

Government Affairs Report

December 2011

As 2011 winds to a close we look back on the legislative year and prepare for 2012. While this was the first budget enacted before July 1, it was littered with gimmicks and far too optimistic revenue projections. In order to allow for the budget to be financed and revenue warrants to be issued to the state (essential for cash flow purposes) the budget had to include automatic spending cuts enacted by a trigger. The trigger is “pulled” if the revenue projections fall below expectations. The Legislative Analyst Office has already stated that revenues are running over \$3 billion below projections and the Director of Finance will release her findings on December 15th. All indications are that the “triggers” will be pulled, requiring mid-year budget cuts of \$3.7 billion – 40% from education, the rest from a cross section of programs.

Impacts on agricultural interests from the current budget are significant including \$19 million in general fund cuts to the Department of Food and Agriculture from a cross section of programs from pest inspection and prevention, increased fees for phytosanitary certificates, elimination of the \$32 million for the state’s fair system and fee increases in many agencies that impact business and agriculture most notably \$24 million increase in fees at the Water Resources Control Board. The association is actively meeting with the Department and our industry allies assessing what additional potential negative impacts from the triggers.

The Governor completed his first bill signing of his third term on Sunday October 9th. His overall veto percentage was low, 14.36 percent. Number of bills considered by the Governor was 870. Typical with Governor Brown, there was not a clear pattern with bills, but he was clearly more friendly to unions and public employees.

For agriculture it was a mixed bag. After vetoing the “card check for ag bill” in the summer, the Governor signed SB 126 (Steinberg) which retains the secret ballot but upon a finding by the ALRB of an unfair labor practice during the election that rises to a level where a fair election cannot be held, the ALRB can certify a union as the sole representative for that workplace.

General Ag and Business Legislation

AB 243 (Alejo) Mandates employer information on the pay stub of agricultural employees. Expressly states this does not create joint liability to the employer for violations of a labor contractor. Signed

AB 914 (Atkins) Allows the collection of cut flower growers’ information on markets to be collected, aggregated and disseminated to facilitate an orderly market. Signed

AB 1236 (Fong) This bill prohibits state and local entities from requiring e-verify as a condition of doing business in the jurisdiction. Signed

AB 1398 (Chesbro) This bills extends an exemption to certain labor laws allowing minors to work in agricultural processing plants under specified conditions. Signed

SB 104 (Steinberg) This bill created “Card Check” for agricultural employees allowing certification of a union upon them receiving signed cards indicating a desire for representation from a majority of the employees. Vetoed

SB 126 (Steinberg) This labor bill was developed by the Governor and his administration in the final days of the session. It allows the Ag Labor Relations Board (ALRB) to provide the remedy of collective bargaining to a workplace with a failed election, if the employer participated in unfair labor practices during the election that resulted in a tainting. Signed

SB 617 (Calderon) Requires additional economic review and alternative assessments for all regulations developed by any agency in California after Jan. 1, 2013 that would have an impact over \$50,000,000. The association worked closely with the coalition supporting this measure. Signed

SB 707 (Cannella) Includes an assessment on olive trees consistent with the existing stone fruit program to encourage research and address pest issues in trees producing olives specifically for olive oil. This bill included a signing message encouraging the author to support revenues for specific programs such as education. Signed, with message

SB 818 (Wolk) This bill would establish California state standards for the labeling of olive oil. A UC study last year noted that over 40% of olive oil imported into California did not meet grade standards.

Anti Biotech Bill

AB 88 (Huffman) Would have mandated labeling for all fish that were developed through biotechnology. The bill failed in the Assembly Appropriations Committee on a 6-9 vote. The bill was granted reconsideration for next year. The opposition including California Seed Association, California Grain and Feed, other ag, aquaculture, and food production associations had worked the bill effectively. The bill had been keyed by the committee and administration to have “minimal and absorbable” costs even though the bill will require the agency to develop regulations for the labeling requirements and to enforce the measure. The coalition identified other mandatory labeling bills that cost hundreds of thousands of dollars to implement and strongly refuted the cost measures.

Water Related Bills:

2011 was a quiet year for water related legislation. The agencies are implementing numerous legislative proposals including mandatory water use efficiency and Delta Stewardship Council findings and flow requirements and addressing all the activities surrounding the Day Delta Habitat Conservation Plan. However, a few legislative water bills were introduced:

AB 550 (Huber) Prohibits the construction of a peripheral canal unless expressly authorized by the Legislature. Died in Assembly Policy Committee

AB 685 (Eng) Would declare as state policy that every human being has a right to clean affordable water for cooking and sanitary purposes. The bill requires every state agency to consider the policy when making decisions. Held in Senate Appropriations Committee

SB 34 (Simitian) Establishes the intent of the Legislature to establish water fees on all water appropriators to fund water infrastructure. 2-year bill.

SB 263 (Pavley) Requires the Department of Water Resources to make groundwater wells reports available. To Governor.

SB 653 (Steinberg) Authorizes the governing board of any county, city or special district to levy local personal income taxes, transactions and use taxes, vehicle license fees, and excise tax upon a vote of the public. This could have allowed special districts to have additional taxing authority.

SB 900 (Steinberg) Addresses the composition and conflict of interest provisions for the Regional Water Quality Control Boards as well as shrink the number of board members from 9 to 5, reduce number of boards. This bill is sponsored by agriculture but is being negotiated with the Governor's office who is showing significant interest in the issue.

Water Bond – There were many legislative bills introduced to address the \$11.9 billion water bond pending for 2012 election. Listed below are two examples:

AB 157 (Jeffries) Reduces the 2009 water bond that will be on the 2012 ballot by 25%.

AB 467 (Eng) makes non substantive changes to the 2009 water bond that will be on the 2012 ballot. Bill is being held for future discussions on the water bond.

Animal Legislation

SB 549 (Rubio) Raises the assessment on eggs produced and imported in California in order to strengthen enforcement and level the playing field for all egg producers. The bill was in a response to the Iowa egg recall where tainted eggs from Iowa made California consumers sick and negatively impacted the markets. Signed

SB 513 (Cannella) Reinstates an assessment on renderers and licensed haulers to fund enforcement of the program and reduce criminal activities such as kitchen grease theft. Additionally, the bill included the creation of a Rendering Program Advisory Board at the department. The bill also extended the fee that supports the existing California Certified Farmers Market program within the department. Signed

SB 489 (Wolk) This bill would expand the definition of renewable energy eligible for net metering rebates to include biogas produced from agricultural byproducts to provide incentives for expansion of these renewable technologies. Signed

AB 1117 (Smyth) dramatically increases penalties on persons convicted of animal abuse by preventing the persons ability to own, possess or reside with animals for 5 to 10 years. The bill does include an exemption for livestock raised for profit but will impact pleasure horse owners and could impact project animals for 4-H and FFA. Signed

AB 634 (Huber) This measure allows for the use of carbon monoxide to euthanize vertebrate animals. Currently, this practice is illegal but is a safe and humane method to kill vertebrate animals such as rats and rodents that may be in a feed mill, warehouse, seed operation or livestock facility. Signed

Public Goods Charge – Electricity

At the end of session there was significant focus on renewing the Public Goods Charge on electricity and the Governor's proposal was amended into 2 bills. The importance for ag and business entities is that the legislation could have been tailored to address projects and issues important to ag including increasing options for biomass from ag waste, biodigestion, include funding for the “energy efficiency savings from water use efficiency projects” ag processors are going to need to undertake. Following the legislative defeat, the Governor requested the PUC implement the charges. It is unlikely the PUC will address projects and issues important to ag and processors. A copy of the PUC report can be downloaded at:
http://docs.cpuc.ca.gov/word_pdf/AGENDA_DECISION/144456.pdf

AB 724 (Bradford) and **SB 870 (Padilla)** were both introduced to address the public goods charge for electricity rates and recognized the water use energy efficiency nexus. Because they raised an indirect fee on ratepayers, they were 2/3 vote bills. The bills failed the last evening but talks continue and the legislation could be run next year or addressed in the special session.

Other bills that were introduced and may be issues for processors, agriculture and business.

AB 10 (Alejo) Raises Minimum wage to \$8.50 an hour and indexes it to the Consumer Price Index. Held in committee.

AB 26 (Donnelly) Creates Liability on employers for hiring illegal aliens. Held in Committee

AB 66 (Chesbro) Continues the funding of .15 cent of sales tax revenue for the rural crime task force. Considered and included as part of the budget.

AB 88 (Huffman) Requires labeling of all genetically modified salmon entering the state. Defeated in Committee.

AB 197 (Monning) Increases the remedy for underpayment of wages to twice the damages plus interest.

AB 218 (Wieckowski) This measure reinstates California's estate tax while exempting agricultural estates, reinstates the Manufacturers Tax Credit and would use the additional revenue to fund the Williamson Act.

AB 292 Galgiani –This bill requires the High Speed Rail Authority to appoint an agricultural advisory committee with 9 members nominated by the Secretary of CDFA.

AB 400 (Ma) Paid sick days, requires the employer to allow employees to use paid sick days if they are victims of domestic abuse or sexual assault.

AB 523 (Valadao) Declares the intent of the Legislature to enact legislation to eliminate all subsidies in California for ethanol.

AB 804 (Yamada) Paid leave to care for family member by requiring paid leave to care for a seriously ill grandparent, grandchild, sibling, or parent-in-law.

AB 1113 (Galgiani) Increases net energy metering for eligible biogas producers that use ag residues, animal wastes, rendering to generate electricity.

AB 1176 (Williams) Requires the written determination regarding control measures for each pesticides to be addressed by OEHHA and available to the public. Held in Assembly Ag Committee.

SB 237 (Wolk) This bill directs and unspecified amounts of funds generated from a “cap and trade auction” or federal funds made available to California to reduce global warming to be made available to mitigate impacts on agriculture.

SB 267 (Rubio) Intended to address the impacts, burdens and costs of waste discharge reporting and regulation in California.

SB 325 (Rubio) – This bill is intended to assist short line rail in California by requiring Council of Government approval of changes to these rail lines including abandonment and scrap.

SB 353 (Blakeslee) Requires economic peer review of all regulations that may impact business in California.

SB 592 (Harman) Dairy Supply Lien - Updates and revises the Dairy Supply Lien to address changes in the dairy industry, supply chain, financing that have evolved since its inception in 1988.

SB 625 (Hernandez) Creates a nursery commission to perform, research and marketing activities for California Nursery entities. Held in Committee

Water Commission Takes up Ag Conservation and Measurement

SB 7x 7 passed in November 2009 addressing water use efficiency and measurement is currently being implemented by the California Water Commission. The draft regulations were presented to the Commission meeting in May. Controversy is brewing over which ag districts are required to comply and cost. The Department of Water Resources has identified a cost of \$70 million on 46 irrigation districts to implement the first year and a \$16 million price tag a year for operations and maintenance. This issue will continue to resonate and we will follow this as it develops. Additionally, for processors there is a task force directed to develop best management practices for the Commercial, Industrial and Institutional (CII) sector of waters users. CGFA was instrumental in obtaining and “ingredient” and process water exemption that would limit the regulatory requirements on agricultural processors.

CDFA Proposes Increased Fees on Scales

Fees for inspecting scales and other measurement devices could be going up by as much as \$20 in 2012. The proposed fee increases are requested by the California Department of Food and Agriculture's Division of Measurement Standards to offset funding losses from the state's general fund. The division is losing \$3 million in budget cuts which also affects the services it provides counties.

The proposed inspection fee increases will range from 20 cents per device for electric, water and vapor sub-meters to \$20 per livestock, vehicle, crane or railway scales among others. Liquefied gas meter inspections will go up \$15 and scale inspections in grocery stores will go up \$2.50 per scale.

County sealers are responsible for inspecting scales, gas meters, water meters and more to make sure they are accurate. Essentially, the county will collect these fees for the State Department of Food and Agriculture, county officials said. However, a county can retain up to 15 percent to cover its costs associated with these inspections.

Water Resources Board May Reconsider Storm Water Runoff Rules

In a four-hour hearing conducted by the State Senate Committee on Job Creation and Retention, the California Water Resources Control Board, Executive Director Tom Howard, admitted the agency had proceeded “too much and too fast” as it drafted controversial new regulations on storm water runoff on both public and private sites. He said the agency will redraft their proposal and will consider factors raised by the state’s businesses and industry.

The hearing was called by the committee chair, Sen. Roderick Wright. Other attendees included Senators Ted Gaines , Bob Dutton, Bob Huff and Michael Rubio. In starting off the hearing, Sen. Wright noted that the actions of the Water Board were “ill-timed, heavy-handed, and pre-decided, “ with little opportunity for opponents to have input. He noted that while the Water Board does not have to consider the economic impact of their actions, they would be advised to do so.”

The California State Water Resources Control Board has proposed the state adopt the most stringent storm water permit regulations in the country. The cost to business for monitoring and compliance will increase significantly if these rules are adopted. Add to that the increased risk of liability lawsuits and the need for investment in structural modifications. The new permitting requirements are far and beyond federal EPA rules and would impose arbitrary limits contaminants that may be in runoff.

In addition to the main issue of the Water Board actions, the hearing reviewed the process all regulatory agencies undertake and their impact on jobs and compliance costs.