment that evaluates and predicts the dispersion of hazardous substances in the environment and the potential for exposure of human populations, and to assess and quantify both the individual and population wide health risks associated with those levels of exposure.

6) Pursuant to AB 617, requires a statewide emissions reduction strategy targeting pollution-burdened communities, as follows:

    a) Requires ARB, on or before October 1, 2018, to prepare a statewide strategy to reduce emissions of toxic air contaminants (TACs) and criteria pollutants in communities affected by a high cumulative exposure burden, and update the strategy at least once every five years.

    b) Requires the strategy to include criteria for development of CERPs, including:

i) An assessment and identification of communities with high cumulative exposure burdens for TACs and criteria air pollutants, prioritizing disadvantaged communities (DACs) and sensitive receptor locations based on one or more of the following: best available modeling information, existing air quality monitoring information, existing public health data based on consultation with Office of Environmental Health Hazard Assessment (OEHHA), and the results of community air monitoring systems (CAMS).

ii) A methodology for assessing and identifying the contributing sources or categories of sources, including, but not limited to, stationary and mobile sources, and an estimate of their relative contribution to elevated exposure to air pollution in impacted communities.

iii) An assessment of whether a district should update and implement the risk reduction audit and emissions reduction plan for any facility to achieve emission reductions commensurate with its relative contribution, if the facility's emissions either cause or significantly contribute to a material impact on a sensitive receptor location or DAC.

iv) An assessment of the existing and available measures for reducing emissions from the contributing sources or categories of sources.

7) AB 617 further requires the adoption of CERPs in communities designated by ARB, as follows:

a) Requires ARB to select locations around the state for preparation of CERPs, concurrent with the statewide strategy, with additional locations selected annually thereafter, as appropriate.

b) Requires a district, *within one year* of ARB selection, to adopt a CERP to achieve emissions reductions using cost-effective measures identified by ARB.

c) Requires the CERP to be consistent with ARB's statewide strategy and include emissions reduction targets, specific reduction measures, an implementation schedule, and an enforcement plan.

d) Requires the CERP to be submitted to ARB for review and approval within 60 days. Requires CERPs rejected by ARB to be resubmitted within 30 days. If a CERP is not approvable by ARB, requires ARB to initiate a public process to discuss options for achievement of an approvable CERP. Requires ARB to concurrently develop and implement the applicable mobile source elements to commence achievement of emission reductions.

e) Requires CERPs to result in emissions reductions in the community, based on monitoring and other data.

f) Requires ARB and the district each to be responsible for measures consistent with their respective authorities.

g) Requires districts to prepare an annual report summarizing the results and actions taken to further reduce emissions pursuant to a CERP.

h) Requires compliance with the CERP to be enforceable by the district and ARB, as applicable.

i) Requires ARB to provide grants to community-based organizations for technical assistance and to support participation in implementation of CERPs and CAMS.

THIS BILL:

1) Authorizes an air district, with the agreement of the community steering committee, to take up to one additional year to adopt a CERP.

2) Requires an air district's annual report to include updates to the CERP made to ensure consistency with updates to ARB's statewide strategy.

3) Requires ARB's statewide strategy (or "Blueprint) to identify measures to reduce criteria air pollutants and TACs.

4) Requires each air district to make available on an easily identifiable location on the district's internet website all permits issued by the district for stationary sources of criteria air pollutants or TACs.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> A study[1] released March 9, 2022 analyzed the effects of the discriminatory practice of redlining, which drove low-income communities and communities of color into housing surrounding or very near high polluting sources, and found that residents in those areas suffer from disproportionately high levels of fine particulate air pollution ($PM_{2.5)}$ which is a known factor in early death. In response to this problem, I authored AB 617 in 2017, which injects the community into the process of how to clean up our air in these communities. However, after several years of the program, there are many issues to be worked out through legislation. AB 1749 provides transparency in permitting by providing said permits online and gives another year for CERP approval if the community agrees, among other things. The way we address the health of people living in frontline communities needs to shift and AB 617 started the process. AB 1749 is continuing to build upon my previous work in this space.

2) **Opposition to identification of emissions reduction measures**. This bill requires ARB to identify measures to reduce criteria air pollutants and TACs in the AB 617 statewide strategy, also known as the "Blueprint." Writing in opposition, unless amended, the Western

[1] Historical Redlining is Associated with Present-Day Air Pollution Disparities in U.S.Cities. https://pubs.acs.org/doi/10.1021/acs.estlett.1c01012

States Petroleum Association (WSPA) argues "(h)aving ARB be required to 'identify' control measures at local communities would bypass and disregard the AB 617 and Blueprint program, which we believe directly contradicts the intent of the AB 617 program. WSPA seems to interpret, and implies, that asking ARB to identify control measures gives ARB new authority to direct control measures and that ARB would do so in a manner that is inconsistent with the plan adopted by a community. This seems like a stretch and doesn't account for the fact that ARB has had a role in guiding AB 617 implementation, including the statewide strategy, selection of communities, and approval of individual CERPs, from the beginning of the program.

REGISTERED SUPPORT / OPPOSITION:

Support

National Association of Social Workers, California Chapter

Opposition

Western States Petroleum Association (unless amended)

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 1857 (Cristina Garcia) – As Introduced February 8, 2022

SUBJECT: Solid waste

SUMMARY: Repeals the provision of law that allows jurisdictions to include up to 10% of the waste sent to transformation toward their 50% diversion requirement. Requires the Department of Resources Recycling and Recovery (CalRecycle) to certify that a local agency is in compliance with specified requirements before approving a permit for a new transformation, engineered municipal solid waste (EMSW) conversion, or land disposal facility.

EXISTING LAW, pursuant to the Integrated Waste Management Act (Act):

1) Establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020 through source reduction, recycling, and composting.

2) Requires jurisdictions, defined as cities, counties, and regional agencies, to divert at least 50% of solid waste generated from landfill disposal through source reduction, recycling, reuse, and composting activities. The amount diverted is known as a jurisdictions "diversion rate." Since 2008, this requirement shifted to a 50% disposal rate based on per capital disposal.

3) Requires CalRecycle and local agencies to maximize the use of all feasible source reduction, recycling, and composting options to reduce the amount of solid waste disposed.

4) Allows jurisdictions to count up to 10% of the waste that they send to transformation facilities toward the 50% diversion obligation if specified conditions are met, including that that facility began operating prior to January 1, 1995.

5) Defines biomass conversion as the production of heat, fuels, or electricity by the controlled combustion or noncombustion thermal conversion (e.g., gasification and pyrolysis) of specified types of biomass, such as agricultural, forestry, and yard wastes.

6) Defines EMSW conversion as the conversion of solid waste that meets specified conditions.

7) Defines transformation as incineration, pyrolysis, distillation, or biological conversion other than composting, but does not include composting, gasification, EMSW conversion, or biomass conversion.

THIS BILL:

1) Requires CalRecycle to certify that a local agency is in compliance with the requirement to maximize the use of all feasible source reduction, recycling, and composting options before approving a permit for a new transformation, EMSW conversion, or land disposal facility.

2) Repeals the provision of law that allows jurisdictions to count waste sent to transformation for up to 10% of their 50% diversion requirement.

3) Makes a number of conforming changes.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> AB 1857 corrects a deficiency in waste management law that has caused harm in overburdened communities for over three decades. The Integrated Waste Management Act "Act" (AB 939 in 1989) mandates that jurisdictions must divert at least 50% of their waste away from landfills and into source reduction, recycling, reuse, and composting activities. However, the Act permits jurisdictions to count up to 10% of the waste ("Diversion Credit") that they send to municipal solid waste incinerators towards their obligation to divert at least 50% of their waste away from landfills. It is past-due that the legislature update state-wide policy on municipal incinerators to better advance equity and sustainability in waste management law and make it clear that burning trash isn't recycling once and for all. Municipal waste incinerators are a reminder of how environmental racism can become normalized as a policy neutral solution when the story is always more complicated. It is hard to ignore the 30 years of lived experiences from frontline communities which live near an incinerator and the scientific data that shows the harmful health impacts from these facilities. Our state needs to turn away from municipal incineration as a viable option. Moreover, California needs to support zero-waste strategies with funding and policy changes to better leverage our investments going forward.

2) **California's recycling goals**. An estimated 35 million tons of waste are disposed of in California's landfills annually. CalRecycle is tasked with diverting at least 75% of solid waste from landfills statewide by 2020. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro), Chapter 476, Statutes of 2011, requires commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep the material out of the landfill. California's recent recycling rate, which reached 50% in 2014, dropped to 42% in 2020.

3) **Transformation**. Transformation refers to the incineration of solid waste to produce heat or electricity. Under the Act, transformation also includes pyrolysis, distillation, or biological conversion other than composting; however, it excludes biomass conversion. Transformation facility operators are required to report tonnages and origins of waste transformed and report the information to CalRecycle's Disposal Reporting System, maintain compliance with all applicable laws and permit requirements, and test ash quarterly for hazardous materials and manage it appropriately. California has two remaining transformation facilities, , Covanta Stanislaus Inc. in Stanislaus County and Southeast Resource Recovery in Long Beach. Both facilities are over 30 years old and require significant investment to

continue operating in the state.

Proponents of transformation state that it reduces greenhouse gas (GHG) emissions over landfilling by avoiding methane emissions, recovers the metals from solid waste that would otherwise be landfilled, and provides a reliable energy source. Transformation reduces the volume of material by about 90%, and the remaining 10% is ash that is either landfilled in a solid waste landfill or a hazardous waste facility. Transformation facilities are used by a number of law enforcement agencies to destroy controlled substances, evidence, and seized firearms; some local governments have raised concerns about finding alternative disposal options for these materials if they were to close.

According to the United States Environmental Protection Agency, solid waste incinerators typically emit hazardous air pollutants, including dioxin, furan, mercury, lead, cadmium, and other heavy metals. Other emissions from transformation facilities include nitrogen oxides, volatile organic compounds, particulate matter, and carbon monoxide. For this reason, they are required to have air pollution controls, such as afterburners to reduce carbon monoxide emissions, scrubbers to remove particulates and acid gases, filters to remove particulates, and dry sorbent injection for acid gas control. The types of pollution controls used depend on the composition of the wastes burned and on the design of the solid waste incinerator.

In addition to air emissions, incinerator ash is also an environmental concern. Ash should be disposed of in a solid waste landfill or in a hazardous waste facility, if testing determines it is hazardous. In March 2018, both the Los Angeles County Department of Public Health and CalRecycle inspection reports noted ash concerns at Southeast Resource Recovery, including ash accumulation along the roads at and near the site, and nearby drain grates were clogged with ash, posing health concerns for nearby residents and potential impacts to waterways.

The claim that transformation reduces GHG emissions over landfilling is disputed by a number of organizations and relies on the assumption that the portion of waste that is “biogenic” (e.g., food scraps, paper, wood, etc.) should not be counted because it is "carbon neutral" since plants and trees regrow. However, even without including the biogenic portion of the waste steam, transformation facilities emit more carbon dioxide per megawatt hour than coal power plants.

Transformation facilities in California are located in environmental justice communities. According to a report by Earthjustice, East Yard Communities for Environmental Justice, and the Valley Improvement Projects, the population within a 5-mile radius of Southeast Resource Recovery is 81% people of color with a per capita income of $28,312; the population within a 5-mile radius of Covanta Stanislaus is 80% people of color with a per capita income of $23,534.

4) **Is transformation recycling?** The Act permits jurisdictions to claim waste sent to transformation facilities for up to 10% of a jurisdiction’s diversion requirement. Jurisdictions claiming the transformation credit must ensure that all recyclable materials are removed from their solid waste before it burns, send the portion of their solid waste claimed as transformation to one of two CalRecycle-permitted active

facilities in California. Of the state's 419 jurisdictions, 249 claim some diversion credit from waste sent to transformation. Of those, four jurisdictions would not have met their diversion requirement without the transformation credit, they include the cities of Industry, Paramount, Lawndale, and Bellflower. It is important to note that a jurisdiction's failure to achieve the 50% diversion requirement can only result in enforcement action if CalRecycle determines that the jurisdiction did not make a "good faith effort" to implement its waste reduction and recycling programs.

The state has allowed incineration to be counted as recycling since 1989. At that time, recycling was not widely available statewide. In the last three decades, California has developed a robust recycling infrastructure that continues to grow and innovate. Allowing material sent to transformation to count as recycling provides an incentive for jurisdictions to continue to rely on this technology instead of supporting our existing recycling systems and investing in cleaner source reduction, recycling, and composting alternatives. This bill would end diversion credit for solid waste sent to transformation.

5) **Maximizing recycling**. The Act requires CalRecycle and jurisdictions to maximize the use of all feasible source reduction, recycling, and composting options to reduce the amount of solid waste that must be disposed of at transformation facilities and landfills. Requiring CalRecycle to ensure that a jurisdiction is complying with this requirement before granting a permit for a new disposal facility is intended to help ensure that California achieves its waste reduction goals.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Silicon Valley
350 Southland Legislative Alliance
Biofuelwatch
Breast Cancer Prevention Partners
BRINGiT for A Better Planet
California Environmental Justice Coalition
California Environmental Voters
California Interfaith Power & Light
Californians Against Waste (co-sponsor)
Center for Oceanic Awareness, Research, and Education
Central Valley Air Quality Coalition
Climate Reality Project, San Fernando Valley
Coalition for Clean Air
Del Amo Action Committee
Don't Waste Arizona
Earthjustice (co-sponsor)
East Yard Communities for Environmental Justice (co-sponsor)
Energy Justice Network
Environmental Justice Coalition for Water
Environmental Working Group
Friends Committee on Legislation of California

Friends of The Earth
Grayson Neighborhood Council
Greenaction for Health and Environmental Justice
GreenLatinos
Heal the Bay
Institute for Local Self-Reliance
Long Beach Gray Panthers
Mi Familia Vota
Monterey Bay Aquarium Foundation
Moore Institute for Plastic Pollution Research
Natural Resources Defense Council
Northern California Recycling Association
Pacific Environment
Plastic Oceans International
Plastic Pollution Coalition
Save Our Shores
Save the Albatross Coalition
Seventh Generation Advisors
Sierra Club California
SoCal 350 Climate Action
The 5 Gyres Institute
The Climate Center
The Last Beach Cleanup
Tri-valley Communities Against a Radioactive Environment
Upstream
Valley Improvement Projects (co-sponsor)
West Berkeley Alliance for Clean Air and Safe Jobs
West Oakland Environmental Indicators Project
Wishtoyo Chumash Foundation
Zero Waste USA

Opposition

None on file

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 2177 (Irwin) – As Amended March 14, 2022

SUBJECT: Coastal recreation: designated state surfing reserves

SUMMARY: Establishes new state authority to designate state surfing reserves.

EXISTING LAW:

1) Establishes the California Coastal Conservancy (Conservancy) to protect and improve natural lands and waterways, help people access and enjoy the outdoors, and sustain local economies along the length of California's coast and around San Francisco Bay. (Public Resources Code § 31100)

2) Establishes surfing as the official state sport. (Government Code sec. 424.7)

THIS BILL:

1) States the intent of the Legislature to establish a process for state designated surfing reserves in order to recognize the cultural, historical, economic, and ecological importance of California's waves, surf zones, and their surrounding environments.

2) Defines "surfing reserve" as an area that would feature protected waves, surf zones, and surrounding environments and would recognize the surfing area's environmental, cultural, and historical significance.

3) Requires, on or before July 1, 2023, Conservancy to establish criteria and an application process for purposes of designating an area of the coastline as a state surfing reserve. Authorizes the Conservancy to require, as one of the criterion, a letter of recommendation for the designation of a state surfing reserve from the California Coastal Commission.

4) Requires the Conservancy, when establishing criteria for purposes of the state surfing reserve designation, to consider factors including, but not limited to, wave quality and consistency, surf culture and history, and environmental characteristics.

5) Authorizes a local agency, after adopting a formal resolution, to apply to the Conservancy for purposes of designating an area of the coastline within the jurisdiction of the local government as a state surfing reserve.

6) Requires the agency to include in its application a description of the proposed surfing reserve, including specific geographic location and description of the cultural, historical, ecological, and economic value of the proposed surfing reserve, in addition to any other eligibility criteria required by the Conservancy.

7) Requires the Conservancy to approve the application from the local government if the area of the coastline meets the established criteria.

8) Authorizes the Conservancy, once the application is approved, to designate the area as a state surfing reserve and include this designation in any publications or maps that are issued by the Conservancy.

Authorizes the Conservancy, if at any time it determines that the designated state surfing reserve no longer meets the criteria, to revoke its designation as a state surfing reserve.

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's statement**.

> California has a long history of recognizing the unique qualities of our coastlines and oceans. With a coastline that spans 1,100 miles, our state is home to a number of world-famous surf breaks including Malibu, Huntington Beach, Trestles, and Mavericks. These breaks are destinations for domestic and international surfers, with our state proudly hosting numerous surf events like the U.S. Open of Surfing, the International Surf Festival, and this year, the Finals of the World Surf League. In 2018, the California Legislature designated surfing as our official state sport. Since then, our state has continued to promote sustainable practices and environmental protections for our surfing zones, making AB 2177 the next logical step in supporting our surf communities.
>
> Similar to our state's Scenic Highway designations, AB 2177 will create a process for state designated surfing reserves in order to recognize the cultural, economic, and ecological importance of California's surf zones. This designation will facilitate economic benefits to local communities, celebrate that a number of these surf breaks are also the ancestral homeland for indigenous peoples, and ultimately provide smaller surfing communities with a statewide program to encourage tourism and surfing as a way for Californians to connect with our oceans.

2) **Surfing in California**. The popularity of surfing in California was inspired by a man named George Freeth, who had grown up surfing in Waikiki and moved to Southern California in the early 1900s, where he introduced the sport and fanned its popularity amongst southern Californians.

   Surfing competitions were established along the California coast during the 1920s, and a booming surf culture was created when the automobile became readily accessible, enabling inland individuals to visit the coast.

   Today, surfing is an iconic California sport, and the state is home to a number of world-famous surf breaks like Malibu, Trestles, Mavericks, Rincon, Steamer Lane, Ocean Beach, and Huntington Beach, which are destinations for both domestic and international surfers. Every year, California hosts numerous domestic and international surf events, including the International Surf Festival, the U.S. Open of Surfing, and the Big Wave Surf Contest. California is also home to the Surfers' Hall of Fame, the International Surfing Museum, and the California Surf Museum.

The sport of surfing has buoyed both economic innovations and scientific advancements. The commercial surfboard industry started in California in the 1950s. The science of wave forecasting was pioneered at the Scripps Institution of Oceanography at the University of California and allows surfers to predict when and where to go surfing all over the world. The invention of world's first neoprene wetsuit is attributed to a physicist at UC Berkeley.

The United States is home to approximately 3.3 million surfers, who spend between $1.9 and $3.3 billion each year on local surf trips. Professional surfers brought in $140 billion in surf tourism in California in 2018 alone, and the surf industry, which is almost exclusively based in California, generates more than $6 billion in United States annual retail sales. Additionally, a report published by the National Oceanographic and Atmospheric Administration (NOAA), indicated that California has the highest number of individuals who surf in the country.

Surfing today is one of the fastest-growing sports in the world with the Summer Olympics now including surfing as an event. In 2028, Los Angeles will host the Summer Olympics, and with surfing being an event, the visibility for the sport, and therefore the waves, will be apparent.

In recognition of the importance and contributions of surfing to California, in 2018, the Legislature enacted AB 1782 (Gray, Chapter 162, Statutes of 2018) to name surfing the official sport of California. That same year, the Legislature named September 20 of that year as California Surfing Day.

3) **Surfing reserves.** This bill would establish designated surfing reserves to recognize the cultural, historical, economic, and ecological importance of California's waves, surf zones, and their surrounding environments.

The bill is modeled after the state's successful scenic highway designations. In 1963, the State Legislature established the California Scenic Highway Program to protect and enhance the natural scenic beauty of California highways and adjacent corridors, through special conservation treatment. It declared that scenic highways will "play an important role in encouraging the growth of the recreation and tourism industries upon which the economy of many areas of this State depend."

Scenic corridors consist of land that is visible from, adjacent to, and outside the highway right-of-way, and is comprised primarily of scenic and natural features. Topography, vegetation, viewing distance, and/or jurisdictional lines determine the corridor boundaries.

Like scenic highways, the onus of designating a surfing reserve would be on a local government to propose. The reserve would consist of a designated stretch of coastline, such as a known surf zone, like Mavericks, as a surfing reserve. The local agency would apply to the Conservancy to request approval of the designation.

While AB 2177 would not require signage the way designated scenic highways are recognized, it would require the Conservancy to include designated surfing reserves in any publications or maps that are issued by the Conservancy.

Surfing Rincon, coast of Carpentaria

4) **30x30.** In October 2020, Governor Newsom signed his Nature Based Solutions Executive Order N-82-20, elevating the role of natural and working lands in the fight against climate change and advancing biodiversity conservation as an administration priority. As part of this Executive Order, California is committed to the goal of conserving 30% of our lands and coastal waters by 2030, hence 30x30.

   While a surfing reserve designation will not oblige a local government to conservation or restoration mandates, or preclude permitted development, recognition of surfing areas will compel a natural appreciation of those areas, much like it is common knowledge not to pick a wild poppy because it is California's state flower.

   In that regard, designated surfing reserves are compatible with and supportive of the 30x30 conservation goal.

5) **Benefits of designated surfing reserves.** In addition to honoring the cultural and recreational benefits of surfing, designation could attract tourists looking for surfing vacations in California by facilitating trip planning to desirable surfing zones. Designations would also instill a reverence for the coastline's recreational values, coastal views, and the "blue spaces" both Californians and tourists seek out.

6) **Technical amendments.** The committee may wish to amend the bill as follows:

   - Change the code section of the bill from section 30280, which is in the California Coastal Act, to a code section within Division 21, under the Conservancy's statutory guidance.
   - Amend sec. 30282 (c)(2) to require the Conservancy to include designated surfing reserves in published maps, when appropriate.

Related legislation: ACR 116 (Nguyen, 2022) would recognize September 20, 2022, and every year on that date thereafter, as California Surfing Day to celebrate the California surfing lifestyle.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 1956 (Mathis) – As Introduced February 10, 2022

SUBJECT: Solid waste: woody biomass: collection and conversion

SUMMARY: Requires the Department of Resources Recycling and Recovery (CalRecycle) to establish a woody biomass rural county collection and disposal pilot program (program).

EXISTING LAW:

1) Pursuant to the Integrated Waste Management Act:

    a) Defines "biomass conversion" as the production of heat, fuels, or electricity by the controlled combustion of, or the use of other noncombustion thermal conversion technologies on, the following materials, when separated from other solid waste:

        i) Agricultural crop residues.

        ii) Bark, lawn, yard, and garden clippings.

        iii) Leaves, silvicultural residue, and tree and brush pruning.

        iv) Wood, wood chips, and wood waste.

        v) Nonrecyclable pulp or nonrecyclable paper materials.

    b) Specifies that "biomass conversion" does not include the controlled combustion of recyclable pulp or recyclable paper materials, or materials that contain sewage sludge, industrial sludge, medical waste, hazardous waste, or either high-level or low-level radioactive waste.

    c) Defines "rural county" for purposes of the Integrated Waste Management Act as a county or multicounty regional agency that annually disposes of no more than 200,000 tons of solid waste.

2) Requires retail sellers (i.e., investor-owned utilities, community choice aggregators, energy service providers) and publicly owned utilities (POUs) to procure 50% to 60% of their retail electricity sales from eligible renewable energy resources by 2030 and thereafter, including interim targets of 33% by 2020, 40% to 44% by 2024, and 45% to 52% by 2027. This is known as the Renewables Portfolio Standard (RPS).

3) Establishes state policy that RPS-eligible and zero-carbon resources supply 100% of all retail sales of electricity to California end-use customers no later than December 31, 2045.

4) Specifies that biomass conversion is a renewable energy for purposes of the RPS.

5) Defines "biomass" as any organic material not derived from fossil fuels, such as agricultural crop residues, bark, lawn, yard and garden clippings, leaves, silvicultural residue, tree and brush pruning, wood and wood chips, and wood waste, including these materials when separated from other waste streams. "Biomass" or "biomass waste" does not include material containing sewage sludge, industrial sludge, medical waste, hazardous waste, or radioactive waste.

THIS BILL:

1) Requires CalRecycle to administer the program, until January 1, 2028, for the purpose of conducting community collection days where individuals can dispose of woody biomass free of charge.

2) Specifies that a rural county may apply to CalRecycle for funding to conduct community collection days for free collection of biomass for conversion "in a way that results in less greenhouse gas (GHG) emitted than if the biomass had been disposed."

3) Specifies that woody biomass is the focus of the program, but that all biomass shall be accepted under the program.

4) Requires CalRecycle to ensure that funding is available for each of the five years of the program.

5) By July 1, 2023, requires CalRecycle to adopt criteria to determine how to give priority to projects with the highest GHG emissions reductions.

6) Authorizes CalRecycle to use up to 5% of the funds for administrative costs.

7) Requires CalRecycle, by March 1, 2028, to report to the Legislature the following:

   a) The number of rural counties awarded funding;

   b) The amount of funding awarded to each participating county; and,

   c) The amount of biomass collected for conversion at community collection days.

8) Defines terms used in the bill, including:

   a) "Participating rural county" to mean a rural county that has been awarded funding under the program;

   b) "Rural county" to mean a county with a total population of less than 250,000.

9) Sunsets the program on March 2, 2029.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> Over the years, the number of biomass facilities has steadily declined, despite the benefits it brings to surrounding communities and the environment. There are now less than half of the facilities in operation as compared to the industries' peak. Sadly, the reduction in biomass conversion sites has led to problems for disposal of woody biomass materials in general; however, there are significantly larger effects on small-scale disposal efforts.
>
> In order to mitigate wildfire damage potential, rural Californians are required to maintain their properties and keep dead organic materials to a minimum. Each year, these residents pile up their biomass materials and, after applying for a permit, burn it. These open pile burns and prescribed burns are necessary to dispose of the large quantities of materials collected each year. However, they release vast quantities of GHG emissions, including significant levels of black carbon and $PM_{2.5}$.
>
> The other option allotted to rural Californians is the disposal of woody biomass material by means of a biomass conversion facility. Here, the material is burned in a controlled setting which minimizes the number of pollutants that are expelled, while also generating significant quantities of energy for the surrounding communities. In fact, the emissions generated by a biomass facility are a mere fraction of that of open pile burning. However, one of the main reasons the open burn trend continues is the shear difficulty for rural residents to transport the materials to a biomass facility. Most rural homeowners are unable to afford to either contract out or transport their woody biomass materials to a conversion facility. As such, they resort to conventional burning methods. This action both damages our environment and results in a loss of potential clean energy.
>
> This measure would create a pilot program for the purpose of funding rural county biomass collection days. Rather than requiring rural homeowners to transport their woody biomass materials dozens of miles to a conversion facility, they would be able to drop the material off at a local site at no cost. The county would then contract with a local biomass conversion facility to remove and transport the material to the facility. AB 257 simply seeks to provide rural residents the option to dispose of their woody biomass materials in a way that reduces their GHG emissions while also generating clean energy for surrounding communities.

2) **Biomass.** A century of suppressing low intensity fires, logging of older growth and more fire-resistant trees, and a significant five-year drought have 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.

California's forests have become overstocked and unhealthy. In the Stanislaus National Forest, a team of UC Berkeley researchers found a density of 400 trees per acre in 2013, compared with 60-90 trees per acre found in historical reports from 1911. In addition, the researchers found more undergrowth species, and a smaller average tree size than in 1911. According to the US Forest Service, between 2014 and 2018 more than 147 million trees

died due to a combination of drought and bark beetles, creating unprecedented levels of fuel. 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.

Senate Bill 901 (Dodd), Chapter 626, Statutes of 2018, committed $1 billion for the Department of Forestry and Fire Protection's Forest Health Grant Program and fire prevention grant program and dedicated fuel reduction crews over five years. SB 901 also required utilities with biomass contracts that expire before the end of 2023 to offer five-year contract extensions (excluding biomass facilities located in federal severe or extreme nonattainment areas for particulate matter or ozone).

The Climate Catalyst Fund was established by AB 78 (Budget Committee), Chapter 10, Statutes of 2020, and received its first capitalization via the state budget in September 2021. According to the Infrastructure and Economic Development Bank (I-Bank), the Climate Catalyst Fund's initial focus will be on infrastructure that advances forest biomass management and utilization. The I-Bank is developing criteria, priorities and guidelines for the selection and underwriting of projects under the Climate Catalyst Fund.

Fuels reduction projects generate large amounts of waste material, generally referred to as biomass or woody biomass. When conducting fuels treatment, the material removed from the forest is usually small diameter material, which does not have much value and creates negative air quality impacts when pile burned in the forest. There have been various efforts to develop markets for biomass removed for fuel reduction purposes. AB 2518 (Aguiar-Curry), Chapter 637, Statutes of 2018, directed CAL FIRE to identify barriers to in-state production of mass timber and other innovative forest products. These innovative wood products and mass timber can offer new ways to use material that currently is either pile burned, shredded and left on the forest floor or sent to a landfill or to a biomass energy facility.

3) **Biomass conversion**. Biomass conversion is the production of energy (e.g., fuels, electricity, heat) by combustion, or the use of noncombustion thermal conversion technologies of specified biomass, including, agricultural crop residues, bark, lawn, yard, garden clippings, leaves, silvicultural residue, tree and brush pruning, wood, wood chips, and wood waste and nonrecyclable pulp or nonrecyclable paper materials, when those materials are separated from other solid waste.

   Current law requires jurisdictions to divert 50% of solid waste from landfill disposal or transformation (combustion of municipal solid waste) through source reduction, recycling, and composting activities. CalRecycle calculates whether this requirement is met by tracking disposal at transformation facilities and landfills. Biomass conversion is excluded from the definition of transformation, and therefore, biomass that is combusted or "converted" at a biomass conversion facility is not counted as disposal.

   According to the Placer County Air Pollution Control District, biomass conversion significantly reduces criteria air pollutants, including particulate matter 2.5, nitrous oxides, carbon monoxide, and volatile organic compounds, when compared to open pile burning. The reductions in GHG emissions were modest, approximately 0.5 tons per "bone dry ton" of biomass.

4) **Suggested amendment**. The *committee may wish to amend the bill* to expand eligibility to include collection programs for biomass recycling, including composting and mulching.

5) **Previous legislation**:

AB 1519 (Gallagher and Patterson) of 2019 would have required the Natural Resources Agency (NRA) to develop and implement a biomass fuels transportation grant program to offset the cost of transporting fuels to a biomass energy facility. AB 1519 was held in this committee.

AB 343 (Patterson) of 2019 was substantially similar to AB 1519. AB 343 was held in the Assembly Appropriations Committee.

AB 257 (Patterson) of 2019 was substantially similar to this bill. AB 257 was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Biomass Energy Alliance
California Forestry Association
Rural County Representatives of California

Opposition

None on file

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 1657 (Nguyen) – As Amended March 14, 2022

SUBJECT: Oil spills: reporting: waters of the United States

SUMMARY: Expands current oil spill reporting requirement to include immediate notification of a threatened discharge of oil in federal waters to the California Office of Emergency Services (CalOES).

EXISTING LAW:

1) Pursuant to the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act: (Government Code § 8670.1, *et seq*.)

   a) Requires, without regard to intent or negligence, any person responsible for the discharge or threatened discharge of oil into waters of the state to report the discharge immediately to CalOES.

   b) Requires a local agency or state agency responding to an oil spill to notify the California State Warning Center if the spill has not yet been reported.

   c) Requires, immediately upon receiving notification of a spill, CalOES to notify the administrator of OSPR, the State Lands Commission, the California Coastal Commission, the appropriate California regional water quality control board, and the appropriate local governmental agencies in the area surrounding the discharged oil.

   d) Requires the administrator for oil spill response (administrator), acting at the direction of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill containment and cleanup.

   e) Requires the administrator, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup.

   f) Establishes the failure to notify CalOES regarding an oil spill as a felony.

2) Pursuant to the Federal Clean Water Act: (33 U.S.C. § 1251, *et seq*.)

   a) Requires any person in charge of a vessel or of an onshore or offshore facility to notify the National Response Center if it discharges a harmful quantity of oil to U.S. navigable waters, adjoining shorelines, or the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or Deepwater Port Act of 1974. (Discharge of Oil regulation, 40 Code of Federal Regulations (CFR) part 110)

   b) Requires that a discharge must be reported to the United States Environmental Protection Agency Regional Administrator when there is a discharge of: more than 1,000 gallons of oil in a single discharge to navigable waters or adjoining shorelines; or, more than 42.

gallons of oil in each of two discharges to navigable waters or adjoining shorelines occurring within any twelve-month period. Provides that when determining the applicability of this reporting requirement, the gallon amount(s) specified (either 1,000 or 42) refers to the amount of oil that actually reaches navigable waters or adjoining shorelines, not the total amount of oil spilled. (Oil Pollution Prevention regulation, 40 CFR part 112)

THIS BILL:

1) Expands current oil spill reporting requirement to include immediate notification of a threatened discharge of oil in federal waters to CalOES.

2) Defines "threatened discharge of oil in waters of the state" as including, but not limited to, any discharge by any facility, as defined in section 8670.3 (g) of Government Code, located where an oil spill may impact state waters.

3) Requires a facility to presume to be located where an oil spill may impact state waters if any portion of any pipeline that services a facility, is a facility, or is a part of a facility transports oil to, from, or through state waters

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

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's statement:**

   On October 2nd, 2021, approximately 126,000 gallons of crude oil were spilled into the waters of Huntington Beach and surrounding cities, affecting those communities and businesses. As later reports would indicate, the operators of the pipeline ignored numerous notifications and neglected their reporting obligation, which could have reduced the overall amount of oil spilled and given local jurisdictions time to gather resources and respond appropriately to the incident. In events like this, time is of the essence in responding and providing crucial support to stop a spill, reduce impact on the environment and mitigate any long-lasting ecological damage. This bill, AB 1657, would expand the existing notification requirements for responsible parties to include notifying the Office of Emergency Services of an oil spill that affects not only the waters of the United States but also the waters of the State of California. This bill would require that notification to be immediate.

2) **Orange County oil spill.** On October 2, 2021, an oil spill was detected in Southern California, originating from an underwater pipe connected to the Elly platform about 4.5 miles offshore near Long Beach that spilled approximately 24,696 gallons. (It was initially reported that the leak spilled more than 100,000 gallons of oil.)

   A vessel's anchor likely hooked and tore the underwater pipeline that spilled tens of thousands of gallons of crude oil into the ocean off Southern California, according to federal

investigators who also found the pipeline owner, Amplify, didn't quickly shut down operations after a safety system alerted to a possible spill. It remains unknown when, precisely, the crack in the pipeline began leaking oil; investigations are ongoing.

Federal rules require pipelines to have leak detection systems, and this pipeline met that requirement, but the operator's response to the alarms was delayed. The first alarm occurred at 4:10 p.m. on Friday, October 1. Crews working on the oil platform attempted to respond to a series of alarms from the leak detection system while still trying to maintain the flow of oil through the pipeline. Amplify's Beta Offshore unit didn't shut the pipeline down until 6:01 a.m. The National Response Center (NRC), an emergency call center staffed by the U.S. Coast Guard that monitors and responds to environmental emergencies, said it received an alert from Amplify Energy at 9:07 a.m. on October 2 indicating that there had been a release of crude oil in the vicinity of its pipeline near the Elly Platform. CalOES received the NRC's spill report notifying CalOES of the spill at 9:20 a.m. The delay in response by the operator allowed the spill to continue for over 16 hours.

3) **Federal and state jurisdiction.** In 1953, the Submerged Lands Act was enacted, giving coastal states jurisdiction over a region extending 3 nautical miles seaward from the baseline (the boundary line dividing the land from the ocean is called the baseline), commonly referred to as state waters. This jurisdiction is recognized by both the Clean Water Act and the Oil Pollution Act (OPA), which refer to a 3-mile territorial sea.

   The federal government retains the power to regulate commerce, navigation, power generation, national defense, and international affairs throughout state waters. However, states are given the authority to manage, develop, and lease resources throughout the water column and on and under the seafloor.

4) Federal notification requirements: Any person in charge of a vessel or of an onshore or offshore facility is required to notify the NRC if it discharges a harmful quantity of oil to U.S. navigable waters, adjoining shorelines, or the contiguous zone.

   The Discharge of Oil regulation, for which notification is required, is more commonly known as the "sheen rule." The regulation establishes the criteria for determining whether an oil spill may be harmful to public health or welfare, thereby triggering the reporting requirements, as follows:

   - Discharges that cause a sheen or discoloration on the surface of a body of water;
   - Discharges that violate applicable water quality standards; and,
   - Discharges that cause a sludge or emulsion to be deposited beneath the surface of the water or on adjoining shorelines.

   Because the OPA, which amended the federal Clean Water Act, broadly defines the term "oil," the sheen rule applies to both petroleum and non-petroleum oils (e.g., vegetable oil).

   Under the federal oil discharge reporting requirements, a discharge must be reported to the U.S. Environmental Protection Agency (US EPA) if there is a discharge of:

   - More than 1,000 gallons of oil in a single discharge to navigable waters or adjoining shorelines; or,

- More than 42 gallons of oil in each of two discharges to navigable waters or adjoining shorelines occurring within any twelve-month period.

The NCP (40 CFR part 300) establishes the National Response System (NRS) as the federal government's response management system for emergency response to releases of hazardous substances into the environment or discharges of oil into navigable waters of the United States. (The OPA strengthened the NRS and provide for better coordination of spill contingency planning among federal, state, and local authorities.) This system functions through a network of interagency and intergovernmental relationships and provides for coordinating response actions by all levels of government to a real or potential oil or hazardous substances incident, and NRS notifies CalOES in real time of a spill or a potential spill that occurs in federal or state water, or that could impact state waters.

Oil and hazardous substances response under the NRS is divided into three organizational levels: the National Response Team (NRT), Regional Response Teams (RRTs), and federal on-scene coordinators (OSCs). Federal OSCs are the federal officials predesignated by the U.S. EPA and the USCG to coordinate response resources. In every area of the country, OSCs are on-call and ready to respond to an oil discharge or a hazardous substance release 24-hours a day. When a discharge or release is discovered or reported, the OSC is responsible for immediately collecting pertinent facts about the discharge or release to evaluate the situation. Based on the evaluation, if the OSC decides a federal emergency response action is necessary, the OCS works with state and local emergency response teams, local police and firefighters, and/or other federal agencies to eliminate the danger.

Unified Command is a necessary tool for effectively managing multi-jurisdictional responses to oil spills or hazardous substance releases.

5) **Increased notification to the state.** AB 1657 would require a facility in federal waters that connects to a pipeline that goes through state waters to immediately report to CalOES a spill or potential spill in federal waters that threaten state waters. The author's intent is to rectify notification delays like last fall, when Amplify Energy waited more than 12 hours to report its pipeline rupture to authorities. Federal prosecutors cited this "failing to properly respond" in their indictment last month of the Houston-based company.

While there are a plethora of state and federal laws requiring immediate notification and coordination for spill response, there is no requirement for a facility owner or operator to notify the state in the event of a threatened spill in federal waters adjacent to state waters.

6) Related legislation:

AB 1611 (Davies) Requires a person to notify specified state and federal entities that a vessel hit or likely hit a pipeline in waters of the state, within 24 hours of knowing that the vessel did so or likely did so, and would subject that person to specified civil penalties for failure to provide those notifications. This bill is scheduled to be heard in the Assembly Natural Resources Committee on March 21.

AB 1658 (Nguyen, 2022) Requires OSPR to create and post on its internet website best practices, which may include, but are not limited to, a model ordinance, for local jurisdictions

that would like to adopt a local oil spill response plan. This bill is scheduled to be heard in the Assembly Natural Resources Committee on March 21.

SB 953 (Min, 2022) Would require the State Lands Commission to terminate all remaining oil and gas leases under its jurisdiction in tidelands and submerged lands within state waters by December 31, 2023. This bill is scheduled to be heard in the Senate Natural Resources & Water Committee on March 22.

AJR 24 (Nguyen, 2022) Requests that the U.S. government locate unified command centers based on proximity and access to oil spills to make the unified command centers easily accessible to local agencies and local governments directly affected by the oil spill. This resolution has not yet been referred.

AJR 25 (Nguyen, 2022) Requests the U.S. Congress and the President to immediately take action to increase resources for the enforcement of regulating vessel anchorages to both regulate the backlog of cargo ships and prevent future oil spills related to anchor strikes. This resolution has not yet been referred.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 1658 (Nguyen) – As Amended March 15, 2022

SUBJECT: Oil spill response and contingency planning: oil spill elements: area plans

SUMMARY: Requires local area plans with an oil spill element to be consistent with the U.S. Coast Guard Area Contingency Plan (ACP).

EXISTING LAW:

1) Requires, pursuant to the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act), the administrator for the Office of Spill Prevention and Response (OSPR), acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup. (Government Code (GC§ 8670.1)

2) Requires the Administrator of OSPR (Administrator), taking into consideration the California oil spill contingency plan, to promulgate regulations regarding the adequacy of oil spill elements of local jurisdiction area plans. Authorizes the administrator of OSPR to offer, to a unified program agency with jurisdiction over or directly adjacent to waters of the state, a grant to complete, update, or revise an oil spill element of the area plan. (GC § 8670.35)

3) Requires all agencies, including local agencies, to follow incident command system principles and the standardized emergency management system. (GC § 8607)

4) Authorizes the Administrator to administer grants to a local government, Native American tribe, or other public entity with jurisdiction over or directly adjacent to waters of the state to provide oil spill response equipment to be deployed by a certified local spill response manager. (GC § 8670.8.3)

5) Established minimum planning requirements for local area oil spill contingency plans. (California Code of Regulations (CCR) § 852.25.2)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's statement.**

> On October 2nd, 2021, approximately 126,000 gallons of crude oil were spilled into the waters of Huntington Beach and surrounding cities, affecting those communities and businesses. The City of Huntington Beach had an oil spill response plan, resulting in their effectiveness to begin work on the cleanup, investigation and overall response immediately. However, this is not customary. Coastal cities do not always have a response plan of best practices for when oil spills suddenly occur and many times this results in delayed and ineffective responses. Coastal communities have many valuable natural resources that need

protection and an oil spill response best practices plan would change the speed and effectiveness with which oil spills are responded to in the future. The Office of Spill Prevention and Response (OSPR) has more than enough tools and resources that can be compiled into an oil spill response best practices plan for California cities. Providing local governments with the tools and an already developed response plan allows local governments to respond to an oil spill immediately to mitigate any disaster.

2) **State oil spill response planning.** At the state level, the Act established OSPR in the California Department of Fish and Wildlife in order to help meet the state's responsibilities for oil spill prevention and response established at the federal level. The Administrator is required to submit to the Governor and the Legislature a revised state oil spill contingency plan (State Plan) every three years. The State Plan is an independent document regarding discharges of oil to all marine or inland surface waterways of California and to land. All state and local agencies are required to carry out spill response activities consistent with the State Plan and other applicable federal, state, or local spill response plans. The most recent State Plan was published in July 2019. Existing law requires the Administrator to adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented and requires the regulations to provide for the best achievable protection of coastal and marine waters.

3) **Local oil spill response plans**. OSPR partners with leaders from California's numerous sovereign tribal governments, 58 counties, more than 400 cities and towns, and countless port, harbor, and special districts to outline its mission of providing the best achievable protection of California's natural resources.

   OSPR maintains the State Plan for oil discharges to all marine or inland surface waterways of California and to land. All state and local agencies must carry out spill response activities consistent with the State Plan and other applicable federal, state, or local spill response plans.
   .

   OSPR also manages a grant program to help certified unified program agencies (CUPAs), which are local agencies that oversee hazardous waste management, such as oil spills, at the local level, to develop the oil spill element of their local area plans, CUPAs are legally requirement to maintain. Under the grant program, the Administrator can provide grant funding to a CUPA with jurisdiction over or directly adjacent to waters of the state to complete, update, or revise an oil spill element of the area plan. The objective of the local government grant program is to encourage local governments adjacent to marine waters to update their local plans and to assist with providing a coordinated response and cleanup effort between local governments and state and federal officials in order to provide the best achievable protection of the California Coast and marine waters.

   The corresponding regulations for the grant program include a very thorough provision (CCR § 852.62.2) that is functionally the "best practices" for a local area oil spill contingency plan.

   On top of the aforementioned resources, OSPR provides grants to local government entities, special districts, and Native American tribes to provide oil spill response equipment (i.e., booms) that can be pre-positioned (pre-staged) adjacent to waters of the state to contain a spill and/or to protect local resources.

4) **Orange County oil spill.** On October 2, 2021, an oil spill was detected in Southern California, originating from an underwater pipe connected to the Elly platform about 4.5 miles offshore near Long Beach that spilled approximately 24,696 gallons. (It was initially reported that the leak spilled more than 100,000 gallons of oil.)

   The oil spill has significantly affected the City of Huntington Beach, with substantial ecological impacts occurring at the beach and at the Huntington Beach Wetlands.

5) **Local response.** The City of Huntington Beach received information from the US Coast Guard at 12:00pm on October 2 that the oil impact could reach Huntington Beach; in response, city personnel began collaborating and began local response operations, driven by their marine oil spill protocols, beginning at 4:00 p.m.by implementing boom mitigations at ecologically sensitive areas and closing stretches of the shoreline. Huntington Beach Fire and Marine Safety personnel were also deployed to implement oil containment efforts.

   According to the author, the City of Huntington Beach was well prepared to respond to and handle the impacts of the oil spill on the city. Part of the intent of AB 1658 is to encourage local jurisdictions to create local oil spill response plans to complement state and federal oil spill contingency plans and to use the technical assistance and guidance provided by OSPR so that all coastal jurisdictions that want to be prepared like Huntington Beach have access to the resources to do so.

6) U.S. Coast Guard Area Contingency Plan. An ACP is a document prepared for the use of all agencies engaged in responding to environmental emergencies within a defined geographic area. An ACP is a mechanism to ensure that all responders have access to essential area-specific information and promotes inter-agency of coordination to improve the effectiveness of responses.

   The U.S. Coast Guard is designated the lead agency for planning and response in coastal zones and certain major inland water bodies.

7) **AB 1658.** This bill would require CUPA local area plans with an oil spill element to be consistent with the ACP.

8) Related legislation:

   AB 1611 (Davis) would require a person to notify specified state and federal entities that a vessel hit or likely hit a pipeline in waters of the state within 24 hours of knowing that the vessel did so or likely did so and would subject that person to specified civil penalties for failure to provide those notifications. This bill is scheduled to be heard in the Assembly Natural Resources Committee on March 21.

   AB 1657 (Nguyen) would require responsible parties to report a spill or potential spill in either federal or state waters to CalOES. This bill is scheduled to be heard in the Assembly Natural Resources Committee on March 21.

   SB 953 (Min) Would require the State Lands Commission to terminate all remaining oil and gas leases under its jurisdiction in tidelands and submerged lands within state waters by December 31, 2023. This bill is scheduled to be heard in the Senate Natural Resources and Water Committee on March 22.

AJR 24 (Nguyen) Requests that the United States government locate unified command centers based on proximity and access to oil spills to make the unified command centers easily accessible to local agencies and local governments directly affected by the oil spill. This resolution has not been referred.

AJR 25 (Nguyen) Requests the United States Congress and the President of the United States to immediately take action to increase resources for the enforcement of regulating vessel anchorages to both regulate the backlog of cargo ships and prevent future oil spills related to anchor strikes. This resolution has not been referred.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 1832 (Luz Rivas) – As Introduced February 7, 2022

SUBJECT: Tidelands and submerged lands: hard mineral extraction.

SUMMARY: Repeals the State Lands Commission's (SLC) authority to grant leases or issue permits for the extraction or removal of hard minerals from tidelands and submerged lands of the state.

EXISTING LAW:

1) Authorizes the SLC to grant the privilege of depositing material upon, or removing or extracting material from, swamp, overflowed, marsh, tide or submerged lands, beds of navigable streams, channels, rivers, creeks, bays, or inlets owned by the state, for improvement of navigation, reclamation, flood control, or, for purposes connected with the erection or maintenance of authorized structures that are in the best interests of this state. (Public Resources Code (PRC) § 6303 (a))

2) Authorizes SLC, when a contractor or permittee has a contract with, or a permit from, the federal government or any authorized public agency to dredge swamp, overflowed, marsh, tide or submerged lands, beds of navigable streams, channels, rivers, creeks, bays, or inlets for the improvement of navigation, reclamation, or flood control, to allow the contractor or permittee to have sand, gravel, or other spoils dredged from the sovereign lands of the state located within the areas specified in the contract or permit upon those terms and conditions and for such consideration as will be in the best interests of the state. (PRC § 6303 (a))

3) Authorizes the SLC, when it appears to be in the public interest, to grant leases for the extraction of minerals other than oil and gas to the highest responsible bidder by competitive bidding from tide and submerged lands of the state whenever it appears that the execution of such leases and the operations thereunder will not interfere with the trust upon which such lands are held or substantially impair the public rights to navigation and fishing. (PRC § 6900)

THIS BILL:

1) Finds and declares that seabed mining poses an unacceptably high risk of damage and disruption to the marine environment of the state. It is in the best interest of the people of California that leasing for hard mineral mining at the seafloor be prohibited.

2) Repeals the SLC's authority to grant leases for the extraction of minerals from tide and submerged lands of the state whenever it appears that the execution of such leases and the operations thereunder will not interfere with the trust upon which such lands are held or substantially impair the public rights to navigation and fishing.

3) Prohibits the SLC or a local trustee of granted public trust lands from granting leases or issuing permits for the extraction or removal of hard minerals from tidelands and submerged lands of the state.

4) Defines "hard minerals" as natural deposits of valuable minerals, including, but not limited to, metals and placer deposits of metals, nonmetallic minerals, gemstones, ores, sediments, gold, silver, copper, lead, iron, manganese, silica, chrome, platinum, tungsten, zirconium, titanium, garnet, and phosphorus. Excludes rock, gravel, sand, silt, coal, or hydrocarbons.

5) States that this bill does prohibit scientific research or collections conducted by, or on behalf of, an educational, scientific, or research institution or a governmental agency.

6) Makes technical, non-substantive changes.

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's statement:**

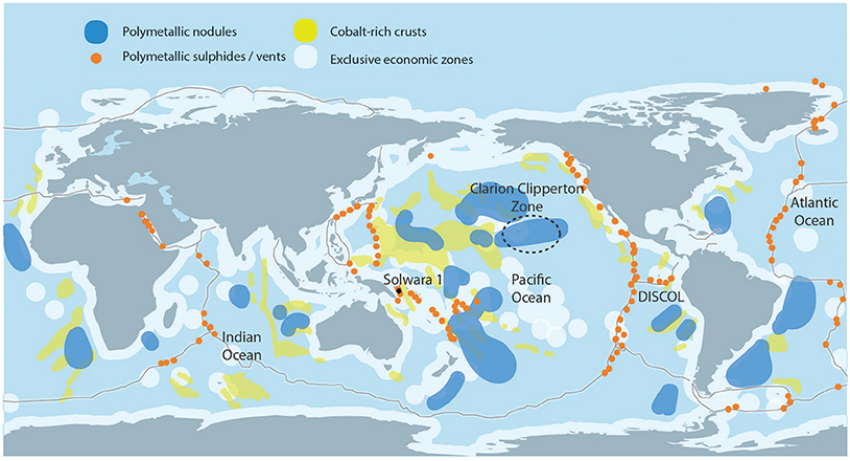
> AB 1832 proactively protects our unique and diverse coastal ecosystem and its deep-sea marine life. Safeguarding California's people, culture, and marine habitat from the harmful activity of seabed mining requires a straightforward legislative fix. This legislation would amend the authority of the State Lands Commission and local trustees of granted public trust lands to prohibit hard mineral leases on state submerged lands in California's ocean waters. Our environment has suffered from decades of reactionary policy. We don't need to wait for another disaster to occur when we can take steps to prevent it from happening in the first place.

2) **California's valuable ocean.** California boasts the largest ocean-based economy in the United States. Valued at $45 billion annually, the ocean employs more than half a million people and supports a vast diversity of marine life, as well as fishing communities that depend on fish, shellfish, and seaweeds for their livelihoods. California's fisheries support 19,750 recreational fishing jobs (as of 2017), with the commercial fishing and seafood industry generating 155,258 jobs and $28.8 billion in sales in 2017. Coastal tourism and recreation industries in California are valued at approximately $27 billion annually. California's marine wildlife – including whales, dolphins, and the threatened southern sea otter – attract millions of visitors a year to our coastline. California's coastline counties are home to 68%of the state, and millions of people visit California coastal state parks every year.

   Only 20% of the seafloor has been mapped at high resolution, and we have only just begun to understand the resources of this environment. Approximately 2,000 new species of ocean life are discovered every year, which does not include the myriad microorganisms that enable ocean ecosystems to store carbon from the atmosphere and support global fisheries.

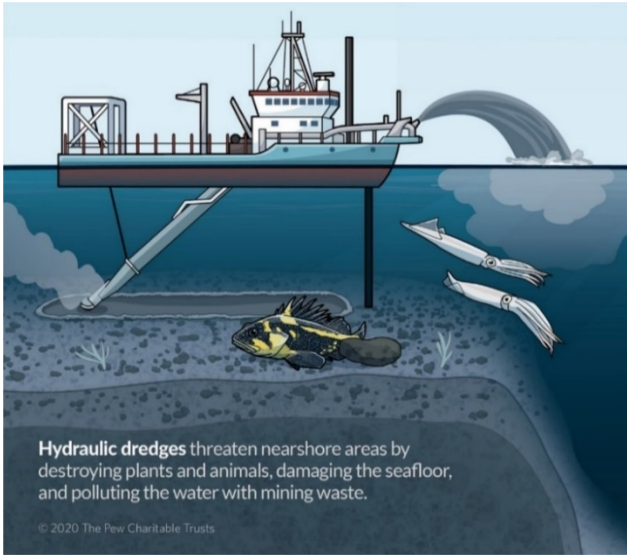
3) **Seabed mining.** Rising demand for minerals and metals, in tandem with the depletion of land-based resources, has led to a rise in interest in exploring mineral resources located on the seabed. These resources potentially include seafloor massive sulfides around hydrothermal vents, cobalt-rich crusts on the sides of seamounts or fields of manganese nodules on the abyssal plains. In addition to mineral deposits, there is interest in extracting methane from gas hydrates on continental slopes and rises.

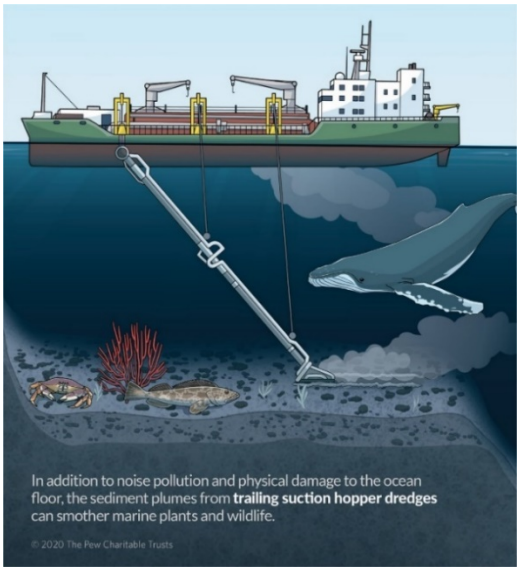
Seafloor massive sulfides, which are associated with both active and inactive hydrothermal vents along oceanic ridges, have a high sulfide content but are also rich in copper, gold, zinc, lead, barium, and silver. Accoring to the January 2018 report, *An Overview of Seabed Mining Including the Current State of Development, Environmental Impacts, and Knowledge Gaps* published in the journal Frontiers in Marine Science, more than 200 sites of hydrothermal mineralization occur on the seafloor and, based on previous exploration and resource assessment, around 10 of these deposits may have sufficient tonnage and grade to be considered for commercial mining. There are deposits of these sulfides off the coast of California, as shown below.



Mining the seabed carries significant environmental concerns, some of which have been highlighted over the past 5 years in relation to applications for mining in continental shelf regions (for example, ironsands and phosphorite mining in New Zealand waters; New Zealand Environmental Protection Authority, 2016).

Marine mining can include dredging ships equipped with cutting heads to break up hard seabed, or more destructive techniques, such as bottom crawlers designed to remove up to 12 inches of rocky seafloor crust. All of these methods can remove or destroy fish, invertebrates, corals, and habitat. Mining can generate large sediment plumes, often laced with toxins that smother marine life, including commercially and recreationally important fish, marine mammals, and algae, such as kelp. The plumes can travel long distances on tides or currents, putting beaches and tide pools at risk.





Thirty years ago, scientists tested the potential effects of seabed mining by dragging a plow over a swath of ocean floor in the eastern Pacific Ocean, resulting in a sediment plume that buried the study area. The plow tracks from that 1989 experiment remain visible to this day, a testament to the lasting damage seabed mining could inflict.

Seabed mining could exacerbate the challenges oceans are facing from acidification, over-fishing, and pollution. Lastly, oceans are a vital carbon sink, absorbing up to a quarter of global carbon emissions a year. Disrupting large swaths of the oceans natural rhythm could wreak greater havoc on an already anthropogenically-disturbed environment and inhibit future oceanic carbon sequestration.

Commercial mining is not yet permitted in international waters. The International Seabed Authority, the U.N. body tasked with managing seafloor resources, is still deliberating how, and under what conditions, mining should be allowed to proceed.

Scientists, conservationists, the European Parliament and some national governments are calling for a moratorium on deep-sea mining until its ecological consequences can be better understood.

4) **State regulation of seabed mining.** The SLC has authority, when it appears to be in the public interest, to grant leases for the extraction of minerals other than oil and gas to the highest responsible bidder by competitive bidding from tide and submerged lands of the state whenever it appears that the execution of such leases and the operations thereunder will not interfere with the trust upon which such lands are held or substantially impair the public rights to navigation and fishing

   The SLC has no currently approved, or historically approved, permits to mine tide and/or submerged lands.

5) **Other states efforts to regulate seabed mining.** The legislatures of the States of Oregon and Washington have both passed analogous legislation to prohibit seabed mining in their state waters, in 1991 and 2021, respectively. The call for a global moratorium on seabed mining has grown, arising from indigenous peoples, citizens, and scientists. In June of 2021, the European Parliament adopted a resolution in support of a moratorium on seabed mining. In September 2021, 81 governments and governmental agencies attending the International Union for Conservation of Nature World Conservation Congress voted in favor of a moratorium.

6) **Restrictions off California's coast.** California has more than 1,000 miles of coastline and covers a total of approximately 5,700 square miles (sq mi) of coastal state waters, including the San Francisco Bay.

   Marine Protected Areas (MPAs) are discrete geographic marine or estuarine areas managed by the Department of Fish & Wildlife that have various levels of protection designed to protect or conserve marine life and habitat. While transit and anchoring are generally allowed in MPAs, some areas restrict or prohibit transit and anchoring to protect a particularly vulnerable habitat or species, and fishing can be restricted or prohibited. The statewide coastal network includes 124 protected areas (including 119 MPAs and five state marine recreational management areas) that cover approximately 852 sq mi of state waters, or about 16% of all coastal state waters. There are also 14 special closures statewide.

Any new development or activity in the ocean, like seabed mining, would be limited by state protections such as MPAs.

7) **Following the precautionary principal.** Before SLC's authority is used to lease seabed mining off California, AB 1832 is hoping take precautionary measures by prohibiting SLC or a local trustee of granted public trust lands from granting leases or issuing permits for the extraction or removal of hard minerals from tidelands and submerged lands of the state.

   The Monterey Bay Aquarium and Surfrider Foundation, co-sponsors of AB 1832, write in support,

   > "Seabed mining can destroy whole communities of plants and animals on the seafloor, leaving behind habitat that may never recover due in part to the slow growth times that characterize life in the deep sea … this extractive industry is growing worldwide and California cannot be too cautious. Industry is increasingly focused on areas of the deep sea as new sources of certain metals and minerals. Companies state that this is based on an increased demand for these metals and minerals for use in batteries for cell phones, electric vehicles, and energy storage and other applications … Now is the time to protect our waters and the seabed."

REGISTERED SUPPORT / OPPOSITION:

Support

7th Generation Advisors
Audubon California
Beach Ecology Center
Benioff Ocean Initiative
Bolsa Chica Land Trust
California Association of Zoos & Aquariums
California Coastal Protection Network
California Institute for Biodiversity
California Interfaith Power & Light
California Marine Sanctuary Foundation
Californians Against Waste
Calpirg Students
Clean Water Action
Climate Reality Project, San Fernando Valley
Crown Prince, INC.
Dana Point Whale Watching Company
Defenders of Wildlife
Earthworks
Environment California
Environmental Action Committee of West Marin
Environmental Defense Center
Environmental Entrepreneurs
Environmental Working Group
Friends Committee on Legislation of California
Grind and Proper Hospitality
Heal the Bay

Indigenous
Marine Conservation Institute
Marine Mammal Center, the
Monterey Bay Aquarium (Co-sponsor)
Monterey Bay Whale Watch
National Parks Conservation Association
NRDC
Ocean Conservancy
Oceana
Oceanic Preservation Society
Offishial Business
Patagonia INC.
Physicians for Social Responsibility - San Francisco Bay Area Chapter
Pier 23 Cafe Restaurant & Bar
Plastic Pollution Coalition
REV Ocean
Santa Barbara Zoo
Save Our Shores
Seaworld Parks & Entertainment
Sierra Club California
Stoke
Surf Industry Members Association
Surfrider Foundation (Co-sponsor)
Sustainable Ocean Alliance
Tackle Warehouse
The Last Plastic Straw
The Nature Conservancy
Thresher Boats
Wholly H2o
Wildflower Events

Opposition

None on file.

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 2076 (Luz Rivas) – As Introduced February 14, 2022

SUBJECT: Extreme Heat and Community Resilience Program: Extreme Heat Hospitalization and Death Reporting System

SUMMARY: Establishes the Extreme Heat and Community Resilience Program (Program) to coordinate state efforts and support local and regional efforts to prevent or mitigate the impact of and public health risks of heat. Requires the Department of Public Health (DPH) to establish and maintain an Extreme Heat Hospitalization and Death Reporting System (Reporting System) for the purpose of assisting local interventions and identifying and protecting heat-vulnerable or other at-risk populations.

EXISTING LAW:

1) Requires the Natural Resources Agency (NRA) to update its climate adaptation strategy, the Safeguarding California Plan, by July 1, 2017, and every three years thereafter, by coordinating adaptation activities among lead state agencies in each sector.

2) Requires the state to continue its rigorous climate change research program focused on understanding the impacts of climate change and how best to prepare and adapt to expected impacts.

3) Requires the Office of Planning and Research (OPR) to establish a technical advisory group to help state agencies incorporate climate change impacts into planning and investment decisions.

4) Requires state agencies' planning and investment to be guided by the principles of climate preparedness, flexibility and adaptive approaches for uncertain climate impacts, to be protective of vulnerable populations, and to prioritize natural infrastructure solutions.

5) Establishes the Integrated Climate Adaptation and Resiliency Program (ICARP) within OPR to coordinate regional, local and state efforts to adapt to climate change. Requires ICARP to:

    a) Pursue an emphasis on climate equity across sectors and strategies that benefit both greenhouse gas (GHG) emissions reductions and adaptation efforts;

    b) Require program efforts including, but not limited to, working with and coordinating local and regional efforts for climate adaptation and resilience; and,

    c) Maintain a data clearinghouse on climate change and climate adaptation for the purposes of facilitating state and local policy decisions.

6) Establishes DPH, which oversees various programs related to public health and safety, including licensing health facilities, regulating food and drug safety, and monitoring and preventing communicable and chronic diseases.

7) Establishes the Administrative Procedure Act (APA), which establishes rulemaking procedures an standards for state agencies. APA requirements ensure that the public has a meaningful opportunity to participate in the adoption of state regulations and to ensure that regulations and clear, necessary, and legally valid.

THIS BILL:

1) Establishes the Program and requires OPR to administer the Program through ICARP.

    a) Requires the Director of Planning and Research to appoint a Chief Heat Officer (Officer) to coordinate state activities and funding to address heat and implement the Program. Requires the Officer to:

        i) Establish, convene, and supervise an Interagency Heat Taskforce (Taskforce), as specified.

        ii) Establish an Extreme Heat Advisory Council (Council) to advise the Officer and the Taskforce on actions to improve coordination and effectiveness of state and local efforts to address heat, as specified.

    b) Upon appropriation, requires the Program, in consultation with the Strategic Growth Council, to provide grants and technical assistance to eligible entities that support local and regional efforts to mitigate the impacts and reduce the public health risks of heat. Grants may be awarded for:

        i) Preparing and updating comprehensive heat action plans or components of another plan, including general plans, local coastal plans, and local hazard mitigation plans;

        ii) Implementing projects that mitigate the impacts of extreme heat, as specified;

        iii) Implementing projects that reduce the public health risks of, and improve community resilience to, heat, as specified; and,

        iv) Technical assistance for application development, project development, or project implementation.

    c) Requires that priority be given to projects that:

        i) Serve disadvantaged or vulnerable communities;

        ii) Demonstrate participation in a regional climate collaborative program;

        iii) Serve populations most vulnerable to the impacts of extreme heat; and,

        iv) Are components of a comprehensive heat action plan.

    d) Declares legislative intent that the Program fund projects in categories not eligible for funding in any preexisting program.

2) Defines terms used in the bill, including:

a) "Comprehensive heat action plan" as a community-driven, multielement plan adopted by a local or regional entity that includes activities that address extreme heat or the urban heat island effect in four or more of the following areas:

   i) Natural infrastructure;

   ii) Built infrastructure;

   iii) Social infrastructure;

   iv) Communications;

   v) Planning; and,

   vi) Policy.

b) "Eligible entity" as a nonprofit organization or collation of nonprofit organizations, community-based organization, community development corporation, community development financial institution, local government, regional agency, joint powers authority, or tribal government that demonstrates partnerships with multiple stakeholders in the development and implementation of a plan or project in urban or rural communities, or both.

c) "Extreme heat" as increasing temperatures and other meteorological conditions that could result in extreme heat waves, heat health events, heat watches or warnings, or states of emergency.

d) "Urban heat island effect" as increased temperatures in urban areas compared to outlying areas due to structures that absorb and reemit the sun's heat more than natural landscapes.

3) Requires OPR to review and consider the most recent California Climate Change Assessment, climate science research programs administered by the SGC, the most recent update to the Safeguarding California Plan, the California Adaptation Planning Guide, and resources in OPR's adaptation clearing house or any other climate science research that OPR deems relevant.

4) Requires OPR to seek to minimize GHG emissions and electricity grid stress, avoid maladaptation, and maximize job growth and other cobenefits.

5) Requires OPR to adopt guidelines to administer the grant program within six months of an appropriation by the Legislature, as specified.

6) Exempts any procedures, forms, and guidelines adopted by OPR for administration of the Program from the APA.

7) On or before July 1, 2023, requires OPR, in collaboration with the Taskforce, to prepare an Extreme Heat Framework (Framework) to promote comprehensive, coordinated, and effective state and local government action on heat. Requires OPR to update the Framework every two years, as specified.

8) Establishes the Extreme Heat and Community Resilience Fund (Fund) to be used, upon appropriation, to administer the Program. Declares the intent of the Legislature that the Fund be composed of moneys transferred from the General Fund.

9) On or before July 1, 2024, requires DPH, in consultation with the Officer and upon appropriation, to establish and maintain the Reporting System for the purpose of assisting local interventions and identifying and protecting heat-vulnerable or other at-risk populations. Requires the Reporting System to:

   a) Receive notice and data from state and local health departments on emergency room visits and deaths resulting from extreme heat;

   b) Publish the data on DPH's website; and,

   c) Include data identifying neighborhoods or other groups in need of priority intervention.

10) States related legislative findings and declarations.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> The climate crisis is here. Year after year, our state faces record-breaking heat waves that have left local governments to grapple with how best to protect residents from these life-threatening weather events. As one of the gravest hazards resulting from climate change, extreme heat causes more emergency room visits and deaths annually than any other weather-related disaster in the nation.
>
> Extreme heat is not just a public health threat. Higher temperatures tend to have a cascading effect leading to more intense wildfires, rolling power outages, damage to critical infrastructure, and increased air pollution. These impacts disproportionately harm low-income families, people of color, agricultural workers, people with preexisting health conditions, and other vulnerable populations in both urban and rural parts of the state. To protect the public and property, the state must ensure proper mitigation and response strategies.
>
> AB 2076 establishes the Extreme Heat and Community Resilience Program to coordinate all the heat related activities of the state and incentivize the development of local comprehensive heat action plans to protect communities from the dangers of extreme heat. AB 2076 will accomplish these goals by establishing a Chief Heat Officer, an Extreme Heat Advisory Council, and an Interagency Heat Task Force under the Governor's Office of Planning and Research. Finally, the bill will establish the Extreme Heat Hospitalization and Death Reporting System to better understand where extreme heat illnesses and deaths are occurring.

2) **Climate change impacts in California**. California's climate is generally expected to become hotter, drier, and more variable over the coming decades, increasing the risk of extreme

weather, including heat, catastrophic wildfires, droughts, floods, biodiversity loss, and sea level rise. These changes will impact California's residents, water supply, ecosystems, and economy. California's Fourth Climate Assessment estimates the economic cost to California will exceed $100 billion annually by 2050. The scale and type of impacts will vary across regions. People who are already vulnerable, including lower-income and other marginalized communities, have lower capacity to prepare for and cope with extreme weather and climate-related events and are expected to experience the greatest impacts.

Average temperatures have increased since 1895, with the fastest relative increase beginning in the 1980s. Every decade since 1980 has been warmer than the previous decade. The seven warmest years on record have all occurred after 2015, and the top three are 2016, 2019, and 2020. Southern California, in particular, was hit with a series of heat waves in August and September 2020, breaking records. Emergency room visits climbed to 10 times their normal numbers.

The state has become drier over time, with the most extreme drought since 1895 recorded between 2012 and 2016. Taken together, these conditions have led to decreased snow pack and shrinking glaciers, which impacts water availability across the state. Hotter and drier conditions have also increased wildfire frequency and intensity. Since 1900, the mean sea level has generally increased statewide, with an increase of seven inches in San Francisco and six inches in La Jolla. A 2018 study by researchers at UC Berkeley and the University of Arizona updated sea level rise projections to include loss of land surface elevation due to subsidence, demonstrating that flood risk due to rising seas is likely to be higher than originally expected. The study estimates that between 48 to 166 square miles in the San Francisco Bay area will flood under average conditions, and the authors expect substantially more land area to be affected during storm and king tide events. Further, ice sheets in Greenland and West Antarctica are melting more rapidly than initially expected, which underscores the need to proactively undertake efforts to protect communities and ecosystems from catastrophic flooding.

3) **Extreme heat**. Increasing temperatures pose a direct threat to public health; however, there is surprisingly little information available about the number of heat-related deaths. Moreover, heat-related deaths are underreported. Between 2010 and 2019, the official data from death certificates attributes 599 deaths to heat exposure, but an analysis by the Los Angeles Times found that the true number is closer to 3,900, six times the official number. A 2020 study in Environmental Epidemiology found that an average of 5,608 deaths were attributed to heat annually in the United States, substantially higher than the Centers for Disease Control and Prevention estimate of 658 people per year. According to the Los Angeles Times, "it is common for doctors and coroners to write that a person suffered a heart attack or kidney failure without knowing whether extreme heat played a part."

   In addition to the lack of accurate data regarding heat-related deaths, the information that is available lags, sometimes by years, making it impossible for public agencies to respond to heat-emergencies in a timely manner. The state does not collect real-time data on heat illness from hospitals or require counties to track and report incidents of heat illness. Among the counties that do track, the findings are concerning. The Los Angeles County Department of Public Health figures show that emergency room visits have risen throughout the county since it began tracking heat illnesses in 2005. San Diego County has found a similar pattern since 2006. In Imperial County, hospitals reported almost as many cases of heat-related

illness over six weeks in the summer of 2020 as were reported in all of 2015.

While heat related deaths in some parts of the country have fallen, likely due to increased access to air conditioning and better awareness of the dangers heat poses, especially to the elderly, heat-related deaths have increased in the Southwestern United States, especially among adults over 45. Heat-related health impacts almost exclusively affect lower income and disadvantaged communities. Wealthier Californians who drive air conditioned cars, live in air conditioned homes, and work in air conditioned offices, do not generally suffer the effects of extreme heat.

4) **State actions**. In 2013, the state issued guidance and recommendations for responding to extreme heat. The report included more than 40 recommendations to better prepare the state to weather extreme heat events, including a recommendation to "improve the timeliness and completeness of heat illness and death surveillance activities in order to understand the impact of heat events and guide real time public health planning and responses." Yet for nearly a decade, the state did little to implement the recommendations.

   Last year, the state renewed its efforts to combat the impacts of extreme heat. The 2021 Climate Adaptation Strategy includes an Extreme Heat Action Plan (Plan), which serves as an update to the 2013 report. The Plan includes "strategic and comprehensive" state actions that can be taken to address extreme heat, including:

   - Implementing a statewide public health monitoring system to identify heat illness events early, monitor trends, and track illnesses and deaths;
   - Cooling schools in heat-vulnerable communities and support climate smart planning;
   - Accelerating heat readiness and protection of low-income households and expanding tree canopy in communities most impacted by extreme heat;
   - Protecting vulnerable populations through increased heat risk-reduction strategies and codes, standards, and regulations;
   - Building a climate smart workforce through training partnerships and apprenticeships in jobs and careers that address extreme heat;
   - Increasing public awareness to reduce risks posed by extreme heat;
   - Supporting local and regional extreme heat action;
   - Protecting natural systems, including fish and wildlife, from the impacts of extreme heat.

   The state adopted a $15 billion climate package in 2021 to combat the climate crisis, including $800 million over three years to address the impacts of extreme heat and $300 million over two years to support the implementation of the Plan. Programs to address the impacts of extreme heat include urban greening, energy assistance for low-income families, community resilience centers, and low-income weatherization. The Governor's proposed 2022-23 budget includes approximately $175 million in second year of investments for extreme heat programs.

   A 2021 study by UCLA's Luskin Center for Innovation identified significant policy gaps and fragmented state regulation of extreme heat. The authors point out that there is no state entity responsible for managing extreme heat, and little coordination of the various departments that administer the state's extreme heat policies. The study notes that in

addition to the obvious health impacts, heat also affects mental health, makes it harder to students to learn, and harder for workers to do their jobs safely. The report's main findings include:

- Most existing California heat-exposure standards are inadequate or have limited compliance;
- Most existing state programs do not make investments that explicitly target heat-vulnerable places or quantify heat risk-reduction benefits;
- Local planning efforts may not prepare cities adequately for extreme heat; and,
- Improving thermal comfort in public spaces and reducing urban heat island effects rely largely on voluntary state guidance.

5) **Ensuring coordination and accountability**. This bill addresses some of the gaps in the state's response to extreme heat. The bill establishes the Program to ensure coordination and accountability among the state's extreme-heat efforts. This bill also establishes the Reporting System to better track and respond to heat-related illnesses and to identify patterns so the state can respond appropriately.

6) **Suggested amendments**:

   a) Specify that only the guidelines adopted by OPR are exempt from the APA.

   b) Require OPR to update the existing Extreme Heat Action Plan, rather than creating a new Extreme Heat Framework. The Action Plan is currently in draft form, but is expected to be finalized before this bill becomes effective.

   c) Clarify legislative intent that the bill's provisions be funded by existing allocations for extreme heat purposes.

   d) Make related technical and clarifying changes.

7) **Previous and related legislation**:

   AB 2238 (L. Rivas) requires the California Environmental Protection Agency, in coordination with the ICARP and the California Department of Insurance, to develop a statewide extreme heat ranking system. This bill is also scheduled to be heard in this committee on March 21.

   AB 585 (L. Rivas, 2021) bill would have established the Extreme Heat and Community Resilience Program through the ICARP to coordinate the state's efforts to address extreme heat and the urban heat island effect and to provide financial and technical assistance to local or regional entities for improving resilience to extreme heat and urban heat island effects. This bill was held in the Senate Appropriations Committee.

8) **Double referral**. This bill has also been referred to the Assembly Health Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Labor Federation, AFL-CIO
California Urban Forests Council
Climate Resolve

Opposition

None on file

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 2238 (Luz Rivas) – As Introduced February 16, 2022

SUBJECT: Extreme heat: statewide extreme heat ranking system

SUMMARY: Requires the California Environmental Protection Agency (CalEPA), in coordination with the Integrated Climate Adaptation and Resiliency Program (ICARP) and the California Department of Insurance (CDI), to develop a statewide extreme heat ranking system (system).

EXISTING LAW:

1) Requires the Natural Resources Agency (NRA) to update its climate adaptation strategy, the Safeguarding California Plan, by July 1, 2017, and every three years thereafter, by coordinating adaptation activities among lead state agencies in each sector.

2) Requires the state to continue its rigorous climate change research program focused on understanding the impacts of climate change and how best to prepare and adapt to expected impacts.

3) Requires the Office of Planning and Research (OPR) to establish a technical advisory group to help state agencies incorporate climate change impacts into planning and investment decisions.

4) Requires state agencies' planning and investment to be guided by the principles of climate preparedness, flexibility and adaptive approaches for uncertain climate impacts, to be protective of vulnerable populations, and to prioritize natural infrastructure solutions.

5) Establishes the ICARP within OPR to coordinate regional, local and state efforts to adapt to climate change. Requires ICARP to:

    a) Pursue an emphasis on climate equity across sectors and strategies that benefit both greenhouse gas (GHG) emissions reductions and adaptation efforts;

    b) Require program efforts including, but not limited to, working with and coordinating local and regional efforts for climate adaptation and resilience; and

    c) Maintain a data clearinghouse on climate change and climate adaptation for the purposes of facilitating state and local policy decisions.

6) Pursuant to the Governor’s Proclamation of a State of Emergency on July 30, 2021, suspends certain permitting requirements to allow increased energy production during extreme heat events. Requires the Air Resources Board (ARB) to develop and implement a plan to mitigate the effects of additional emissions allowed under the Proclamation. The Climate Heat Impact Response Program (CHIRP) establishes reporting requirements for utilities and power plants and provides a framework for mitigating emission increases during extreme heat events.

THIS BILL:

1) On or before January 1, 2024, requires CalEPA, in coordination with ICARP and CDI, to develop the system based on:

    a) Available meteorological data from government and academic sources, including maximum temperature, minimum temperature, and duration of extreme heat events;

    b) Information and data on health impacts of heat established through best available science or data from past heat and extreme heat events;

    c) Measures of extreme heat severity; and,

    d) Locally relevant information.

2) Requires the system to include recommendations on thresholds or triggers for public policies that reduce the risk of extreme heat impacts, and consider information reported by CDI, as specified.

3) After the system is finalized, requires ICARP to:

    a) Develop a public communication plan for the system in consultation with the Office of Emergency Services and other state agencies, and with input from local governments, tribal organizations, labor organizations, environmental organizations, and community groups from vulnerable communities;

    b) Recommend partnerships with local and tribal governments and develop statewide guidance for local and tribal governments in the preparation and planning for extreme heat events; and,

    c) Recommend specific heat adaptation measures that could be triggered by the statewide extreme heat ranking system and identify how the statewide extreme heat ranking system aligns with additional extreme heat adaptation policies established by ICARP.

4) On or before January 1, 2024, requires CDI to study insured and uninsured costs related to past extreme heat events with different duration, maximum temperature, and measurable health impacts.

5) Defines "extreme heat" as a period of unusual and uncomfortable hot weather that could result in a heat wave or other heat health event.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

    California faces accelerated risks from climate-intensified extreme heat events, including heat-related illness and death in vulnerable populations. The latest Climate Assessment projects hotter, longer, and more frequent extreme heat events. It is anticipated that by 2050, the state will experience 40 to 55 extreme

heat days per year. California's most vulnerable communities disproportionately suffer from the impacts of climate change, including extreme heat events. To better help local governments and residents prepare for these life-threatening weather events, early and advanced warning is needed. Much like the ranking of severe storms, a ranking system for extreme heat waves would provide a clear communication tool for warning vulnerable communities of impending and dangerous heat events. A heat wave ranking system would help local and state governments better target resources and prepare their response efforts.

Advance warnings provide local governments the opportunity to properly deploy their response efforts and provide a window of opportunity for protecting property, avoiding harm, and ultimately saving lives. For example, early warning of an approaching hurricane often prompts boarding up windows and placing sandbags. California's "red flag" warnings for wildfire conditions and the National Oceanic and Atmospheric Association's tropical storm and hurricane naming system could serve as templates for the state to rank heat waves

With AB 2238, California is uniquely positioned to lead the nation in establishing the first ever ranking system for heat waves, a system that will be used to properly prepare local governments, residents, and ultimately save lives.

2) **Climate change impacts in California**. California's climate is generally expected to become hotter, drier, and more variable over the coming decades, increasing the risk of extreme weather, including heat, catastrophic wildfires, droughts, floods, biodiversity loss, and sea level rise. These changes will impact California's residents, water supply, ecosystems, and economy. California's Fourth Climate Assessment estimates the economic cost to California will exceed $100 billion annually by 2050. The scale and type of impacts will vary across regions. People who are already vulnerable, including lower-income and other marginalized communities, have lower capacity to prepare for and cope with extreme weather and climate-related events and are expected to experience the greatest impacts.

   Average temperatures have increased since 1895, with the fastest relative increase beginning in the 1980s. Every decade since 1980 has been warmer than the previous decade. The seven warmest years on record have all occurred after 2015, and the top three are 2016, 2019, and 2020. Southern California, in particular, was hit with a series of heat waves in August and September 2020, breaking records. Emergency room visits climbed to 10 times their normal numbers.

   The state has become drier over time, with the most extreme drought since 1895 recorded between 2012 and 2016. Taken together, these conditions have led to decreased snow pack and shrinking glaciers, which impacts water availability across the state. Hotter and drier conditions have also increased wildfire frequency and intensity. Since 1900, the mean sea level has generally increased statewide, with an increase of seven inches in San Francisco and six inches in La Jolla. A 2018 study by researchers at UC Berkeley and the University of Arizona updated sea level rise projections to include loss of land surface elevation due to subsidence, demonstrating that flood risk due to rising seas is likely to be higher than originally expected. The study estimates that between 48 to 166 square miles in the San Francisco Bay area will flood under average conditions, and the authors expect substantially more land area to be affected during storm and king tide events. Further, ice sheets in

Greenland and West Antarctica are melting more rapidly than initially expected, which underscores the need to proactively undertake efforts to protect communities and ecosystems from catastrophic flooding.

3) **Extreme heat**. Increasing temperatures pose a direct threat to public health; however, there is surprisingly little information available about the number of heat-related deaths. Moreover, heat-related deaths are underreported. Between 2010 and 2019, the official data from death certificates attributes 599 deaths to heat exposure, but an analysis by the Los Angeles Times found that the true number is 3,900, six times the official number. A 2020 study in Environmental Epidemiology found that an average of 5,608 deaths were attributed to heat annually in the United States, substantially higher than the Centers for Disease Control and Prevention estimate of 658 people per year. According to the Los Angeles Times, "it is common for doctors and coroners to write that a person suffered a heart attack or kidney failure without knowing whether extreme heat played a part."

   In addition to the lack of accurate data regarding heat-related deaths, the information that is available lags, sometimes by years, making it impossible for public agencies to respond to heat-emergencies in a timely manner. The state does not collect real-time data on heat illness from hospitals or require counties to track and report incidents of heat illness. Among the counties that do track, the findings are concerning. The Los Angeles County Department of Public Health figures show that emergency room visits have risen throughout the county since it began tracking heat illnesses in 2005. San Diego County has found a similar pattern since 2006. In Imperial County, hospitals reported almost as many cases of heat-related illness over six weeks in the summer of 2020 as were reported in all of 2015.

   While heat related deaths in some parts of the country have fallen, likely due to increased access to air conditioning and better awareness of the dangers heat poses, especially to the elderly, heat-related deaths have increased in the Southwestern United States, especially among adults over 45. Heat-related health impacts almost exclusively affect lower income and disadvantaged communities. Wealthier Californians who drive air conditioned cars, live in air conditioned homes, and work in air conditioned offices, do not generally suffer the effects of extreme heat.

4) **State actions**. In 2013, the state issued guidance and recommendations for responding to extreme heat. The report included more than 40 recommendations to better prepare the state to weather extreme heat events, yet for nearly a decade the state did little to implement the recommendations.

   Last year, the state renewed its efforts to combat the impacts of extreme heat. The 2021 Climate Adaptation Strategy includes an Extreme Heat Action Plan (Plan), which serves as an update to the 2013 report. The Plan includes "strategic and comprehensive" state actions that can be taken to address extreme heat, including:

   - Implementing a statewide public health monitoring system to identify heat illness events early, monitor trends, and track illnesses and deaths;
   - Cooling schools in heat-vulnerable communities and support climate smart planning;
   - Accelerating heat readiness and protection of low-income households and expanding tree canopy in communities most impacted by extreme heat;

- Protecting vulnerable populations through increased heat risk-reduction strategies and codes, standards, and regulations;
- Building a climate smart workforce through training partnerships and apprenticeships in jobs and careers that address extreme heat;
- Increasing public awareness to reduce risks posed by extreme heat;
- Supporting local and regional extreme heat action;
- Protecting natural systems, including fish and wildlife, from the impacts of extreme heat.

The state adopted a $15 billion climate package in 2021 to combat the climate crisis, including $800 million over three years to address the impacts of extreme heat and $300 million over two years to support the implementation of the Plan. Programs to address the impacts of extreme heat include urban greening, energy assistance for low-income families, community resilience centers, and low-income weatherization. The Governor's proposed 2022-23 budget includes approximately $175 million in second year of investments for extreme heat programs.

A 2021 study by UCLA's Luskin Center for Innovation identified significant policy gaps and fragmented state regulation of extreme heat. The authors point out that there is no state entity responsible for managing extreme heat, and little coordination of the various departments that administer the state's extreme heat policies. The study notes that in addition to the obvious health impacts, heat also affects mental health, makes it harder to students to learn, and harder for workers to do their jobs safely. The report's main findings include:

- Most existing California heat-exposure standards are inadequate or have limited compliance;
- Most existing state programs do not make investments that explicitly target heat-vulnerable places or quantify heat risk-reduction benefits;
- Local planning efforts may not prepare cities adequately for extreme heat; and,
- Improving thermal comfort in public spaces and reducing urban heat island effects rely largely on voluntary state guidance.

The *Climate Insurance Report*, developed by the California Climate Insurance Working Group, identifies four key elements of resilience – risk assessment, risk communication, risk reduction, and risk transfer. Risk assessment and risk communication support community preparation and enable public policies to anticipate events. Early investment in risk reduction reduces future losses, and the expansion of risk transfer options could lead to more affordable and effective insurance concepts. The report applies these elements of risk to three impacts of climate change: wildfire, flood, and extreme heat. The report provides specific recommendations for preventing and managing the risks associated with these impacts, to reduce climate risks to communities. The report includes a recommendation to rank heat waves to provide a statewide early warning system to communities and avoid deaths and significant costs, which are often uninsured.

5) **This bill**. California lacks a warning system to identify and communicate the risks of extreme heat events, though these events are becoming more extreme and more frequent. This bill would establish a ranking system, based on the severity of the heat event, to enable

the state to broadcast advanced warnings to affected communities and improve preparation and response to these events.

This bill is sponsored by Insurance Commissioner Lara, who states, "A ranking system for heat waves would provide a clear communication tool for warning vulnerable communities of impending and dangerous heat events."

6) **Suggested amendments**: The *committee may wish to amend the bill* to revise the definition of extreme heat to align with a related bill, AB 2076, which defines extreme heat as "increasing temperatures and other meteorological conditions that could result in extreme heat waves, heat health events, heat watches or warnings, or states of emergency."

7) **Previous and related legislation**:

AB 2076 (L. Rivas) establishes the Extreme Heat and Community Resilience Program (Program) to coordinate state efforts and support local and regional efforts to prevent or mitigate the impact of and public health risks of heat. Requires the Department of Public Health (DHP) to establish and maintain an Extreme Heat Hospitalization and Death Reporting System (System) for the purpose of assisting local interventions and identifying and protecting heat-vulnerable or other at-risk populations. This bill is also scheduled to be heard in this committee on March 21.

AB 585 (L. Rivas, 2021) bill would have established the Extreme Heat and Community Resilience Program through the ICARP to coordinate the state's efforts to address extreme heat and the urban heat island effect and to provide financial and technical assistance to local or regional entities for improving resilience to extreme heat and urban heat island effects. This bill was held in the Senate Appropriations Committee.

8) **Double referral**. This bill has also been referred to the Assembly Insurance Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Environmental Voters
California Insurance Commissioner, Ricardo Lara (Sponsor)
California Labor Federation, AFL-CIO
Los Angeles Urban Cooling Colaborative
TreePeople

Opposition

None on file

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 1985 (Robert Rivas) – As Introduced February 10, 2022

SUBJECT: Organic waste: list: available products

SUMMARY: Requires the Department of Resources Recycling and Recovery (CalRecycle) to compile and maintain a list of entities that have organic waste products (products) available.

EXISTING LAW:

1) Requires state departments and agencies to give purchase preference to compost products when they can be substituted for, and cost no more than, the cost of regular fertilizer or soil amendment products, if the products meet all applicable state standards and regulations.

2) Pursuant to SB 1383 (Lara), Chapter 395, Statutes of 2016, beginning January 1, 2022:

    a) Requires generators of organic waste (primarily food and yard waste) to arrange for recycling services for that material and requires local governments to implement organic waste recycling programs designed to divert organic waste from those businesses.

    b) Requires generators, local governments, and other entities to comply with regulations adopted by CalRecycle, in consultation with the Air Resources Board (ARB) to reduce the landfill disposal of organic waste by 50% by 2020 and 75% by 2025 to reduce methane emissions from landfills.

    c) Requires cities and counties to annually procure sufficient organic waste products to meet their annual procurement targets, as determined by CalRecycle based on population.

THIS BILL:

1) Requires CalRecycle to compile and maintain a list of persons or entities that produce and have organic waste products (products) available. Requires CalRecycle to update the list at least every six months.

2) Requires a person or entity seeking to be included on the list to send CalRecycle a written request that includes:

    a) Name and contact information;

    b) The location of the facility where the products are available;

    c) The type of facility that generates the products; and,

    d) The types of available products.

3) Requires CalRecycle to:

    a) Verify the accuracy of the information provided by the person or entity;

b) Post the information provided by the person or entity;

c) Ensure that the list is organized by ZIP Code.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> In 2016, California set organic waste diversion goals of 50% by 2020 and 75% by 2025 in order to reduce methane and short-lived climate pollutants emissions. This has led to local governments adopting practices like composting to reduce the amount of organic waste going into landfills. Due to a historically limited amount of organic waste products available, local governments have struggled to find a market for their organic waste products. AB 1985 will help local governments in reaching organic waste goals by providing a way to connect with local farmers and community members in need of organic waste products.

2) **Organic waste recycling**. An estimated 35 million tons of waste are disposed of in California's landfills annually. Over half of the materials landfilled are organics subject to SB 1383 requirements. CalRecycle's most recent waste characterization study, completed in 2018, found that 55.5% of disposed waste is organic waste. Of that, nearly 15% of disposed waste was food, and approximately 7% was yard and tree wastes. SB 1383 required the ARB to approve and implement the comprehensive short-lived climate pollutant strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon, by 2030. In order to accomplish these goals, the bill specified that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste 50% by 2020 and 75% by 2025 from the 2014 level.

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

   Like all recycling, organic waste recycling can only succeed if there is a market for the recycled materials. Compost, mulch, and other recycled organic waste products can be used in a wide range of applications and provides significant benefits, including reducing soil erosion, improving water quality by controlling runoff, reducing or eliminating the need for chemical fertilizers, conserving water and improves drought resistance, increasing carbon sequestration, and improving the biological, chemical, and structural health of soil. In spite of these benefits, production of compost and other organic waste products exceeds demand. SB 1383 includes a requirement for local governments to procure minimum amounts of organic waste products, and existing law requires state agencies, like the Department of

Transportation, to use these materials in their projects.

3) **Recycled content directory**. CalRecycle maintains a Recycled-Content Product Manufacturers (RCPM) directory that provides information about recycled-content products made by California manufacturers who use recycled waste as a feedstock. RCPM provides contact information for consumers, procurement officers, and state and local governments to find recycled-content product manufacturers who make recycled-content products.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Association of Counties
Californians Against Waste (co-sponsor)
League of California Cities (co-sponsor)
Rethink Waste (co-sponsor)
Rural County Representatives of California

Opposition

None on file

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 1642 (Salas) – As Introduced January 12, 2022

SUBJECT: California Environmental Quality Act: water system well and domestic well projects: exemption

SUMMARY: Establishes an exemption from the California Environmental Quality Act (CEQA) for projects designed to mitigate or prevent the failure of a drinking water well designated as high risk or medium risk in the State Water Resources Control Board (SWRCB) drinking water need assessment.

EXISTING LAW:

1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA.

2) Exempts from CEQA, until January 1, 2028, specified water infrastructure projects, *including small drinking water wells,* that primarily benefit a small disadvantaged community water system or a state small water system by improving the system's water quality, supply, or reliability; encouraging water conservation, or; providing safe drinking water. To be eligible, exempt projects are required to meet specified construction labor requirements, including paying prevailing wage or having a project labor agreement requirement, and using a "skilled and trained" workforce for all construction work.

3) Exempts from CEQA a wide range of emergency projects, including specific actions necessary to prevent or mitigate an emergency; emergency repairs to public service facilities necessary to maintain service; and projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor.

4) Requires the Office of Planning and Research (OPR) to prepare and develop proposed guidelines for the implementation of CEQA by public agencies, and requires the Secretary of the Natural Resources Agency to certify and adopt the guidelines. Requires the CEQA Guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from CEQA (i.e., "categorical exemptions").

5) The CEQA Guidelines include the following categorical exemptions that may be applied to construction or repair of drinking water wells:

    a) Class 1 (Section 15301) consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. This exemption specifically includes "restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety."

b) Class 2 (Section 15302) consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. This exemption specifically includes "replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity."

6) The categorical exemptions are subject to exceptions to ensure eligible projects do not have a significant effect on the environment, including when cumulative impacts of successive projects of the same type in the same place may result in significant effect or there is a reasonable possibility that the project will have a significant effect due to unusual circumstances.

7) Requires the SWRCB to regulate drinking water to protect public health, establishes the Safe and Affordable Drinking Water Fund to help water systems provide an adequate and affordable supply of safe drinking water, requires the SWRCB to adopt a fund expenditure plan that includes a list of water systems that consistently fail to provide an adequate supply of safe drinking water, and requires the SWRCB to develop a drinking water needs assessment to inform its annual fund expenditure plan.

THIS BILL:

1) Provides that CEQA does not apply to a project that meets both of the following conditions:

   a) The project relates to a well that is part of a water system or to a domestic well that has been designated by the SWRCB as high risk or medium risk in the drinking water needs assessment.

   b) The project is designed to mitigate or prevent a failure of the well or the domestic well that would leave residents that rely on the well, the water system to which the well is connected, or the domestic well without an adequate supply of safe drinking water.

2) Requires the lead agency to file a notice of exemption with both OPR and the county clerk.

3) Establishes definitions for purposes of the bill.

FISCAL EFFECT: Unknown

COMMENTS:

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

   Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify

mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines, including exemptions that may apply to construction or repair of drinking water wells, particularly if the project if the project is necessary to meet public health (e.g., drinking water) standards or to prevent or mitigate an emergency.

2) **Author's statement**:

> In the Central Valley, 95 percent of our residents rely on groundwater for everyday use. With over two million rural Californians relying on domestic water wells, the event of a well failure can be catastrophic to a community – leaving residents with no source of safe drinking water. Due to a recent Supreme Court case, more county governments are having to undergo CEQA review for new well projects or repairs, which can create major barriers and time delays. AB 1642 would resolve this issue by clarifying that high and medium risk wells are exempt from CEQA so we can ensure our rural communities are not left without a safe source of drinking water in the event of a well failure.

3) **Ruling that water well permits are not categorically ministerial does not mean that individual projects are not eligible for exemption**. The California Supreme Court case the author refers to is *Protecting our Water and Environmental Resources v. County of Stanislaus* (Aug. 27, 2020) 10 Cal.5th 479. In this case, the Court concluded that water well permits issued under an ordinance that contained discretionary elements could not be categorically classified as ministerial.

Stanislaus County argued that permits issued under its water well ordinance were categorically ministerial, except in those situations where the ordinance required a variance before a permit could be issued. The Court disagreed. It found that the ordinance allowed the County Health Department to approve adjustments to the recommended setbacks of water wells from sources of contamination. This created a discretionary authority. The Court noted that: "County concedes it has the authority, under some circumstances, to require a different well location, or deny the permit. This is sufficient latitude to make the issuance of a permit discretionary, at least when particular circumstances require County to exercise that authority."

The County also argued that the environmental issues (i.e., well contamination) raised by the discretionary power were not important enough to require the application of CEQA, and that the Court's interpretation would add time and cost to permit issuance. The Court disagreed with both these claims.

> … CEQA cannot be read to authorize the categorical misclassification of well construction permits simply for the sake of alacrity and economy. It bears repeating that an individual permit may still be properly classified as ministerial. Moreover, the fact that an individual project is classified as discretionary does not mean that full environmental review, including an EIR, will always be required. The project may qualify for another

CEQA exemption or the agency may be able to prepare either a negative declaration or a mitigated negative declaration after its initial study. Any of these circumstances would obviate the need for an EIR.

4) **Drinking water projects may have to choose between a CEQA exemption and funding from federal sources**. The SWRCB provides financial assistance for drinking water projects through a variety of grant and loan programs. Most are funded in whole or in part by the federal government. This includes the Drinking Water State Revolving Fund, which provides low interest loans for drinking water projects.

   When SWRCB provides financial assistance backed by the federal government, it must adhere to "crosscutting requirements" (i.e., the federal laws, regulations, and statutes that apply to the funding program). One of the crosscutting requirements is compliance with an environmental review process that conforms generally to the National Environmental Policy Act (NEPA), the federal environmental review statute that contains many (though not all) of the aspects of CEQA.

   Neither SWRCB nor a state statute enacted via the Legislature can override these crosscutting requirements. Thus, projects which expect to receive a CEQA exemption as a result of this bill, could later find that they still need environmental review to receive financial assistance. This could lead to unanticipated delays and undermine the intent of this bill.

5) **Suggested amendments**. As noted above, a review of existing law suggests that drinking water well projects are eligible for approval by ministerial permit, exemption, or negative declaration as circumstances warrant. Projects of this type rarely are required to prepare an EIR. The evidence does not suggest that complying with CEQA is an unreasonable burden, or the primary obstacle to well construction and maintenance.

   However, access to affordable and safe drinking water should be regarded as a basic human right, the projects are typically minor, and the condition of infrastructure in many small water systems, as well as domestic wells, in the Central Valley (and other parts of the state) is dire.

   To the extent the committee is convinced that a bill is needed to confirm and reinforce the eligibility of these projects for a CEQA exemption, *the author and committee may wish to consider* adding following clarifications and limits:

   a) Clarify that the exemption is limited to drinking water well construction and repair, and does not include non-well projects "related" to the well, larger projects that include a well project, or well projects to primarily serve irrigation or future growth.

   b) Require a lead agency, before determining a well project is exempt, to contact the SWRCB to determine whether claiming the exemption will affect the ability of the applicant to receive federal financial assistance or federally capitalized financial assistance.

   c) Add the following environmental safeguards:

      i) The project does not affect wetlands or sensitive habitats.

ii) Unusual circumstances do not exist that would cause a significant effect on the environment.

iii) The projects is not located on a hazardous waste site that is included on the "Cortese List."

iv) The project does not have the potential to cause a substantial adverse change in the significance of a historical resource.

v) The project's construction impacts are fully mitigated consistent with applicable law.

vi) The cumulative impact of successive reasonably anticipated projects of the same type as the project, in the same place, over time, is not significant.

d) Add a sunset providing for repeal of the exemption on January 1, 2028.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Water Agencies (ACWA)
California Association of Realtors
Rural County Representatives of California (RCRC)

Opposition

California Environmental Voters
Sierra Club California

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 2048 (Santiago) – As Introduced February 14, 2022

SUBJECT: Solid waste: franchise agreements: database

SUMMARY: Requires the Department of Resources Recovery and Recycling (CalRecycle) to create and maintain a publicly accessible database of franchise agreements between contract waste and recycling haulers and any public agency.

EXISTING LAW:

1) Pursuant to the Integrated Waste Management Act (Act):

    a) Establishes a state recycling goal of 75% of solid waste generated be diverted from landfill disposal by 2020 through source reduction, recycling, and composting.

    b) Requires each local jurisdiction to divert 50% of solid waste from landfill disposal through source reduction, recycling, and composting.

    c) Requires commercial waste generators, including multi-family dwellings, to arrange for recycling services and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste from businesses. Requires generators of specified amounts of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material.

    d) Establishes methane emission reduction goals that include targets to reduce the landfill disposal of organic waste by 50% by 2020 and 75% by 2025 from the 2014 level. Requires CalRecycle, in consultation with the Air Resources Board (ARB), to adopt regulations to achieve the organics reduction targets, which go into effect in 2022.

    e) Requires exporters, brokers, and transporters of recyclables or compost to submit periodic information to CalRecycle on the types, quantities, and destinations of materials that are disposed of, sold, or transferred.

    f) Requires local jurisdictions that provides solid waste handling services to include source reduction, recycling, composting activities, and the collection, transfer, and disposal of solid waste within or without the territory subject to its solid waste handling jurisdiction.

    g) Requires that solid waste handling services be provided by the local agency, another local agency, or a solid waste enterprise.

    h) Authorizes local jurisdictions to determine:

        i) Aspects of solid waste handling that are of local concern, including frequency of collection, means of collection and transportation, level of services, charges and fees, and the nature, location, and extent of providing the services;

ii) Whether the services are provided by nonexclusive franchise, contract, license, permit, or otherwise, with or without competitive bidding. If the governing body determines that public health, safety, and well-being require, services may be provided by partially exclusive or wholly exclusive franchise, contract, license, permit, or otherwise, with or without competitive bidding.

i) Specifies that the Act does not modify or abrogate any franchise previously granted by a local jurisdiction.

j) Defines "solid waste enterprise" as any individual, partnership, joint venture, unincorporated private organization, or private corporation, which is regularly engaged in the business of providing solid waste handlings services.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> Under current law, a member of the public can access these franchise agreements by submitting a Public Records Act request to the public agency entered into the agreement. However, these requests can take a prolonged amount of time to respond to and can be costly if one is looking for multiple agencies. For example, there are 58 counties, over a thousand cities, towns, villages, and countless special districts in California. Many of these entities have these franchise agreements, making it virtually impossible to get a real regional and statewide understanding of what's happening in these franchise agreements.
>
> AB 2048 will provide ease and transparency to the public regarding agreements made between local agencies and waste/recycle haulers while simultaneously providing cost and time-saving benefits. In the end, this will save constituents and interest groups time and money and create a more streamlined method to access this type of information.

2) **Meeting the state's recycling goals**. An estimated 35 million tons of waste are disposed of in California's landfills annually, of which 32% is compostable organic materials, 29% is construction and demolition debris, and 17% is paper. In 2011, California established a goal to divert 75% of solid waste from landfills statewide by 2020. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro), Chapter 476, Statutes of 2011, requires commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep the material out of the landfill. California's 2021 diversion rate was 42%, significantly below the statewide goal.

SB 1383 (Lara), Chapter 395, Statutes of 2016, required the ARB to approve and implement the comprehensive short-lived climate pollutant strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon, by 2030. In order to accomplish these goals, the bill specified that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste 50% by 2020 and 75% by 2025 from the 2014 level.

3) **Who can haul?** Most jurisdictions in the state operate with some form of "franchise," or contract, that limits solid waste hauling within the jurisdiction to one or more specified companies. Franchises are often, but not always, accompanied by a local ordinance. Exclusive franchises authorize a single hauler to operate within a jurisdiction. Non-exclusive franchises allow for more than one hauler, but establish specific requirements for hauling within the jurisdiction. Franchises can apply to residential, commercial, or industrial solid waste hauling and any combination thereof. Some communities in California do not have franchise agreements, which allows solid waste enterprises to compete within the jurisdiction for service contracts with individual waste generators. In 1994, the California Supreme Court ruling *City of Rancho Mirage and Waste Management of the Desert v. Palm Springs Recycling Center, Inc.*, determined that a city's authority to grant exclusive franchise rights for waste management does not prohibit people in the franchise area from selling their recyclable materials to other companies. Commonly referred to as the "Rancho Mirage" decision, this ruling still governs how recycled materials are treated in solid waste franchise agreements. Additionally, state law specifies that individuals have the right to donate or sell recyclable materials.

4) **This bill**. California's solid waste management laws grant a great deal of flexibility and authority to local jurisdictions, including most aspects related to collection. Jurisdictions have the authority to enter into franchises with waste haulers with or without competitive bidding. While most jurisdictions in the state have some form of franchise agreement, there is very little information readily available to the public about them. There are 419 jurisdictions in the state; gathering information about franchise agreements requires contacting each jurisdiction individually. According to the author, this bill is intended to provide sunshine to this process by requiring CalRecycle to post a database of franchise agreements on its website.

5) **Suggested amendment**. While CalRecycle is the state department that oversees the management of solid waste in the state, it has no oversight over solid waste franchise agreements between jurisdictions and private solid waste enterprises. CalRecycle does not have access to the agreements or the ability to know when they are modified, cancelled, or when new contracts are formed. The *committee may wish to amend the bill* to require local jurisdictions to publicly post the agreements on their websites and require CalRecycle to maintain a database that includes links to the agreements. This would preserve the intent of the bill by making the contracts accessible to the public without requiring CalRecycle to track every modification and continuously update the database.

REGISTERED SUPPORT / OPPOSITION:

Support

California Teamsters Public Affairs Council (sponsor)

Opposition

None on file

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 2075 (Ting) – As Introduced February 14, 2022

SUBJECT: Energy: electric vehicle charging standards

SUMMARY: Requires the California Energy Commission (CEC) to adopt electric vehicle charging standards for residential and nonresidential buildings.

EXISTING LAW:

1) Authorizes the Building Standards Commission (BSC) to approve and adopt building standards. Every three years, BSC undertakes building standards rulemaking to revise and update the California Building Standards Code (Title 24 of the California Code of Regulations).

2) Requires BSC to receive proposed building standards from certain state agencies for consideration in the triennial code adoption cycle. Requires BSC to adopt regulations governing the procedures for triennial the adoption cycle.

3) Requires CEC to establish building design and construction standards that increase the efficiency in the use of energy and water for new residential and new nonresidential buildings. Requires CEC's building efficiency standards to be cost-effective when taken in their entirety and amortized over the economic life of the structure compared with historic practice.

4) Requires CBSC to publish the California Green Building Standards Code (CALGreen) in its entirety once every three years. The CALGreen Code is a part of the California Code of Regulations, also referred to as the California Building Standards Code.

5) Requires the Department of Housing and Community Developing (HCD) to propose mandatory building standards for future electric vehicle charging infrastructure for parking spaced in multifamily dwellings. Requires BSC to "adopt, approve, codify, and publish" the standards for inclusion in the California Building Standards Code.

6) Required HCD and BSC to consult with interested parties, including, but not limited to, investor-owned utilities, municipal utilities, manufacturers, local building officials, commercial building and apartment owners, and the building industry when developing the standards.

7) Requires the CEC to administer the Clean Transportation Program (CTP), which provides grants and other financial incentives to accelerate the development and deployment of clean, efficient, low carbon alternative fuels and technologies. CTP is funded by a portion of the vehicle registration fee and receives approximately $100 million per year total.

8) Requires the CEC to prepare and biennially update a statewide assessment of the electric vehicle charging infrastructure needed to support the levels of electric vehicles needed to meet the goal of 5 million ZEVs by 2030.

THIS BILL:

1) Requires CEC to adopt electric vehicle charging standards to be incorporated into other building design and construction standards.

2) Requires CEC to consider costs, seek to manage energy loads to help maintain electrical grid reliability, ensure the standards are consistent with the electric vehicle charging goals, and consider the appropriateness of applying the standards to retrofits of existing buildings when cost effective and necessary to reach the electric vehicle charging goals.

3) Requires CEC to update the electric vehicle charging standards and adopt any revisions that it deems necessary in updates to Title 24.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> Although the CEC is the state's EV charging expert, it has no formal role in developing EV charging standards for multifamily buildings, commercial buildings, or retrofits. Currently, the BSC consults the CEC for recommendations on EV charging standards when they update their regulations every three years. With the exception of single-family homes, nothing in current statute requires that the CEC adopt electric charging standards for new construction and retrofits. AB 2075 empowers the CEC to use their expertise to develop necessary and cost-effective EV charging standards for all buildings prior to final BSC adoption.

2) **Electric vehicles**. According to the Air Resources Board (ARB), transportation is the leading cause of smog-forming pollutants and greenhouse gas (GHG) emissions in California. Expanding the number of zero emission vehicles (ZEVs) on California roads reduces statewide emissions. ARB states, "in order to meet California's climate and air quality goals, 100% of light-duty car sales will need to be ZEVs by 2035, and the majority of the light-duty fleet will need to be ZEVs by 2050." Executive Orders B-16-12 and B-48-18 set a targets to have 1.5 million ZEVs on the road by 2025 and 5 million ZEVs by 2030, respectively. A later order by Governor Newsom, N-79-20, in part, established a goal that 100% new passenger cars and trucks be zero-emission by 2025; that 100% of medium- and heavy-duty vehicles be zero emission by 2045; and, that the state transition to 100% zero-emission off-road vehicles and equipment by 2025, where feasible.

   In order to meet these goals, California must develop adequate electric vehicle charging infrastructure. To facilitate increased charging capacity, Executive Order B-48-18 set specific goals to provide 250,000 battery electric vehicle chargers, including 10,000 direct current (DC) fast chargers by 2025. Additionally, Executive Order N-79-20 directed the ARB, CEC, and Public Utilities Commission to use their existing authority to accelerate the

deployment of affordable fueling and charging options for ZEVs in ways that serve all communities, including low-income and disadvantaged communities.

CEC released the inaugural Electric Vehicle Charging Infrastructure Assessment (Assessment) last year. According to the Assessment, California has installed more than 70,000 public and shared chargers, including nearly 6,000 DC fast chargers. More than 123,000 additional chargers are planned, including about 3,600 DC chargers. However, nearly 1.2 million chargers will be needed for light-duty vehicles to support the state's 2025 100% ZEV goal, and another 157,000 will be needed to support the medium- and heavy-duty vehicle goal. CEC finds that a variety of charging options are needed to address site-specific needs and electric grid constraints.

3) **This bill**. This bill is intended to ensure that the state's residential and nonresidential building development incorporates the necessary electric vehicle charging infrastructure to meet that state's ZEV goals by granting the authority to develop electric vehicle charging standards for buildings to the CEC. The CEC adopts the state's energy efficiency building standards and assesses the electric vehicle charging infrastructure necessary to meet the state's goals. This bill also asks CEC to ensure that the standards adopted take into account electric grid reliability.

4) **Previous legislation**:

AB 2127 (Ting), Chapter 365, Statutes of 2018 requires the CEC to assess the amount of electric vehicle infrastructure needed to meet the goals of putting at least five million ZEVs on the road and reducing GHG emissions 40% below 1990 levels by 2030.

AB 1239 (Holden, 2017) would have required the Department of Housing and Community Development (HCD) and BSC to research, develop, and propose building standards for electric vehicle EV capable parking spaces. This bill was vetoed by Governor Brown.

AB 1092 (Levine), Chapter 410, Statues of 2013, required BSC to adopt mandatory standards for the installation of electric vehicle charging infrastructure for parking spaces in multifamily dwellings and nonresidential development in the California Building Standards Code.

5) **Double referral**. This bill has also been referred to the Assembly Utilities and Energy Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Solar & Storage Association
Elders Climate Action, NorCal and SoCal Chapters

Opposition

None on file

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 2607 (Ting) – As Introduced February 18, 2022

SUBJECT: Tidelands and submerged lands: City and County of San Francisco: Port of San Francisco.

SUMMARY: Lifts the public trust and Burton Act requirements on defined parcels in the City & County of San Francisco. Delegates authority to the State Lands Commission (SLC) to approve sale of the Port of San Francisco (Port) property to the City for earthquake safety and emergency response training purposes. Provides fair market value for the property, subject to SLC approval of the value, for uses benefitting public access, use, and enjoyment of the San Francisco waterfront.

EXISTING LAW:

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

2) Establishes that SLC is the steward and manager of the state's public trust lands. SLC has direct administrative control over the state's public trust lands and oversight authority over public trust lands granted by the Legislature to local public agencies (granted lands).

3) Grants in trust to the Port, pursuant to the Burton Act, Chapter 1333, Statutes of 1968, administrative control over the public trust lands in the harbor of San Francisco for purposes of commerce, navigation, and fisheries.

THIS BILL:

1) Defines “Burton Act Trust” as the statutory trust imposed by the Burton Act, by which the state conveyed to the City and County of San Francisco, in trust and subject to certain terms, conditions, and reservations, the state’s interest in certain tidelands, including filled lands, and lands dedicated or acquired by the city as assets of the trust.

2) Requires the SLC to accept any and all title and interest of the Port, as trustee pursuant to the Burton Act, in the property, and to convey the property by patent to the city, free of the public trust and the Burton Act Trust and any trust requirement or condition that the property be used for street or railway purposes, all of the right, title, and interest held by the state, but reserving all minerals and all mineral rights, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the state, except that any reservation shall not include the right of the state in connection with any mineral exploration, removal, or disposal activity, to enter upon, use, or damage the surface of the lands or

interfere with the use of the surface by the city or conduct mining activities above a plane located 500 feet below the surface of the lands without the prior written permission of the city, described as follows:

a) The Railway Remnant Parcel, as defined;

b) Bancroft Avenue Paper Street, as defined; and,

c) Griffith Avenue Paper Street, as defined.

3) Requires the SLC, before completing the conveyances, to find at a public meeting all of the following:

a) The property has been filled and reclaimed as part of a highly beneficial plan of harbor development;

b) The property is cut off from access to the waters of San Francisco Bay;

c) The property is a relatively small portion of the tidelands granted pursuant to the Burton Act;

d) The property is not used, suitable, or required for navigation or any other public trust or Burton Act purpose;

e) The city's required deposit is equal to or greater than the fair market value of the property; and,

f) Transfer of the property and its removal from the public trust is in the best interests of the state.

4) Requires the City, in exchange for the transfer of the property and its removal from the public trust, to do both of the following:

a) Make a deposit into the Harbor Fund, which shall be held in trust and used for Burton Act purposes; and,

b) Use the property, together with adjacent lands, to construct and operate a fire training facility, public facility addressing earthquake safety or emergency response, or other public purpose for a minimum of 30 years.

5) Finds and declares that unique circumstances exist at the San Francisco waterfront and that therefore this act sets no precedent for any other location or project in the state.

6) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances applicable only to the lands described in the bill.

7) Establishes this bill as an urgency statute because the City and County of San Francisco require a site to construct and operate a fire training facility to replace an existing facility that will no longer be available in 2025. Planning and site acquisition must proceed before that time to meet development timelines. In order to immediately authorize the terms and conditions under which a railroad remnant parcel and two adjacent paper streets may be made available to the city and conveyed so that the city may proceed with its plans for the fire training facility.

FISCAL EFFECT: Unknown.

COMMENTS:

1) Author's statement:

> The San Francisco Fire Department has identified a property, currently managed by the Port of San Francisco (Port) under the state's public trust requirements, as a suitable home for a new training facility. While the parcels that must be accumulated do not serve public trust interests, in order for the property to be used for earthquake safety and emergency response training, the state must lift the public trust and Burton Act requirements through legislation.

2) **Public Trust.** The foundational principle of the common law Public Trust Doctrine is that it is an affirmative duty of the state to protect the people's common heritage in navigable waters for their common use. The traditional uses allowed under the Public Trust Doctrine were described as water-related commerce, navigation, and fisheries. As a common law doctrine, the courts have significantly shaped the Public Trust Doctrine in a number of important ways. Courts have found that the public uses to which sovereign lands are subject are sufficiently flexible to encompass changing public needs. Courts have also made clear that sovereign lands subject to the Public Trust Doctrine cannot be sold into private ownership.

   For more than 100 years, the Legislature has granted public trust lands to local governments so the lands can be managed locally for the benefit of the people of California. There are more than 80 trustees in the state, including the ports of Los Angeles, Long Beach, San Diego, San Francisco, Oakland, Richmond, Benicia, and Eureka. While these trust lands are managed locally, SLC has oversight authority to ensure those local trustees are complying with the Public Trust Doctrine and the applicable granting statutes.

3) **Burton Act.** The City and County of San Francisco, through the San Francisco Port Commission, was granted sovereign tide and submerged lands, including paper streets, in trust in 1968 through legislation referred to as the Burton Act (Chapter 1333 of the Statutes of 1968). Since the enactment of the Burton Act, the Legislature has amended the Port's statutory trust grant more than 20 times. Many of these amendments were enacted to facilitate the improvement of the infrastructure and historic structures on trust lands along the San Francisco waterfront as the Port's role and purpose has evolved over time.

4) **Proposed project.** The City of San Francisco, through its Real Estate Division (City RED), is requesting to purchase 2.6 acres of Port of San Francisco property to develop San

Francisco Fire Department's (SFFD) new training facility. SFFD's current primary training facility on Treasure Island is not available beyond 2025.

SFFD currently has two training facilities. According to the City's ten-year Capital Plan for Fiscal Years 2020-2029, SFFD will need a replacement training facility by 2025 because the Mission District facility is too small to meet SFFD needs as the primary training facility and the Treasure Island facility will be displaced by development.

SFFD educates and trains new fire fighters, emergency medical technicians (EMT), and paramedics, and provides refresher training and recertification to veteran fire fighters, EMTs, and paramedics. Approximately 1,700 firefighters use the training facilities each year. The primary facility on Treasure Island is one of only four sites in northern California approved to host Firefighter 1 Academy, Emergency Vehicle Operations, Confined Space Rescue Technician, Rescue Systems 1, Rescue Systems 2, and Rope Rescue Technician courses.

The new training facility is anticipated to have better training and certification functions than the current facilities. It will provide regional and statewide benefits by improving the readiness and capabilities of the SFFD, as well as other local and regional fire organizations, to provide mutual aid in an environment of lengthening fire seasons with increased frequency and severity of fires that regularly require mutual aid.

5) **Property**. The 2.6 acres of property located on a portion of 1236 Carroll Avenue (Port Property) under Port jurisdiction has ceased to be useful for the promotion of the Public Trust and the Burton Act Trust. The 2.6-acre site was transferred by the state to the Port in 1969, but has never been a particularly productive or functional asset for the Port. The most recent lease (2015-2018) for the property (which was for the railroad parcel only, not the paper streets) was for temporary construction project laydown space and had a lease rate of $0.30 sf/month. The currently vacant and historically underutilized property is cut off from the water, is not required for existing Port plans, and could be sold without impacting the Port's mission.

   The City of San Francisco currently holds an option to purchase an adjacent 4.9-acre, privately-held site. Together, the parcels create a 7.5-acre lot that will meet the real estate needs of a new fire training facility. In addition to Port Commission and Board of Supervisors' approval, the transaction for Port Property requires approval by the SLC and the Legislature.

6) **Paper streets.** In 1969, the Burton Act granted to the Port title to the City's tidelands and submerged lands and subsequently mapped these areas on maps known as the Burton Act maps. "Paper street" is a street or road that appears on maps but has not been built. In addition to areas of land commonly understood to be Port jurisdiction, the Burton Act maps show a complicated network of street fragments, either underlying actual City streets or in areas unrelated or only partially related to the City's network of adopted streets.

   The Port's proposal for the SFFD facility would encompass Bancroft Avenue and Griffith Avenue paper streets. The SLC must find that the lease, sale, or other transfer of the paper streets represents fair market value and all revenues can only be expended to implement the Port's capital plan. Since none of the streets are used nor suitable or necessary for navigation

or any other public trust purpose, this is a reasonable action consistent with Article X of the California Constitution.

7) **Legislative need.** Consistent with previous legislation authorizing the sale of Port lands (*e.g.*, paper streets and seawall lots) that are underutilized and no longer benefit the public trust, the Port and City drafted AB 2607 to lift the public trust and Burton Act obligations from the Port Property; delegate authority to the State Lands Commission to approve the sale of Port Property to City for SFFD's training facility; and, ensure fair market value is paid by the City to Port for uses benefitting public access, use, and enjoyment of the San Francisco waterfront. AB 2607 is needed to provide statutory approval of the jurisdictional transfer.

   The SLC has confirmed it has no concerns with this legislation.

8) Committee amendment. The committee may wish to strike the reference to "or other purpose" from Section 4 (b)(2) to make the bill consistent with its findings and declarations and ensure the property is only transferred for the purposes of the SFFD training center.

   (b) … (2) Use the property, together with adjacent lands, to construct and operate a fire training facility, public facility addressing earthquake safety or emergency response~~, or other public purpose~~ for a minimum of 30 years.

Related legislation.

1) AB 815 (Migden), Chapter 660, Statutes of 2007, authorizes the removal of the public trust on paper streets and the lifting of public trust use restrictions on certain seawall lots in the City of San Francisco, and adds a federal land parcel to an exchange of public trust lands and non-trust lands on Treasure Island and Yerba Buena Island.

2) AB 2797 (Chiu), Chapter 529, Statutes of 2016, authorizes the Port to loan specified nontrust lease revenues to cover the infrastructure costs for the development of Seawall Lot 337. Expands the boundaries of Seawall Lot 337 and extends permissible lease periods.

3) AB 2659 (W. Brown), Chapter 310, Statutes of 1987, declared specified seawall lots among the granted lands to be free from the public trust for commerce, navigation, and fisheries, but required the property to continue to be held in trust by the City and County of San Francisco subject to the terms and conditions of the Burton Act.

REGISTERED SUPPORT / OPPOSITION:

Support

Mayor of San Francisco, London Breed

Opposition

None on file.

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 1640 (Ward) – As Introduced January 12, 2022

SUBJECT: Office of Planning and Research: regional climate networks: regional climate adaptation and resilience action plans

SUMMARY: Requires the Office of Planning and Research (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.

EXISTING LAW:

1) Establishes OPR as the comprehensive state planning agency and requires OPR to assist state, regional, and local agencies in a variety of research and planning efforts.

2) Requires, pursuant to the California Global Warming Solutions Act (AB 32), the Air Resources Board (ARB) to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020 and to adopt rules and regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions.

3) Pursuant to Executive Order S-13-08 (Schwarzenegger), requires the California Natural Resources Agency (CNRA) to coordinate with local, regional, state, federal, and private entities to develop, by 2009, a state Climate Adaptation Strategy. Requires the strategy to summarize the best known science on climate change impacts to California, assess California's vulnerability to the identified impacts, and outline solutions that can be implemented within and across state agencies to promote resiliency.

4) Requires OPR and CNRA to periodically update the guidelines for the mitigation of GHG emissions or the effects of GHG emissions as required by the California Environmental Quality Act, including, but not limited to, effects associated with transportation or energy consumption, and to incorporate new information or criteria established by ARB pursuant to AB 32.

5) Pursuant to SB 32 (Pavley, Chapter 249, Statutes of 2016), codifies the GHG emissions reductions target of at least 40%below 1990 levels by 2030 contained in Governor Brown's Executive Order B-30-15.

6) Establishes the Integrated Climate Adaptation and Resiliency Program (ICARP) through OPR to coordinate regional and local adaptation efforts with state climate adaptation strategies. Requires ICARP to include (but is not limited to):

    a) Working with and coordinating local and regional adaptation efforts, including developing tools and guidance, promoting and coordinating state agency support, and informing state-led programs, planning processes, grant programs, and guidelines development through regular coordination among state agencies, the Climate Action Team, and the Strategic Growth Council (SGC).

b) Establishes an advisory council, with a range of experience, to support OPR by providing scientific and technical support and to facilitate coordination among state, regional, and local agency efforts to adapt to the impacts of climate change.
c) Requires OPR to coordinate with appropriate state, regional, and local agencies to establish a clearinghouse of climate adaptation information, as specified, to guide decision makers when planning and implementing climate adaptation projects.

THIS BILL:

1) States the intent of the Legislature to foster regional-scale climate adaptation and resilience that prioritizes the most vulnerable communities by encouraging collaboration among local, regional, and state entities on adaptation and resilience solutions in a way that promotes coordination within each region of the state, promotes coordination among neighboring regions, and integrates planning, investment, and hazard mitigation efforts.

2) States the intent of the Legislature to support the development of regional climate adaptation and resilience plans that build upon and enhance local climate adaptation actions to achieve just and equitable resilience for the most vulnerable communities, public health, infrastructure, natural resources, and California's economy.

3) Defines "eligible entity" as a local, regional, tribal, or state organization, including, but not limited to, a city, county, special district, council of government, metropolitan planning organization, joint powers authority, local agency formation commission, regional climate collaborative, regional member of the Alliance of Regional Collaboratives for Climate Adaptation (ARCCA) , nonprofit organization, community-based organization, tribal government, school district, and higher education institution.

4) Defines "regional climate network" as a group of eligible entities whose jurisdictions are located in the same region, and whose combined jurisdiction enhances their effectiveness in responding to climate risks. A regional climate network is not required (?) to cover multiple counties if the county within the network has a population greater than two million residents.

5) Requires, on or before July 1, 2023, OPR, through ICARP, to do all of the following:

   a) Develop and publish on its internet website guidelines on both of the following subjects:

      i) How eligible entities may establish regional climate networks. Requires the guidelines to account for differences in regional needs and priorities, ensure applicability and relevance to all regions throughout California, including under-resourced communities, and provide guidance to eligible entities for determining the structure of the regional climate networks in their regions; and,
      ii) How governing boards may be established within regional climate networks, including how to ensure equity in representation of eligible entities.

   b) Publish on its internet website the draft guidelines for public review and comment at least 60 days before its adoption of the guidelines; and,

   c) Consult with other relevant state agencies in developing the guidelines.

6) Authorizes eligible entities to establish and participate in a regional climate network. Requires those eligible entities to notify OPR in writing before the establishment of a regional climate network and of any changes in the membership of that network.

7) Authorizes membership in a regional climate network to be modified at any time pursuant to this bill.

8) Requires OPR, through ICARP, to provide technical assistance to regions seeking to establish a regional climate network, facilitate coordination between regions, and encourage regions to incorporate as many eligible entities into one network as feasible, taking into consideration each region's unique vulnerabilities and land use challenges.

9) Requires OPR to encourage the inclusion of eligible entities with land use and hazard mitigation planning authority into regional climate networks.

10) Requires a regional climate network to develop a regional climate adaptation and resilience action plan and submit the plan to OPR for review, comments, and certification.

11) Authorizes a regional climate network to engage in activities to address climate change that include, but are not limited to, any of the following:

    a) Supporting the development of and updates to regional climate adaptation and resilience action plans, strategies, and programs, including performing qualitative and quantitative research, compiling and hosting relevant data and resources, developing tools, and providing technical assistance;

    b) Supporting the implementation of regional climate adaptation and resilience action plans, hazard and GHG emissions mitigation strategies, and programs, including evaluating funding and financing mechanisms, monitoring and evaluating progress, and providing technical assistance;

    c) Facilitating the exchange of best practices, policies, projects, and strategies among eligible entities and stakeholders, and between regions on climate adaptation, hazard mitigation, and GHG emissions mitigation;

    d) Conducting activities to support ongoing coordination and capacity building among eligible entities, including convening working groups, organizing training opportunities, and creating mechanisms for collaboration;

    e) Conducting educational activities for eligible entities, decisionmakers, key stakeholders, and the general public to increase their understanding of climate change risks and adaptation solutions; and,

    f) Administering grants to eligible entities.

12) Establishes that regional climate networks shall have, and may exercise, all powers, expressed or implied, that are necessary to carry out the intent and purposes of this bill, including, but not limited to, the power to do all of the following:

a) Apply for and receive grants from federal and state agencies;
b) Enter into and perform all necessary contracts;
c) Enter into joint power agreements; and,
d) Hire staff, define their qualifications and duties, and provide a schedule of compensation for the performance of their duties.

13) Authorizes a regional climate network to establish distinct governance procedures and policies that acknowledge regional conditions and accommodate regional needs to administer activities pursuant to the bill. Requires governance procedures and policies to include processes for eligible entities to participate and strategies for public engagement to ensure a multistakeholder process that incorporates and supports input from vulnerable communities and under-resourced communities, and be consistent with specified guidelines.

14) Requires a regional climate network to comply with requirements of the Ralph M. Brown Act.

15) Authorizes OPR to request that established regional climate networks submit a biennial report to OPR that includes, but need not be limited to, all of the following:

a) The participating eligible entities of the regional climate network;
b) An outline of all activities and the outcome of each activity;
c) Actions taken by the regional climate network;
d) An accounting of the administration of, and expenditures made by, the regional climate networks; and,
e) Recommendations to state agencies on opportunities to support regional climate adaptation and mitigation planning, investment, and implementation.

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's statement.**

> Currently there are various climate change collaboratives and authorities throughout the state that have been established at the local level. While each collaborative/authority is working to address climate change issues in their particular region, there needs to be consistent best practices or standards available across all areas of the state. AB 1640 seeks to address this by requiring the Office of Planning and Research to adopt guidelines for the establishment of Regional Climate Networks.

2) **Climate change.** With the adoption of AB 32 (Nuñez, Chapter 488, Statutes of 2006), California has aggressively adopted GHG reduction targets, new policies, and programs to reduce the state's portfolio of climate emissions and facilitate emissions reductions across virtually every sector and region. Despite that progress, the climate has been changing and from our coastline to inland borders, from Calexico to Siskiyou County, Californians are encountering a barrage of climate challenges.

According to the California's Fourth Climate Change Assessment (4th Assessment), California is one of the most "climate-challenged" regions of North America. Peak runoff in the Sacramento River occurs nearly a month earlier than in the first half of the last century, glaciers in the Sierra Nevada have lost an average of 70 % of their area since the start of the 20th century, and birds are wintering further north and closer to the coast. Eight out of the past ten years have had significantly below average precipitation. As of September 2020, the state has experienced a degree of wildfire activity that the 4th Assessment forecasted would not occur until 2050.

Scientists and policy makers agree that addressing climate change is on a dual track: as humans reduce their climate emissions inventories to mitigate the impacts of climate change, we concurrently need to be preparing for the changes via adaptation and resiliency.

Extreme heat, rising sea levels, ongoing drought, flooding, wildfires, and vector control will have direct impacts on public health and infrastructure and affect people's livelihoods and local economies. Changing weather patterns and more extreme conditions will impact tourism and rural economies in California, along with changes to agriculture and crops. There will also be negative impacts to California's ecosystems, both on land and in the ocean, leading to local extinctions, migrations, and management challenges.

3) **Climate adaptation at the local level.** Adaptation can help safeguard against some of the worst impacts, costs, and risks associated with climate change. While climate change is a global issue, it is felt locally and regionally. Cities, counties, and regional agencies are at the frontline of adaptation and resiliency. California's local governments have begun to undertake climate adaptation efforts, but these efforts are in early stages of development and face a multitude of barriers, including financing and coordinating across jurisdictions to effectively address regional impacts.

   ARCCA, which represents collaborative networks across California, shares best practices and resources, identifies strategies to overcome key barriers and challenges, and conducts joint campaigns and projects to support their individual and collective efforts to adapt to climate change. ARCCA's member regional collaboratives represent the North Coast, Capital Region, Sierra Nevada, Bay Area, Central Coast, Los Angeles County, and San Diego County, which covers about 80% of the state's population.

   While efforts like ARCCA exist to support regional planning, the state has the resources, both financially and through its agencies that have been tasked with climate strategizing, to support local and regional efforts to adapt to climate change.

   Integrated Climate Adaptation and resiliency Program (ICARP). In 2017, the Legislature enacted SB 246 (Wieckowski, Chapter 606, Statutes of 2015) to establish ICARP to require OPR to coordinate regional and local efforts with state climate adaptation strategies to adapt to the impacts of climate change.

   OPR collaborates with broad range of public, private, and community partners to assess climate risks, develop inclusive, integrated strategies to plan and implement solutions to adapt to and reduce them, advancing equitable and resilient California communities.

   One of ICARP's main components is the Technical Advisory Council (TAC), which brings together state and local government, non-profit and private sector practitioners, scientists,

and community leaders to help coordinate activities that better prepare California for the impacts of a changing climate.

The ICARP *Impact Report and 2020 Program Recommendations* report states:

> … a gap became apparent in recent years that such robust state initiatives needed to be better connected to and developed in coordination with local and regional partners. Meaningful climate adaptation requires deep understanding of regional impacts, vulnerabilities, and capacity to change. Entities such as OPR and programs like ICARP serve to bridge this gap by ensuring that climate research and adaptation efforts at the state level are designed to have the greatest impact for local, tribal, and regional governments – partners responsible for much of the day-to-day implementation of change in our communities and on our lands.

Mother Nature and climate changes don't adhere to jurisdictional or political boundaries, so as OPR implements ICARP, it is addressing the need to enable greater coordinated efforts at the local and regional levels and implementing funding for regional coordination on resiliency planning.

4) **Vulnerable communities.** While climate change already impacts every region of the state, regions and communities experience these impacts differently based on a wide range of factors. Climate vulnerability describes the degree to which natural, built, and human systems are at risk of exposure to climate change impacts. Climate vulnerable communities experience heightened risk and increased sensitivity to climate change and have less capacity and fewer resources to cope with, adapt to, or recover from climate impacts. These disproportionate effects are caused by physical (built and environmental), social, political, and/ or economic factor(s), which are exacerbated by climate impacts.

   California's Draft 2021 California Climate Adaptation Strategy (Draft Strategy) that was released October 18, 2021, prioritizes the need to strengthen protections for climate vulnerable communities. The draft report states:

   > Reducing risks from climate impacts requires strengthening protections and increasing the resilience of communities and people to respond, recover, and adjust. Yet, some communities face compounding vulnerabilities and experience disproportionate impacts--particularly low-income communities, Communities of Color, and tribal communities. A truly resilient California ensures all communities thrive and none are left behind. Therefore, one of California's climate adaptation priorities is to ensure adaptation and resilience actions appropriately respond to the needs and priorities of the communities most vulnerable to climate impacts.

   ARCCA's comment letter on the Draft Strategy states:

   > While each region is experiencing the impacts of climate change, not all regions have comparable levels of capacity and resources to advance adaptation solutions. For example, regions including the Sierra Nevada and San Joaquin Valley, among others, often have significantly less capacity for climate planning and implementation than other parts of the state. The

> Strategy should include region-specific strategies for increasing capacity and buoying efforts in the state's most vulnerable communities.

AB 1640 would incorporate that sentiment through legislative intent language. Furthermore, the bill would require vulnerable communities' voices to be heard in any regional climate network.

5) **State funding for regional climate planning.** The 2021-22 Budget Act provided $250 million over three years for regional climate resiliency planning. Governor Newsom's proposed 2022-23 Budget includes $135 million associated with the second year of those investments for regional climate collaboratives and resilience. The funds will provide direct investment in communities through capacity building grants, tribal, local and regional adaptation planning, and implementation of resilience projects.

   The current fiscal year appropriation ($25 million) will be used to convene and create structures for regional coordination, and provide funding for planning and implementation. OPR will develop guidelines to flesh out the details, including how to encourage and enable resource-limited regions to coordinate; how to support existing regional networks move forward as new networks form; and, addressing the longevity of these networks. OPR anticipates the public process for comment solicitation as early as this spring.

6) **Second bite at the apple.** Last year, the Legislature considered AB 897 (Mullin, 2021), which would have directed OPR to facilitate the creation of regional climate networks and create standards for regional climate adaptation and resilience action plans to support the implementation of regional climate adaptation efforts

   AB 897 was ultimately held on suspense in the Senate Appropriations Committee. The August 16, 2021, committee analysis cited between $1.5-$2 million in annual costs to OPR to develop guidelines, provide technical assistance, produce a report, conduct outreach, and convene meetings, among other things; it also noted the bill could allow the state to avoid some disaster response costs and result in state savings of an unknown but potentially significant amount.

   The Budget Act (SB 170, Skinner, Budget Act of 2021, Chapter 240, Statutes of 2021)), ostensibly inspired by AB 897, specified that at least $12.5 million shall be for establishing an ICARP Regional Planning Grant Program for grants that support regional climate adaptation planning and action plans that prioritize projects or actions that are necessary to respond to the greatest climate risks facing the region, particularly in the most vulnerable communities.

   AB 1640 picks up where AB 897 left off. While the budget included the language for regional climate planning, AB 1640 would codify the language for regional climate collaboratives in state law as it was last drafted in AB 897.

   AB 1640 could potentially be the implementing policy for the Governor's proposed regional climate collaboratives funding. As AB 1640 advances through the Legislature, the author may wish to coordinate with OPR and to consider how the bill dovetails with the ongoing efforts at OPR to invest the current budget allocations and how this bill can potentially be linked to the proposed budget funding.

7) **Action plans**. AB 1640 would require a regional climate network to develop a regional climate adaptation and resilience action plan and submit to OPR for review, comments, and certification.

   OPR is not a regulatory body, so authorizing OPR to certify plans seems to be outside of its scope of work. Therefore, the Committee may wish to strike Sec. 71135 (d) from the bill:

   ~~(d) A regional climate network shall develop a regional climate adaptation and resilience action plan and submit the plan to the Office of Planning and Research for review, comments, and certification.~~

8) **Concerns to address.** The California Chamber of Commerce expressed concerns that the bill confers new regulatory authority on the entities set forth in the bill, many of whom are non-governmental entities unaccountable to the legislature or any local governmental entity. The concern is over whether Sec. 71136 (b) grants broad and unfettered authority to regional climate networks that may be unintended by the author.

   Therefore, the Committee may wish to amend Sec. 71136 as follows:

   (a) A regional climate network may engage in *any of the following* activities to address climate change ~~that include, but are not limited to, any of the following:~~

   (b) Regional climate networks shall have, and may exercise, all powers, express or implied, that are necessary ~~to carry out the intent and purposes of this part, including, but not limited to, the power~~ to do all of the following:

9) **Arguments in support.** CivicWell, formerly the Local Government Commission, which facilitates ARCCA, states:

   > Increasingly, local entities, including both governmental and nongovernmental agencies and organizations, have undertaken efforts to assess climate risks and vulnerabilities, develop adaptation plans, and implement strategies to build community and infrastructure resilience across the state. However, there remains a critical need for state recognition and support for regional adaptation planning, coordination, and funding. Our experience in facilitating ARCCA, in addition to our 40-year long history working with communities across the state, has demonstrated how a one size-fits-all approach fails to recognize the unique assets and needs of California's diverse communities and regions. We greatly appreciate that AB 1640 provides the needed flexibility for each region to determine the most appropriate form of regional collaboration to develop and implement its regional adaptation planning efforts.

Related legislation.

1) AB 897 (Mullin, 2021). Would have would directed OPR to facilitate the creation of regional climate networks and create standards for regional climate adaptation and resilience action plans to support the implementation of regional climate adaptation effort. This bill was held on the Senate Appropriations Suspense File.

2) AB 11 (Ward). Would have required the SGC, by 2023, to establish up to 12 regional climate change authorities to coordinate climate adaptation and mitigation activities in their regions and coordinate with other regional climate adaptation authorities, state agencies, and other relevant stakeholders. This bill was held in the Assembly Natural Resources Committee.

3) AB 1500 (E. Garcia, 2021). Would, subject to approval by the voters in the November 8, 2022, general election, authorize a $6.7 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 was held in the Assembly Rules Committee.

4) AB 2621 (Mullen, 2020). Would have required, on or before January 1, 2022, OPR to develop guidelines that establish standards for how a network should develop a regional climate adaptation action plan to gain the approval of the OPR. Required OPR to make recommendations on improving state support for regional climate network. This bill was held on suspense in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of Teachers, Local 1931
Association of California Water Agencies
California Council of Land Trusts
Edison International and Affiliates, Including Southern California Edison
Local Government Commission
Midpeninsula Regional Open Space District
San Diego Green New Deal Alliance
Sandiego350
Change Begins With Me
CleanEarth4kids.org
Climate Action Campaign
Democratic Socialists of America
GIRD Alternatives San Diego
Green New Deal at UCSD
Hammond Climate Solutions
Interfaith Worker Justice of San Diego County
San Diego Green Party
San Diego Labor, Environmental, and Community Coalition
San Diego Urban Sustainability Coalition
UNITE HERE, Local 30

Opposition

California Chamber of Commerce

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

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
AB 2225 (Ward) – As Introduced February 15, 2022

SUBJECT: Resource conservation: traditional ecological knowledge: land management plans

SUMMARY: Requires the California Natural Resources Agency (NRA), on or before January 1, 2024, to conduct a listening tour of Native American tribes across the state to solicit their initial input, priorities, and concerns regarding traditional ecological knowledge (TEK) and provide reimbursement to the tribes for this consultation.

EXISTING LAW establishes the Tribal Nation Grant Panel and the Tribal Nation Grant Fund Program, and authorizes the Panel to award grants from available funds in the Tribal Nation Grant Fund to nongaming and limited-gaming tribes. In addition, this bill establishes the Office of the Governor's Tribal Advisor.

THIS BILL:

1) Defines "cause no harm" as identifying and avoiding risks that could lead to loss of or misappropriation of TEK.

2) Defines "free, prior, and informed consent" to mean all of the following:

    a) The consent of Native American tribes to share their TEK cannot be given under force of threat;
    b) Native American tribes receive the draft proposed policy and any relevant information with enough time to review it;
    c) The information provided to Native American tribes is detailed, emphasizes both the potential positive and negative impacts of the proposed policy, and is presented in a language and format understood by the community; and,
    d) Native American tribes have the right to agree or not agree to share their TEK and to withdraw their consent at any time.

3) Defines "traditional ecological knowledge" as the knowledge held by indigenous cultures about their immediate environment and the cultural practices that build on that knowledge. TEK includes an intimate and detailed knowledge of plants, animals, and natural phenomena, the development and use of appropriate technologies for hunting, fishing, trapping, agriculture, and forestry, and a holistic knowledge, or "world view" that parallels the scientific discipline of ecology.

4) Requires, on or before January 1, 2024, NRA to conduct a listening tour of Native American tribes across the state to solicit their initial input, priorities, and concerns regarding TEK. Requires NRA to consult with Native American tribes from across the state and to provide at least one draft for comment by Native American tribes. Requires NRA to provide reimbursement for this consultation.

5) Requires, no later than January 1, 2024, NRA, in consultation with the Governor's tribal advisor, to adopt a policy for incorporating TEK, where appropriate and freely shared, into the conservation and management of lands owned or managed by NRA or the departments, boards, conservancies, or commissions under NRA. Requires the policy to incorporate the principles of "cause no harm" and "free, prior, and informed consent" and shall include protections for the intellectual property of Native American tribes.

6) Requires NRA to implement guidance on reimbursement and contracts. Requires the guidance to be consistent with the way that NRA pays other subject matter experts for their expertise.

7) Establishes the intent of the Legislature that the implementation of this bill honor and uphold the sovereignty of Native American tribes and respect the intellectual property rights of Native American tribes. Requires the adoption of a policy to be guided and informed by formal consultation with the tribal decision making authority of Native American tribes.

8) Requires, on and after January 1, 2024, NRA and the departments, boards, conservancies, and commissions under NRA to incorporate the policy of TEK land management plans for lands managed for conservation purposes.

9) Requires, if NRA contracts with a Native American tribe on policy implementation and consultation strategies, the Native American tribe to be located regionally within close proximity and, where possible, comprised of representatives indigenous to the specified land area.

10) Requires, on and after January 1, 2024, NRA or the departments, boards, conservancies, or commissions under NRA who administer grants for land management and conservation purposes to incorporate the policy of TEK into their guidelines. Requires the guidelines to provide guidance for grantees, where appropriate, to contract with Native American tribes and compensate for their expertise.

FISCAL EFFECT: Unknown.

COMMENTS:

1) Author's statement:

> California is working to conserve 30% of its lands, including land and coastal water by 2030. Conservation is a state priority as biodiversity is threatened by habitat loss, invasive species, drought and depletion of water supplies, climate change impacts such as sea level rise, drought and extreme heat, wildfire, disease incidence increase, and flooding.
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> Land management and conservation requirements need to take a local, regional, and statewide approach to integrate complex conservation goals. Native American tribes have an important role in this process and should be represented at local and regional levels as advisors, managers, and co-managers to provide their expertise on region-specific conservative initiatives and actions. Tribes maintain integrated indigenous knowledge,

practice, and belief systems that are critical to successful land management and are guided by a unique set of values that has existed for thousands of years.

Currently, land conservation requirements do not integrate traditional management principles and practices, which may be excluding best practices developed for local ecosystems long before European settlers occupied, developed, and/or managed land. AB 2225 provides a consistent policy on TEK as the state moves toward achieving its goals of conserving 30 percent of its lands by 2030.

2) **Indigenous peoples in California.** The California Native American Heritage Commission, in a short overview of California Indian History, enumerates the Native American tribes across the state by geographic area:

The Northwest of the state includes the Tolowa, Shasta, Karok, Yurok Hupa Whilikut, Chilula, Chimarike and Wiyot tribes. The Northeast region included the Modoc, Achumawi, and Atsugewi tribes.

Central California includes Bear River, Mattale, Lassick, Nogatl, Wintun, Yana, Yahi, Maidu, Wintun, Sinkyone, Wailaki, Kato, Yuki, Pomo, Lake Miwok, Wappo, Coast Miwok, Interior Miwok, Wappo, Coast Miwok, Interior Miwok, Monache, Yokuts, Costanoan, Esselen, Salinan, and Tubatulabal tribes.

Southern California presents a varied and somewhat unique region of the state. Beginning in the north, tribes found in this area are the Chumash, Alliklik, Kitanemuk, Serrano, Gabrielino Luiseno Cahuilla, and the Kumeyaay. The Channel Islands were principally inhabited by Chumash speaking peoples.

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

Imbedded in that intrinsic racism, elitism, and greed was an inherent ignorance about the Native American tribes and how they had sustainably lived on the land for many generations before the land was settled by Europeans, rushed for gold, and established as part of the United States of America. During those years, Native American tribes were enslaved by settlers and coerced to live in hastily organized reservations that provided little in the way of support, lacking game and suitable agricultural lands and water. Despite every effort to remove them, many Native American tribes prevailed.

The amazing adaptive capabilities of California's Native American tribes has demonstrated the resiliency and genius of these much misunderstood and hardworking tribes can achieve under the most unfavorable of circumstances. Current state leaders have the opportunity to give them a greater voice in land management and ecosystem preservation and to maintain the commitment to continue learning from them.

3) **Land management by Indigenous peoples.** Researchers are turning to what is known as traditional ecological knowledge (TEK) to fill out an understanding of the natural world. TEK is deep knowledge of a place that has been painstakingly discovered by those who have

adapted to it over thousands of years and relied on this detailed knowledge for their survival. TEK has been studied as biocultural diversity, ethno-ornithology, and has been receiving more attention from scientists due to efforts to better understand the world in the face of climate change and the accelerating loss of biodiversity. One estimate suggests that while native peoples only compromise 4%-5% of the world's population, they manage up to 11% of its forests. "In doing so, they maintain 80% of the planet's biodiversity in, or adjacent to, 85% of the world's protected areas," stated Gleb Raygorodetsky, a researcher at the University of Victoria.

In 2009, record brush fires burned across Australia. The rate of the wildfire destruction was unprecedented. To prevent future fires like those in 2009, land managers in Australia have adopted many of the fire-control practices of the aborigines and have partnered with native people.

Scientists have looked to native Australians for other insights into the natural world. A team of researchers collaborated with Native tribes based on their observations of kites and falcons that fly with flaming branches from a forest fire to start other fires. It is well known that birds will hunt mice and lizards as they flee the flames of a wildfire. But stories among the indigenous people in Northern Australia held that some birds actually started fires by dropping a burning branch in unburned places. Based on this TEK, researched watched and documented this behavior – and learned how to better manage forests.

There are examples of TEK incorporation into land management policies around the world, from the Skolt Sami people of Finland to the Maya people of Mesoamerica. California, with its 163,696 square miles of territory and wide range of topography and geography, stands to learn a lot from the Native American tribes that inhabit nearly every corner of the state.

4) **State policies on Native American inclusion.** The mission of the NRA is to restore, protect and manage the state's natural, historical, and cultural resources for current and future generations using creative approaches and solutions based on science, collaboration, and respect for all the communities and interests involved.

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

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

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

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

On October 7, 2020, Governor Newsom issued Executive Order No. N-82-20, which directed NRA to collaborate with tribal partners to incorporate tribal expertise and traditional ecological knowledge to better understand our biodiversity and the threats it faces. As a result, NRA appointed an assistant Secretary for Tribal Affairs to help cultivate and ensure the participation and inclusion of tribal governments and communities within the work of NRA, supporting the effective integration of these governments' and communities' interests in environmental policymaking. The assistant also works to further support and expand the NRA's effort to institutionalize tribal consultation practices into its program planning, development, and implementation decisions.

5) **30x30.** As part of Executive Order N-82- 20, California committed to the goal of conserving 30% of our lands and coastal waters by 2030. California's 30x30 initiative is part of an international movement to conserve natural areas across our planet. This global initiative seeks to protect biodiversity, expand equitable access to nature and its benefits, combat climate change, and build our resilience to climate impacts.

   Tribal uses of ancestral and traditional areas—including fishing, hunting, gathering, and ceremony—are central not only to tribal identity and sovereignty but also biodiversity protection and ecosystem function.

   The draft *Pathways to 30x30 California: Accelerating Conservation of California's Nature* provides the following principles for strengthening Tribal partnerships:

   - Consult and partner with California Native American tribes in identifying conservation areas;
   - Engage in meaningful government-to-government consultation with California Native American tribes for the protection, care, access, and stewardship of cultural landscapes, celestial-scapes, and seascapes, as well as other sacred sites and ceremonial places;

- Respect, acknowledge, and support culturally appropriate use of tribal expertise, traditional knowledge, and intellectual property, with consent of and in consultation with tribes;
- Identify opportunities for California Native American tribes to utilize tribal expertise, traditional knowledge, and intellectual property to further conservation efforts
- Develop opportunities for meaningful and mutually beneficial tribal management and tribal co-management within new and existing state lands, marine waters, and private lands, through formal agreements and other means; and,
- Support the return and ownership of ancestral lands to California Native American tribes.

The draft report declares:

> Tribally led conservation is key to the success of the 30x30 initiative and Indigenous people must be given the space and the funding to spearhead stewardship actions and drive traditional management toward biodiversity goals for the State.

6) **This bill.** The intent of AB 2225 is to create a uniform policy for all departments and agencies within NRA to coordinate with Native American tribes and incorporate their TEK into their respective programmatic planning. The bill essentially codifies the Executive Orders B-10-11 and N-82-20 to collaborate with tribal partners to incorporate tribal expertise and TEK to better understand our biodiversity and the threats it faces.

   AB 2225 also provides a mechanism for paying Native American tribes compensation for their time and intellectual property – their TEK.

   The author may wish to coordinate with NRA to ensure compatibility of this bill with the agency's ongoing efforts to effectuate those Executive Orders.

REGISTERED SUPPORT / OPPOSITION:

Support

Midpeninsula Regional Open Space District

Opposition

None on file.

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