



April 7, 2017

Ending a week of furious committee meetings and flurries of activity so that deadlines could be met before the legislature adjourns for Spring Recess, several bills of interest to agriculture have been amended or removed from the process. Here's the latest information we have.

Transportation:

[SB 1](#) (Jim Beall, D- San Jose) landed on Governor Brown's desk late Thursday night after days of political wrangling for votes to impose \$52 billion in additional fuel and vehicles taxes, the state's largest fuel tax in history. The Road Repair and Accountability Act of 2017 was achieved by promising various legislators significant transportation projects in their districts. One of the biggest winners was Senator Anthony Cannella, the lone Republican who voted for the package. For his vote, the key payback was the Altamont Corridor Express train that will be extended to his hometown of Ceres. All city and county local government associations, labor, the California Trucking Association and the California Chamber of Commerce worked hard to gain the minimum number that were needed for a 2/3 vote passage in both the Assembly and Senate.

Funding to repair streets, highways and bridges, as well as to increase mass transit will be enacted as follows on November 1, 2017 except as noted:

- Diesel fuel excise tax increased by \$0.20 per gallon
- Gasoline excise tax increased by \$0.12 per gallon (annual inflation adjustment effective July 1, 2020 for both diesel and gasoline)
- Sales and use surtax on diesel increased from 1.75 to 5.75%
- Transportation Improvement fee ranging from \$25 to \$175 based on a vehicle's value as of January 1, 2018
- Zero Emission Vehicle fee of \$100 commencing in 2020.

SB 1 extends the usable life of commercial motor vehicles by not requiring replacement or retrofitting of diesel engines for 13 years from the model year the engine and emission system were first certified or 800,000 miles whichever occurs later. If 800,000 has not been reached by the 13th year, the vehicle can be operated for up to 18 years. This only applies to any regulation or law adopted or amended after January 1, 2017, thus it does not apply to current laws such as the Truck and Bus Rule.

The bill also requires the Department of Motor Vehicles as of January 1, 2020 to confirm that commercial motor vehicles are compliant with or exempt from the Truck and Bus rule prior to initial registration, transfer of ownership or registration renewal. Farm Bureau was working on this same language in [SB 174](#) (Ricardo Lara- D- Bell Gardens) to get amendments that would provide protections for agricultural trucks. It was extremely unfortunate that SB 174's sponsor, California Trucking Association, who had accepted

our amendments, did not insure that they were included in SB 1. Despite this lack of professional courtesy, efforts are still being made by Farm Bureau and other agricultural groups to secure those changes in other legislative vehicles. Unclaimed gas tax that is used to fund County Agricultural Commissioner activities was maintained and all additional taxes will also go to these important efforts.

California Farm Bureau worked with a large coalition of agricultural groups in opposition to SB 1. We want to thank all the calls and emails that were sent to your representatives asking them to oppose. It was an insurmountable task to stop SB 1 with Governor Brown so publicly vested in getting it approved by testifying in support of SB 1 and attending support rally's in individual legislator's districts to gain their votes.

Labor:

[AB 306](#) (Lorena Gonzalez-Fletcher, D-San Diego) was amended on March 28 exchanging its original spot bill language for language that would allow employees participating in a strike, or who are unable to work due to a management lock-out, to collect unemployment insurance benefits. Unemployment insurance benefits are intended to provide income replacement for unemployed workers who are available to work and actively seeking work – neither of which is true in an organized work stoppage. AB 306 would result in a less favorable experience rating for the employer whose striking employees collect unemployment insurance benefits, increasing the employer's unemployment insurance taxes due to a strike. Farm Bureau opposes.

[AB 1565](#) (Tony Thurmond, D-Richmond) was amended to substantially increase the minimum salary that must be paid to an overtime-exempt employee. Current law requires an overtime-exempt employee to meet a series of duties tests and be paid twice the minimum wage in effect at the time. The minimum wage is currently \$10/hour for employers of 25 or fewer employees and \$10.50/hour for employers of 26 or more employees, resulting in monthly salary thresholds of \$3466 and \$3640, respectively. AB 1565 would increase this monthly threshold to \$3956, immediately implementing the minimum salary threshold for overtime exempt employees that would have been in effect in 2020 for employers of 26 or more employees, or in 2021 for employers of 25 or fewer employees. Farm Bureau opposes.

[SB 63](#) (Hannah-Beth Jackson, D-Santa Barbara) requires an employer with 20 or more employees within a 75-mile radius to provide 12 weeks of protected parental leave to bond with a new child after that child's birth, adoption or foster care placement. It imposes this parental leave requirement on employers who would not otherwise be covered by the federal Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), both of which apply to employers of 50 or more employees. Governor Brown vetoed similar legislation by Jackson (SB 654) in 2016. SB 63 was approved by the Senate Judiciary Committee on a 4-1 vote and referred to the Senate Appropriations Committee. Farm Bureau opposes.

Natural Resources:

[SB 473](#) (Bob Hertzberg, D-Van Nuys) would make several changes to the California Endangered Species Act (CESA). The changes include both positive and negative adjustments. There are two changes that could be beneficial to Farm Bureau members. First, SB 473 would give authority to the Department of Fish and Wildlife (DFW) to determine that any incidental take allowance provided by the federal Fish and Wildlife Service (FWS) could be deemed consistent with CESA and allowed under state law. Obtaining a consistency determination means that a permit applicant wouldn't have to apply for a separate permit from DFW after they've been granted the authority to take by FWS. The bill would also allow an incidental take permit process for multiple lands owned by a single owner. The intent behind this change is to allow

utilities or railroads to obtain an incidental take permit across all their properties, however it could also help farmers who own multiple properties.

The bill also includes several problematic provisions. While the bill allows for more consistency determinations to be issued by DFW, the section providing that authority disappears if any changes are made to the federal Endangered Species Act (ESA) or its implementing regulations. This means that if Congress decided to change how grants are distributed under the ESA, DFW would lose its authority to issue any consistency determinations. SB 473 also includes a provision that prohibits allowing take for candidate species if allowing take would jeopardize the continued existence of the species. It would be nearly impossible to make this determination, because while a species is designated as a candidate, DFW is gathering data and reviewing the status of the species. Without a clear scientific understanding of the status of a species it would be nearly impossible to determine whether an action could jeopardize a species; meaning that allowing take would always be subject to litigation questioning whether jeopardy was occurring. The bill also further defines “conservation” to mean that a species isn’t conserved until it can survive in the wild in California, which could limit the tools available to help recover listed species. Finally, the bill prioritizes safe harbor agreements on land with a conservation easement. Farm Bureau has expressed our concerns to the author and will work with him to amend the bill to eliminate the problematic provisions. The Senate Natural Resources and Water Committee approved SB 473 on a 7-1 vote where the author committed to further amending the bill based on concerns.

[SB 506](#) (Jim Nielsen, R-Gerber) originally would have eliminated the requirement to obtain a lake and streambed alteration agreement (LSAA) when an individual is simply exercising his water right by diverting water. The bill also would have exempted maintenance of water diversion facilities from the requirement to obtain an LSAA. Senator Nielsen carried an identical bill last year that was not successful. This time the Committee worked with Senator Nielsen to amend the bill to delete the language changing what activities would be subject to LSAA, instead requiring the Department of Fish and Wildlife to update the information on its website regarding its LSAA program to provide clearer information to the public regarding compliance. DFW will also be required to better facilitate individualized guidance to the public regarding LSAA. With those changes, the bill was placed on the Committee’s consent calendar and it passed with a 9-0 vote.

Water:

The California Water Commission announced this week the appointment of Joe Yun as Executive Officer. Joe has over 28 years of experience working in water resource planning and management for the Department of Water Resources and in private consulting. As the Interim Program Manager for the Water Storage Investment Program, Joe was instrumental in drafting the program’s regulations.

[AB 594](#) (Jacqui Irwin, D-Thousand Oaks) would exempt large solar or wind energy generation projects from preparing a water supply assessment if they would demand no more than 50 acre feet of water annually. It indefinitely exempts these projects from identifying their water supply under the California Environmental Quality Act. The measure was pulled by the author from this week’s scheduled hearing in the Assembly Water, Parks and Wildlife Committee. Farm Bureau is working with the sponsors and the author to address our concerns that large-scale solar or wind projects could compete with agricultural water supplies because of AB 594.

[AB 947](#) (James Gallagher, R-Yuba City) would clarify that “streambed, bank, or channel” only means the land containing the river, stream, or lake during its ordinary course. This change would narrow when a streambed alteration agreement would be required to activities only in the bed, bank, or channel rather than the entire floodplain. This Farm Bureau sponsored measure was amended in the Assembly Water, Parks and Wildlife Committee to state it is the intent of the Legislature to codify definitions of bed, bank and channel. The measure passed out of committee 9-1 with 5 members abstaining or absent.

[AB 975](#) (Laura Friedman, D-Glendale) would expand the extraordinary values for 1,362 miles of rivers designated as wild and scenic under the California Wild and Scenic Rivers Act. It would also expand current protections to include the river and adjacent lands within one-quarter mile on each side of the river. The measure passed out of the Assembly Appropriations Committee on a 11-5 vote. Farm Bureau opposes.

[AB 1605](#) (Anna Caballero, D-Salinas) would assist those who voluntarily provide alternative drinking water, participate in an alternative compliance project or program, or contribute to a fund to pay for alternative drinking water to those whose MCL exceeds the drinking water standard for nitrate. This Farm Bureau sponsored measure was pulled by the author from this week’s scheduled hearing in the Assembly Environmental Safety and Toxic Materials Committee and will be scheduled for a hearing at a later date.