



## Legislative Report October 2015

The first year of the legislative session is finished with Governor Brown addressing the 941 bills passed by the Legislature. The Governor signed 808 bills and vetoed 133. This year's veto rate was just over 14% which is slightly higher than the Governor's average veto rate (12.9%) during his current term (2011–15) which in turn is significantly higher than his veto rate during his first two terms (4.63%). If you look at all 13 years as Governor (1975–82 and 2011–15), Brown has considered 16,183 bills and vetoed 1,145 bills, or 7% of all bills considered. Below is a synopsis of the final few weeks of the Governor's actions on priority legislation.

For ag and business interests, the year was dominated by discussion and legislation attempting to address climate change. The Governor signed several bills focused on reducing greenhouse gas emissions in California. Additionally, there was important legislation passed on labor, groundwater adjudication and antibiotics.

### **Ag AAMSI Sponsored Legislation**

**AB 689 (Dodd) Shell Egg Inspection Program Enforcement bill** – this measure will increase the authority of local ag commissioners and the secretary to enforce the Shell Egg Inspection Act by providing civil enforcement authority and increasing fines. Signed.

**SB 770 (Mendoza) Antibiotics in Feed Inspection Program** – Maintain the medicated feed program within the California Department of Food and Agriculture regardless of issues such as over the counter availability. Signed.

**AB 264 (Dahle) Seed Transaction Harmonization** - This bill will harmonize all seed transactions and clarify they are governed solely by the Seed Labeling Act and applicable federal law and not subject to the oversight and fees of the Market Enforcement Branch. Signed.

**AB 655 (Quirk) Rendering Program Reform** – This bill will address key rendering funding issues, organic recycling issues and position rendering in the state as a carbon reduction technology. 2- year bill.

**AB 1363 (Salas) Livestock Placeholder** - We are working with a coalition of animal agriculture groups to have a livestock bill in place in case an animal welfare bill or some other offensive bill to the feed or livestock industry is introduced. On Sen Floor.

**AB (1390) Alejo Streamlined Adjudication** – This measure which will be proposed by the Farm Bureau and a coalition of agriculture and water entities is intended to provide certainty and a rational process for adjudicating groundwater basins for those who enter this process. Status: Sent to Enrollment.

### **Antibiotics in Livestock, General Livestock**

There were 3 bills on antibiotics in livestock and feed introduced in California. The three include AB 49 (Mullin), SB 27 (Hill) and SB 770 (Mendoza). The lead bill is authored by Hill who carried legislation last year that was vetoed by the Governor. There has been much negotiation, meetings with Governor's office, Hill's office, additional legislators and Stakeholders including CVMA, NRDC, Food and Water Watch and HSUS.

### **SB 27 (Hill) Regulating Antibiotic Use in Livestock**

Current bill language include:

- Bans "Over the Counter" sales of antibiotics in 2018 – however, allows sales through historical retail outlets including "feed stores."
- Coordinates with USDA tracking system under development from President's Action plan for tracking of sales and use, resistance including up supply chain.
- Includes CDFA to develop a stewardship program for ranchers, retailers and vets.
- Adds 2 units of CTE to vets requirements.
- Narrows allowable preventative use to authorization under vets supervision, must be for uses where there is higher risk for disease or to prevent the transmission of disease. This issue is still controversial. NRDC will be pushing for opposition and a Governor's veto based on still allowing preventative use. Signed by Governor.

**SB 770 (Mendoza) – Medicated Feed Inspection Program** - Retains CDFA authority over medicated Feed Inspection Program. Moving along with SB 27.

**AB 49 (Mullin) – Antibiotics in Livestock Feed** – Placeholder language. Held.

### **Labor Issues**

**AB 1513 (Williams) Piece Rate Legislation** was a "gut and amend" to incorporate an agreement negotiated by large growers, the Labor Agency and unionized labor. The bill is intended to provide clarity in the law regarding piece-rate compensation. Recent court decisions that apply retroactively have created significant uncertainty regarding piece-rate compensation and resulted in numerous lawsuits that threaten to impose significant liability, both in back wages and fines, to employers throughout the state, and many in agriculture.

This legislation would provide a voluntary "safe harbor" option for employers to settle pending and potential claims related to past alleged non payments to piece-

rate workers. In addition, this legislation will clarify the law regarding piece-rate compensation and provide protection from potential future claims if the employer makes payment to its piece rate employees for non-productive time based on a reasonable and good faith estimate.

Specifically the legislation:

- Provides a voluntary “safe harbor” that allows employers to utilize an affirmative defense against claims for failure to timely pay compensation due for rest and recovery periods and non-productive time if the alleged failure occurred between July 1, 2012 and December 31, 2015.
- Two ways to comply – pay actual wages or pay an amount equal to 4% of all piece-rate employees’ gross earnings during that same time period by December 15, 2016.
- Exemptions to safe harbor include:
  - o. claims filed prior to March 1, 2014
  - o. claims that include an allegation of the use of fictitious workers
- Provides a statutory definition of “non-productive” time.
- Requires compensation for rest and recovery at average piece rate or minimum wage, whichever is higher. Signed by Governor.

**SB 406 (Sen. Hannah-Beth Jackson, D-Santa Barbara):** Expands California’s unpaid family leave policy so workers can take up to 12 weeks off to care for sick siblings, grandparents, grandchildren, domestic partners and parents-in-law. SB 406 is a priority of women’s groups, who notched another victory a few weeks ago when Brown promised to sign an equal pay measure. Vetoed.

**SB 588 (de León – Los Angeles):** Permits the labor commissioner to impose a lien on an employer’s property to secure unpaid wages. This bill passed the legislature with bipartisan votes. Signed.

**AB 304 (Gonzalez) Sick Leave** –Expands paid medical leave to grandparents, grandchildren and other family members. Status: Signed by Governor.

**AB 561 (Campos) ALRB** – This bill grants the general counsel of the ALRB additional investigation and penalty authority for certain awards by the agency including “make whole awards, back pay calculations, and other monetary penalties. Status: Sent to Enrollment. Vetoed.

**AB 622 (Hernandez, Roger) E-Verify Program** – This bill is currently an intent bill but is planned to prohibit employers from using E-verify for any applicant for employment in California. Signed.

**AB 1017 (Campos) Wages and Gender Equity in Pay** – This bill is a placeholder intended to mandate businesses to provide equity in pay for women in the workplace. Signed.

**SB 3 (Leno) Minimum Wage** – This bill will raise the minimum wage and index it to the Consumer Price index. Status: Held in committee.

## **Groundwater**

Groundwater will continue to be a legislative issue with clean up and new issues being addressed:

**AB 1390 (Assemblyman Luis Alejo, D-Watsonville) and SB 226 (Pavley – Augora Hills)** These two bills were amended towards the end of session to be companion bills and joined together to represent a deal that was negotiated between ag interests and the administration. The legislation establishes special procedures for adjudicating disputes over groundwater extraction rights within the code of civil procedures and then creates a process to integrate those decisions into the Sustainable Groundwater Management Act enacted last year. Both bills were signed by the Governor.

**AB 647 (Eggman) Groundwater Recharge as a Beneficial Use** – Currently the State Water Board does not recognize groundwater recharge as a beneficial use. This measure will address that issue. The proposal is controversial depending on where one diverts surface water – exporters opposed the bill and then placed in the bill language that is a concern to senior water rights holders. Status: Held in Senate Natural Resources and Water.

**AB 1242 (Gray)** - This measure requires that the State Water Resources Control Board consider and mitigate groundwater impacts if additional surface water is diverted from local communities. Status: Held in Senate Rules Committee.

**AB 1520 (Committee on Judiciary)** - This bill was a gut and amend which would remove an exemption from the Public Records Act for business utility customer information. This is being called the “water shaming” bill. The association led the opposition and the bill is held to be a 2-year bill.

## **Energy and Carbon Legislation**

Senate president pro tempore Kevin de Leon announced a package of legislation to continue California’s transition away from fossil fuels. The Senate’s package of bills include:

**SB 350 (de Leon) “Golden State Standards”** - This is the legislation that codifies the Governor’s goals announced in the state of the state and is commonly referred to as “fifty cubed.” However, it goes much further than what the Governor announced by codifying a 50% Renewable Portfolio Standard, mandates a 50% reduction in petroleum usage and increases building efficiency by 50% all by 2030. In last minute negotiations, the transportation fuel section was dropped from the legislation. Signed.

**SB 32 (Pavley) “Building for the Future”**: This legislation moves beyond 2030 and establishes a 2050 target of 80% reduction. Failed Passage.

**SB 189 (Hueso)** “Maximizing Jobs and Economic Growth”: Establishes a Committee to ensure that these policies are supporting jobs and economic growth. Failed Passage

**SB 185 (de Leon)** “Investing with Values and Responsibility: This bill calls for the divestiture by CalPers of all companies with holdings in coal generation. Signed.

Another bill that was not identified in the pro tem legislative package but is related in content and direction is:

**SB 180 (Jackson)** - This bill is the “son of SB 1368” which created an emissions performance standard (EPS) for power procurement by the IOUs with the goal of driving out coal. Held in Committee. Failed Passage.

### **Organic Recycling and Food Waste**

Organics recycling continues to be a large discussion in California. As feed and rendering entities, we need to be diligent to ensure that materials are available for livestock feed and are directed to the highest and best use. There were several bills introduced to address organics recycling and further define food waste. PCRA engaged on all these bills, providing language and guidance to ensure that these measures did not negatively impact rendering.

**AB 1063 (Williams)** Funding for CalRecycle – gut and amend that will raise “tipping fees” from \$134 to a cap of \$5 for handling organic waste. Administration sponsored legislation. PCRA supported, the bill was held.

**AB 1103 (Dodd)** Places a definition of food waste into statute. This can be problematic because much of feed and rendering material comes from food sources. PCRA participated in numerous stakeholder meetings, provided language and opposed the legislation. It was held and we are continuing to provide language.

**AB 1045 (Irwin)** This bill streamlines the compost siting process. Provides some policy direction to direct organic waste into composting. PCRA amended the bill with language ensuring that CDFA was in the interagency task force and language was rendering neutral.

**AB 876 (McCarty)** Requires local jurisdictions to revise their 15 year waste plan to include organics. PCRA provided language to ensure rendering neutrality.

**AB 901 (Gordon)** requires accounting of organic waste by jurisdiction.

### **Biolubricants Used Oil Testing**

**AB 628 (Bloom)** - This measure tried to place standards into law for testing of biolubricants. It was sponsored by biolubricant manufacturers who’s oil is being prevented from being recycled because of outdated testing protocols. The bill was held in committee.

## **Taxes Come Center Stage in Debate**

**SB 8 (Hertzberg) Sales Tax on Services** – This bill will implement a “sales tax on services.” It is intended to shift some of the tax burden from personal income tax and corporation taxes to the service side of the economy. It could impact all types of services from agricultural consulting, material application, construction, etc. Status: Held in Senate Committee on Governance and Finance.

**S.C.A 5 (Hancock) Split Roll** – This bill would remove the protections provided under Proposition 13 for commercial and industrial property owners and create a split-roll property tax system. Under the proposed constitutional amendment, commercial and industrial property owners would be singled out for tax increases, and property owners no longer would be treated uniformly. Status: Senate Committee on Governance and Finance.

### **Prop 218 Reform Continues To Be Top of Discussion**

There are two specific actions working to reform Prop 218 by water districts. Near the end of session, ACWA shared a draft of 218 reform that would authorize additional assessments for actions such as a water rate assistance for low wealth rate payers and liberalize the regulations on how rate and bond funds can be spent. Additionally, Irvine Ranch Water District and Eastern Municipal Water District distributed language that would provide a guide and additional clarity for how to implement tiered rates and satisfy Prop 218. This is in response to a case involving San Juan Capistrano. Finally, the administration and some legislators have discussed a “Public Goods Charge” for water agencies for a host of actions including funding state operations and rate relief for low wealth Californians. ACWA board just took a support position.

### **Democrats Select Anthony Rendon as New Speaker, Republicans Change Leaders as Well**

As the first year of the legislative session ended, three of the four caucuses chose new leaders. Assembly Democrats voted unanimously to make Assemblyman Anthony Rendon their next speaker. Caucus members will formally vote to make Rendon the leader in January and will designate a transition timeline.

Rendon, a Lakewood Democrat, was first elected in 2012. He arrived in Sacramento with a particular interest in the environment and early childhood education, two issues he pursued during previous roles with nonprofit organizations. Under new term limits rules, he is eligible to serve until 2024. Rendon is current chair of the Assembly Committee on Utilities and Commerce, and formerly chaired the Water Parks and Wildlife Committee during bond negotiations that resulted in the \$7.2 billion bond last session.

California Assembly Republicans chose first-term Assemblyman Chad Mayes, R-Yucca Valley, to be their next leader in a closed-door vote. Olsen will continue to lead the caucus through the end of a session. However, Mayes will take over election activity immediately and will join Olsen on fundraising missions as he prepares to

assume his new role Jan. 4. Mayes is eligible to serve another 11 years in the Assembly. He said he planned to start reversing the Republican party's stagnant electoral fortunes by focusing on the innovation economy, a topic Olsen has emphasized in her short tenure, and working to reduce California's high poverty rate.

Mayes' district extends from resort communities in Riverside County's Coachella Valley to the high-desert towns of Yucca Valley and Twenty-Nine Palms in San Bernardino County.

Senate Republicans moved to replace retiring Senator Bob Huff with Senator Jean Fuller from Bakersfield. While Fuller was already selected to be the next leader, the caucus voted to accelerate the transition, moving her into the role immediately so she can lead the negotiations on infrastructure funding and health care. Fuller can serve in the Senate until 2018, when term limits force her back to civilian life.

### **Water Commission Reviews "Critically Over Drafted Basins"**

On August 19th at a meeting of the California Water Commission they received a report on the Department of Water Resources "Critically Over Drafted Groundwater Basins." The vast majority of the San Joaquin Valley overlies basins that have been identified to meet this criteria. However, several coastal areas and Northern Sacramento Valley basins are also subject to the Sustainable Groundwater Management Act.

According to DWR, the basins on the draft list show obvious and significant negative impacts from chronic groundwater pumping. Those impacts include seawater intrusion, land subsidence, groundwater depletion, and chronic drop in groundwater levels. This update will be the first public release of the draft critically over drafted basins list. If local agencies disagree with the list, basin managers have the option to provide compelling data and information to DWR for reconsideration of the draft determination.

Below is a link to the meeting agenda where a summary and maps can be found. Additionally, included is a second link to a map of the basins identified so far.

[https://cwc.ca.gov/Pages/2015/08\\_August/08192015Agenda.aspx](https://cwc.ca.gov/Pages/2015/08_August/08192015Agenda.aspx)

[https://cwc.ca.gov/Documents/2015/08\\_August/August2015\\_Agenda\\_Item\\_9\\_Attach\\_2\\_Statewide\\_map\\_of\\_COD\\_Basins.pdf](https://cwc.ca.gov/Documents/2015/08_August/August2015_Agenda_Item_9_Attach_2_Statewide_map_of_COD_Basins.pdf)

### **General Business and Ag Issues**

**AB 916 (O'Donnell) Career Technical Education – Student Organizations** – This bill reauthorizes a program that provided funding to student organizations such as FFA and FBLA by providing \$1.17 million in funding for these programs. Status: Budget agreement.

## **Medical Marijuana**

After nearly two decades since California voters legalized medical marijuana, political infighting has sunk regulatory efforts. The possibility of a ballot initiative to allow for recreational use looms next year, however, so the Brown administration intervened in the final days of the session to iron out a compromise. While this issue seems on its face not to involve agriculture, the growing of these materials the marketing of inputs, seed, cultivars all are “agricultural products” and should be required to meet standards for marketing, dispute resolution, disease prevention, invasive species prevention and other requirements.

**AB 243 (Assemblyman Jim Wood, D-Healdsburg), AB 266 (Assemblyman Rob Bonta, D-Alameda), SB 643 (Sen. Mike McGuire, D-Healdsburg):** Set out rules for regulating the medical marijuana industry, including environmental protections, testing, labeling, transportation, distribution and taxes.