



June 28, 2013

Governor Jerry Brown approved California's new budget Thursday, changing very little of the \$96.3 billion spending plan before signing it into law. Brown said California's finances are "in very solid shape" after years of deficits and touted increased spending on schools and healthcare for the poor. In addition to a \$96.3-billion general fund, the budget contains \$42 billion from accounts funded by dedicated taxes and fees, and \$7 billion in bond money.

The California Department of Food and Agriculture proposed augmentation of seven new positions for the Fertilizer Material Inspection Program was sustained by the Governor. The budget contains no fiscal support or policy direction for these new positions and they can only be filled when a funding source is identified. Current funding for the program comes from a one mil fee on fertilizer sales. A decision has not been made on additional funding. Farm Bureau will be closely monitoring this new effort at CDFA.

Some of changes the Governor did make had to do with staffing in agencies that regulate agriculture:

- The Department of Pesticide Regulation proposed augmentation to increase enforcement was reduced by \$250,000 and two positions. However, the Governor did sustain \$383,000 and three new positions to develop mitigation measures for toxic air contaminants (TAC) that will align with [AB 304](#) (Das Williams, D- Santa Barbara) that sets new timelines for reviewing TAC's. This legislation is moving through the legislature and is expected to be signed by the Governor. Farm Bureau and other agricultural groups were originally opposed to AB 304, but after the author accepted extensive amendments, we removed our opposition.
- The State Water Resources Control Board proposed augmentation to increase enforcement for the Irrigated Lands Regulatory Program was reduced by \$319,000 and two positions. However the Governor did sustain \$650,000 and five new positions "to develop greater expertise in agricultural production at the Central Coast and Central Valley Regional Water Quality Control Boards."

[AB 69](#) (Henry Perea, D-Fresno) creates a new fertilizer tax and establishes the Nitrate at Risk Area Fund to assist economically disadvantaged communities in developing and implementing sustainable solutions to supply clean drinking water. Amended again this week, it puts a one percent tax on all agricultural or urban fertilizer sales and gives the Department of Public Health the authority to increase the tax to four percent on or after January 1, 2016. The measure was scheduled to be heard in the Senate Environmental Quality Committee on July 3rd, but was reassigned to be heard first in the Senate Agriculture Committee. The Senate Agriculture Committee has not yet determined if they will hold a hearing. Farm Bureau is

concerned about the new tax/fees and is opposed to the bill. Our view is that the measure is not needed in light of the industry's proactive approach to the nitrate issue.

[AB 1200](#) (Marc Levine, D-San Rafael) provides additional recycled water for agriculture irrigation. It would provide additional water security in the Los Carneros winegrape growing regions of Sonoma and Napa valleys by authorizing a pilot project that facilitates the use of high quality recycled water for agricultural irrigation purposes. AB 1200 was unanimously approved this week by the Senate Environmental Quality Committee. Farm Bureau supports.

A measure that could change the make-up of some irrigation district boards was twice scheduled to be heard in the Assembly Water, Parks and Wildlife Committee, but was pulled by the author. [SB 614](#) (Lois Wolk, D-Vallejo) would eliminate the landownership requirement pertaining to a director of the board of an irrigation district that provides irrigation and drainage services. Farm Bureau opposes.

[SB 753](#) (Darrell Steinberg, D-Sacramento) that increases enforcement authority for the Central Valley Flood Protection Board is scheduled to be heard in the Assembly Water, Parks and Wildlife Committee next week. It would grant additional enforcement authority to the Central Valley Flood Protection Board, including cease and desist and fine authority. Farm Bureau had an earlier "oppose unless amended" position while continuing to work with the Flood Protection Board and the author to define a clear path early in the informal phase of the enforcement process to allow a landowner to fix any encroachment violations prior to the Flood Board imposing penalties; a well defined structure for penalty actions and amounts; and a fair and reasonable process to address the removal of existing lawful encroachment permits approved by the Flood Board, as opposed to "illegal encroachments."

[AB 1394](#) (Assembly Committee on Insurance) authorizes the State Compensation Insurance Fund (SCIF) to have four additional exempt positions. It also establishes SCIF as a quasi-state agency for the purpose of transacting workers' compensation insurance both competitively in the market and as the insurer of last resort for California businesses that require coverage but cannot obtain that coverage from private insurers. AB 1394 passed out of the Senate Insurance Committee on a unanimous vote and will next be heard on the Senate floor. Farm Bureau supports.

[AB 976](#) (Toni Atkins, D-San Diego) that would grant the California Coastal Commission administrative fine authority was approved by the Senate Natural Resources Committee. The bill was sent to the Senate Judiciary Committee on a 6-2 vote. The author accepted three amendments suggested by the Natural Resources Committee staff. The first requires the commission to prepare and submit a report to the Legislature by January 15, 2016 and include:

- The number of new violations reported annually to the commission from January 1, 2014 through the preceding calendar year;
- The number of violations resolved from January 1, 2014 through the preceding calendar year; and
- The number of administrative penalties issued pursuant to this section, the dollar amount of the penalties, and a description of the violations from January 1, 2014 through the preceding calendar year.

The second amendment adds a new requirement that the commission give an alleged violator at least 30 day to correct the perceived violation prior to imposition of the administrative penalties. The final amendment and perhaps the most important states that administrative penalties may not be applied to

violations of previous permit conditions. As amended in the Assembly, this new authority would automatically repeal on January 1, 2017. Farm Bureau remains opposed to AB 976.

The roll call on AB 976 was as follows: “AYES”: Pavley, Evans, Jackson, Lara, Monning, and Wolk; “NOES”: Cannella, and Fuller; and “Abstaining”: Hueso.

[AB 933](#) (Nancy Skinner, D-Berkeley) allows distilled spirit and brandy manufacturers to provide tastings of their products so long as certain guidelines are followed. AB 933 passed out of the Senate Governmental Organization Committee this week on a 10-0 vote. Farm Bureau supports this bill, which now moves to the Senate Appropriations Committee.

[AB 904](#) (Wes Chesbro, D-Arcata) creates a Working Forest Management Plan that allows timber landowners with up to 15,000 acres the ability to create a long term management plan. In return for giving up their right to use even-aged timber management, they would be able to harvest without going through the timber harvest permitting process. This program would be similar to the existing Non-Industrial Timber Management Plan for timber landowners with less than 2,500 acres. The Senate Natural Resources Committee heard AB 904 this week and even with some remaining details to be worked out, allowed the bill to pass on a 7-0 vote. Farm Bureau is in support of AB 904, which now goes to the Senate Appropriations Committee.

[AB 909](#) (Adam Gray, D-Merced) creates a Metal Theft Task Force Program at the Board of State and Community Corrections (BSCC), which, when funded, would provide grants to local law enforcement and district attorneys to focus on metal theft and recycling crimes. The bill was heard by the Senate Public Safety Committee this week where, in order to gain support of the chair, it was amended to create the program at the Department of Justice rather than the BSCC. Farm Bureau is sponsoring this bill, which passed out of the committee 7-0.

[AB 10](#) (Luis Alejo, D-Salinas) was amended on June 19 to remove the annual wage escalator tied to the California Consumer Price Index, but added an additional year of minimum wage increases. As amended, AB 10 will raise the state’s minimum wage to \$8.25 per hour on January 1, 2014; \$8.75 on January 1, 2015; \$9.25 on January 1, 2016; \$9.50 on January 1, 2017; and \$10 on January 1, 2018. AB 10 as amended was approved by the Senate Labor & Industrial Relations Committee on a 3-1 vote. AB 10 now moves to the Senate Appropriations Committee. Farm Bureau opposes.

[AB 263](#) (Roger Hernandez, D-West Covina) imposes new penalties for employers for committing a series of “unfair immigration-related practices”. It includes requesting more immigration documents than required under federal law, using E-Verify in a manner not required by federal law and threatening to contact immigration authorities. Employers would be punished for infractions with a requirement that state courts permanently revoke all licenses possessed by the business for second or subsequent violations of “unfair immigration-related practices,” causing all that business’ employees to lose their jobs. AB 263 was approved by the Senate Labor & Industrial Relations Committee on a 3-0 vote. Farm Bureau opposes.

[AB 880](#) (Jimmy Gomez, D-Los Angeles) imposes substantial new penalties on those who employ over 500 employees that outstrips any penalties contemplated by the federal Affordable Care Act (ACA). AB 800 failed passage 46-27 on the Assembly floor, although reconsideration was granted. This measure would have imposed penalties on employers of part-time employees who are specifically not required to provide health insurance by ACA. It also expanded the litigation exposure of agricultural

employers by creating a broad new classification of protected employees enrolled in public health benefit programs who will be able to sue their employers for making an adverse employment decision and expand the Private Attorneys General Act (PAGA) to cover retaliation and discrimination claims that are now generally pursued through FEHA and subject to the exhaustion of administrative remedies. AB 880 was opposed by a large coalition of employer's organizations, including Farm Bureau.

[SB 25](#) (Senate President Pro-Tem Darrell Steinberg, D-Sacramento) expands mandatory mediation from labor agreement negotiations where the parties cannot reach agreement to all future negotiations. It would impose unionization on unsuspecting agricultural employees years or even decades after an initial vote certification and could create the situation that the newly unionized employees never voted for the union. SB 25 passed the Assembly Labor & Employment Committee this week on a 4-2 vote (Assembly Member Alejo was absent) after initially failing to do so on June 12. It now moves to the Assembly Judiciary Committee on July 2. Farm Bureau and all other agricultural groups are opposed.

[SB 168](#) (Bill Monning, D-Carmel) seeks to end the practice of subsequent "sham" formation of Farm Labor Contractor businesses in order to deprive workers of their rightful wages. Farm Bureau and other agriculture groups have been concerned that SB 168 is so broadly written that it may impose burdens on any subsequent FLC who had nothing to do with the prior offenses. Senator Monning accepted an amendment to narrow the circumstances under which a successor FLC could be held responsible for wages not paid to workers who formerly worked for an errant FLC. Farm Bureau and many other agricultural groups removed opposition to SB 168, and the bill was passed by the Assembly Labor Committee on a 5-2 vote and now moves to Assembly Appropriations. Senator Monning is willing to discuss further revisions to the bill in response to our concerns.

[SB 404](#) (Hannah-Beth Jackson, D-Santa Barbara) includes "familial status" as a protected classification under the California Fair Housing and Employment Act. "Familial status" is a very broad term that will sweep in a massive number of employees and their relationships, such that virtually any employee could be covered by it. As a result, nearly any adverse employment decision by an employer could be construed as discriminatory if SB 404 becomes law. SB 404 was approved by the Assembly Labor and Employment Committee and will be heard by the Assembly Judiciary Committee on July 2. Farm Bureau opposes.

[AB 8](#) (Henry Perea, D-Fresno and Nancy Skinner, D-Berkeley) continues the authority through 2023 to fund several air quality improvement programs. They include the Carl Moyer Program, widely used by the agricultural community, and the Alternative and Renewable Fuel and Vehicle Technology Programs. AB 8 was approved on a 54-20 vote on the Assembly floor this week and now moves to the Senate. A 2/3 voted was needed for passage. We are grateful to Assembly Members Kristen Olsen (R-Modesto) and Katcho Achadjian (R-San Luis Obispo) who were crucial to passage of AB 8. They were the only two Republicans who supported this measure that is crucial to helping the agriculture community comply with air quality regulations. Farm Bureau supports.