

# Staff Report 43 (Informational)

Legislative report providing information and a status update concerning state legislation relevant to the Commission

## INTRODUCTION:

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It is no exaggeration to say that a lot has happened this year. The coronavirus pandemic forced dramatic changes in how the Legislature conducted its work. Five of the six largest wildfires in California history occurred, there was a pandemic induced recession, and mass protests that spanned the world over in response to unceasing racial injustices and sharp racial disparities in health and quality of life. Crises continue to abound.

Legislative work dwindled to a virtual halt during what is ordinarily the Legislature's busiest time of year. The Legislature confronted an array of challenges as it tried to adapt to social distancing and other pandemic protocols. And while committee hearings and floor votes eventually resumed, the number of bills the Legislature sent to the Governor was significantly lower than in recent years. In fact, the number of bills the Governor signed into law is the fewest number any California governor has signed since 1967. By September 30, the Governor's last day to sign or veto bills, the Governor had acted on 428 bills, vetoing 56—a veto rate of 13 percent.

Climate change continues to loom over everything. We have lost a quarter of the world's coral reefs, our planet's climate emissions in 2019 were the highest in human history, and this past August was the hottest on record. Wildfires, an aspect of the climate crisis, have burned over 4 million acres in California this year, which is double the 1.98 million acres that burned in 2018, California's previous record. Last month, on California Climate Action Day and in the aftermath of raging wildfires, Governor Newsom committed to profound policy changes to deal with the perils of climate change. The Governor launched the California Climate Action Corps, the country's first statewide volunteer-led corps of its kind with the mission of empowering Californians to take meaningful action to protect their homes, health, and communities against the harshest impacts of climate change.

Another new part of California's climate strategy, also announced on California Climate Action Day, is an [Executive Order](#) outlining initiatives to combat climate change, including calling for all new passenger cars and trucks to be zero-emission by 2035 and all medium-and-heavy-duty vehicles to be zero-emission by 2045. Governor Newsom plans to work with the Legislature to set rules to protect vulnerable communities from fossil-fuel extraction and help the State's energy

industry transition away from oil and gas. "None of us are naïve. California is a fossil-fuel state," Governor Newsom said during a virtual press conference to announce the Executive Order. "We need to focus on a just transition."

The Commission sponsored two bills this year. The first, SB 1472 (Senate Natural Resources and Water Committee), repeals obsolete and redundant school land statutes and recasts or modernizes other school land statutes. ([Staff Report 61, February 28, 2020](#)). The Governor signed this bill into law in late September. The second, AB 2687 (O'Donnell), would have removed the \$300 million cap in the Oil Trust Fund, resuming monthly deposits of \$2 million from Long Beach oil operation revenues until the Fund reaches a balance that will cover the State's projected abandonment liabilities ([Staff Report 62, February 28, 2020](#)). AB 2687 was one of many bills that did not proceed because of the pandemic and ensuing budget deficit.

What follows is a list of legislation that advanced this past year and that may be of interest to the Commission. The Legislature adjourned sine die at midnight on August 31, which means that any bill that did not advance to the governor is considered dead. On December 7, the 2021-22 regular session will convene for an organizational session, and on January 1, 2021, the 2020 statutes will take effect.

## **CLIMATE CHANGE AND SEA-LEVEL RISE**

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### **AB 2371 (FRIEDMAN) OFFICE OF PLANNING AND RESEARCH: SCIENCE ADVISORY TEAM: CLIMATE ADAPTATION AND HAZARD MITIGATION**

This bill would have required the Office of Planning and Research to convene a climate science advisory team to provide independent, timely, and science-based advice on the State's climate adaptation and climate-related hazard mitigation efforts and to, among other things, provide input to improve climate adaptation and climate-related hazard mitigation planning across state agencies. The bill would have required the team to serve as a working group of a specified Integrated Climate Adaptation and Resiliency Program and require the team to provide recommendations to inform certain activities of the council regarding climate change.

**STATUS:** Senate Environmental Quality Committee – no vote taken.

**AB 2621 (MULLIN) STRATEGIC GROWTH COUNCIL: REGIONAL CLIMATE NETWORKS: CLIMATE ADAPTATION ACTION PLAN**

This bill would have authorized entities to establish and participate in a regional climate network to prepare climate adaptation actions. This bill would also have required developing guidelines to establish how a regional climate network may develop a regional climate adaptation action plan. The bill would have required the Governor's Office of Planning and Research to make recommendations to the Legislature on how to improve state support for the creation and work of regional climate networks, and the potential sources of financial assistance and options for distributing state funds to support the creation and implementation of plans.

**STATUS:** Senate Appropriations Committee – held under submission.

**AB 2800 (QUIRK) CLIMATE CHANGE: STATE INFRASTRUCTURE PLANNING: CLIMATE-SAFE INFRASTRUCTURE WORKING GROUP**

This bill removes the sunset on the California Natural Resource Agency's Climate-Safe Infrastructure Working Group, which examines how to integrate scientific data concerning projected climate change impacts into state infrastructure engineering, including oversight, investment, design, and construction. This bill also requires the Working Group to consider and build on the California 5-year infrastructure plan.

**STATUS:** Signed into law, Chapter 118, Statutes of 2020.

**AB 2954 (RIVAS) CALIFORNIA GLOBAL WARMING SOLUTIONS ACT OF 2006: CLIMATE GOAL: NATURAL AND WORKING LANDS**

This bill would have required the California Air Resources Board, CalEPA, the Natural Resources Agency, the Office of Planning and Research and other departments to identify a climate goal for the State's natural and working lands. This bill also would have required the Board, in tandem with the same entities, to identify practices, policy incentives, and potential reductions in barriers that would help achieve the climate goal.

**STATUS:** Senate Appropriations Committee – held under submission.

**SB 1320 (STERN) CLIMATE CHANGE: CALIFORNIA CLIMATE CHANGE ASSESSMENT**

This bill requires the Office of Planning and Research to develop a Climate Change Assessment, in coordination with the California Natural Resources Agency, the Energy Commission, and the Strategic Growth Council, and in consultation with partner public agencies the Office designates. This bill also requires the Office of

Planning and Research to conduct and publish the assessment biennially. The assessment would analyze and report the impacts and risks of climate change and identify solutions to inform legislative policy. The assessment must include sector-specific liability projections that assess climate change under emission scenarios for the years 2025, 2030, 2050, and 2100. The bill would make the implementation of these provisions contingent upon an appropriation of funds by the Legislature in the annual Budget Act or another statute for these purposes.

**STATUS:** Signed into law, Chapter 136, Statutes of 2020.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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### **AB 3279 (FRIEDMAN) CALIFORNIA ENVIRONMENTAL QUALITY ACT: ADMINISTRATIVE AND JUDICIAL PROCEDURES**

This bill would have revised California Environmental Quality Act litigation procedures by authorizing a public agency to deny a request from a plaintiff or practitioner to prepare the record of proceedings, in which case the public agency or the real party of interest would bear the costs of preparation and certification of the record of proceedings and ban the recovery of those costs from the plaintiff or petitioner. The bill would have required the court to schedule a case management conference within 30 days of a filing of an action to review the scope, timing, and cost of the record of proceedings.

**STATUS:** Senate Appropriations Committee – held under submission.

### **SB 55 (JACKSON) CALIFORNIA ENVIRONMENTAL QUALITY ACT: HOUSING AND LAND USE**

This bill would have temporarily exempted emergency shelters or supportive housing projects meeting certain requirements from CEQA. This bill would have authorized the lead agency to post on its website, at least 30 days before a public hearing at which it may approve the project, its responses to public comments received. The bill would have authorized the lead agency to set a deadline of 10 days before the final public hearing at which it may approve the project for the receipt of written comments and supporting evidence if certain conditions are met. This bill would have made a host of other changes relative to these issues and to facilitate prelitigation settlement of CEQA disputes.

**STATUS:** Assembly Rules Committee – no vote taken.

### **SB 288 (WIENER) CALIFORNIA ENVIRONMENTAL QUALITY ACT: EXEMPTIONS**

This bill provides a CEQA exemption for certain bus rapid transit and regional rail services on public rail or highway rights-of-way and projects for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes or existing roadway shoulders. This bill also provides a CEQA exemption for projects for rail, light rail, and bus maintenance, repair, storage, administrative, and operations facilities; and projects for the repair or rehabilitation of publicly owned local, major or minor collector, or minor arterial or major arterial bridges. This bill also provides a CEQA exemption for zero-emission fueling stations and charger projects and projects for pedestrian and bicycle facilities.

**STATUS:** Signed into law, Chapter 200, Statutes of 2020.

### **SB 995 (ATKINS) ENVIRONMENTAL QUALITY: JOBS AND ECONOMIC IMPROVEMENT THROUGH ENVIRONMENTAL LEADERSHIP ACT OF 2011: HOUSING PROJECTS**

This bill would have extended for 4 years the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 and made housing projects that meet certain requirements, including specified affordable housing requirements, eligible for certification under the Act.

**STATUS:** Senate Floor.

## **PLASTIC POLLUTION/MARINE DEBRIS**

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### **SB 54 (ALLEN)/AB 1080 (GONZALES) SOLID WASTE: PACKAGING AND PRODUCTS**

These bills would have regulated single-use packaging and priority single-use packaging. These bills would have required CalRecycle to create regulations to achieve its waste reduction goals, including source reduction, recycling/composting requirements, and increasing recycling rates. These bills would have required single-use packaging and priority single-use packaging products to be source reduced to the maximum extent feasible. These bills would have also required, by 2030, that all regulated products are either compostable or recyclable.

**STATUS:** Failed passage on the Senate and Assembly Floors.

### **AB 2287 (EGGMAN) SOLID WASTE: PLASTIC PRODUCTS: CERTIFICATION**

This bill authorizes the use of agricultural mulch film plastic labeled soil degradable if it meets specified standards. This bill also makes clarifying and technical changes to the law relating to biodegradable and compostable labeling.

**STATUS:** Signed into law, Chapter 281, Statutes of 2020.

## **OIL AND GAS**

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### **AB 3214 (LIMÓN) OIL AND GAS: OIL SPILLS: FINANCIAL SECURITY, FINES, AND PENALTIES**

This bill doubles the certificate of financial responsibility for tank and nontank vessels to ensure that vessels have adequate financial resources to pay cleanup and damage costs in the event of an oil spill. This bill also doubles maximum and minimum financial penalties for certain 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.

**STATUS:** Signed into law, Chapter 119, Statutes of 2020.

### **SB 1012 (HURTADO) OIL AND GAS WELLS: HAZARDOUS OR IDLE-DESERTED WELLS AND FACILITIES**

This bill would have required that a pending report to the Legislature on hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities include the location of hazardous or deserted wells and facilities, including the county where they are located. This bill also would have required the California Geologic Energy Management Division in the Department of Conservation to undertake all reasonable steps to recover costs for the plugging and abandonment of oil and gas wells, for decommissioning attendant facilities and for remediating sites from the current registered owner of any well identified, including seeking enforcement in other state jurisdictions.

**STATUS:** Assembly Floor – no vote taken.

## **ENVIRONMENTAL JUSTICE AND TRIBAL ISSUES**

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### **AB 345 (MURATSUCHI) NATURAL RESOURCES: ENVIRONMENTAL JUSTICE: OIL AND GAS: REGULATION OF OPERATIONS**

This bill would have required the California Natural Resources Agency to create an environmental justice program. This bill also would have required the Secretary to establish a grant-based reimbursement program to enable environmental justice and community groups to meaningfully participate in rulemaking and other regulatory processes at departments and entities within the Agency. The bill also would have required the Geologic Energy Management Division in the Department of Conservation to adopt regulations to protect public health and safety near oil

and gas extraction facilities, including to establish a setback distance between oil and gas activities and schools, childcare facilities, playgrounds, residences, hospitals, and health clinics. And finally, this bill would have required consideration of a setback distance of 2,500 feet at schools, playgrounds, and public facilities where children are present, and other measures, including enhanced monitoring and maintenance requirements.

**STATUS:** Senate Natural Resources Committee – failed passage.

**AB 3099 (RAMOS) DEPARTMENT OF JUSTICE: LAW ENFORCEMENT ASSISTANCE WITH TRIBAL ISSUES: STUDY**

This bill requires the Department of Justice, subject to an appropriation by the Legislature, to provide technical assistance to local law enforcement agencies and tribal governments with Indian lands, including providing guidance for law enforcement education and training and criminal investigations on Indian lands, providing guidance on improving crime reporting, crime statistics, criminal procedures, and investigative tools, and facilitating and supporting improved communication between local law enforcement agencies and tribal governments. This bill would also require the Department, subject to available funding, to study how to increase state criminal justice protective and investigative resources for reporting and identifying missing Native Americans in California, particularly women and girls.

**STATUS:** Signed into law, Chapter 170, Statutes of 2020.

**GENERAL**

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**AB 860 (BERMAN) ELECTIONS: VOTE BY MAIL BALLOTS**

This bill requires county officials to mail a ballot to every registered voter for the November election.

**STATUS:** Signed into law, Chapter 4, Statutes of 2020.

**ACA 5 (WEBER, GIPSON, SANTIAGO, AND GONZALEZ) GOVERNMENT PREFERENCES**

This bill deletes, subject to voter approval, provisions enacted through Proposition 209 of 1996 that prohibit the State from granting preferential treatment to individuals or groups based on race, sex, color, ethnicity or national origin, thereby repealing California's ban on affirmative action.

**STATUS:** Signed into law, Chapter 23, Statutes of 2020.

**ACA 6 (McCARTY) ELECTIONS: DISQUALIFICATIONS OF ELECTORS**

This bill, subject to voter approval, would restore the voting rights of felons after they have completed their state or federal prison terms.

**STATUS:** Signed into law, Chapter 23, Statutes of 2020.

**AB 1657 (E. GARCIA) STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION: BLUE RIBBON COMMISSION ON LITHIUM EXTRACTION IN CALIFORNIA: REPORT**

This bill requires the California Energy Commission to establish and convene a Blue-Ribbon Commission on Lithium Extraction in California to review, investigate, and analyze issues and potential incentives regarding lithium extraction and use in California. Requires the Blue-Ribbon Commission to report to the Legislature about its findings and recommendations. This bill finds that the Salton Sea geothermal resource area is positioned to become a competitive source of supply that could satisfy more than one-third of today's worldwide lithium demand, yet no mining companies will invest in this resource until the technology to recover lithium from geothermal brine on a commercial scale is proven and can occur without certain risks and uncertainties.

**STATUS:** Signed into law, Chapter 271, Statutes of 2020.

**AB 3121 (WEBER) TASK FORCE TO STUDY AND DEVELOP REPARATION PROPOSALS FOR AFRICAN AMERICANS**

This bill establishes a task force to study and develop reparation proposals for African Americans who are descendants of persons enslaved in the United States. This bill requires the task force to identify, compile, and synthesize the relevant corpus of evidentiary documentation of the institution of slavery that existed within the United States and the colonies. And finally, this bill requires the task force to recommend, among other things, the form of compensation that should be awarded, the instrumentalities through which it should be awarded, and who should be eligible for this compensation.

**STATUS:** Signed into law, Chapter 319, Statutes of 2020.

**AB 2028 (AGUIAR-CURRY) STATE AGENCIES: MEETINGS**

This bill would have required that a state body make an agenda item that had already been discussed by a committee of the state body open to public comment.

**STATUS:** Senate Inactive File.



**AB 2809 (MULLIN) SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION**

This bill requires the San Francisco Bay Conservation and Development Commission (BCDC) to create and implement procedures to provide a managerial review of staff decisions in enforcement cases, timelines for resolving enforcement cases, and a penalty matrix for assessing fines and penalties. This bill also requires BCDC to complete its Suisun March preservation and protection review by July 2021.

**STATUS:** Signed into law, Chapter 220, Statutes of 2020.

**AB 3030 (KALRA) RESOURCE CONSERVATION: LAND AND OCEAN CONSERVATION GOAL**

This bill would have declared a state goal to protect at least 30 percent of California's land areas and waters, and to help advance the protection of 30 percent of the nation's oceans by 2030. This bill would have specified ways the State can advance this goal, including by considering how existing state marine protected areas contribute to these goals during the science-based review of the State's marine protected area network and considering potential complementary measures to protect marine biodiversity and ecological integrity.

**STATUS:** Senate Appropriations Committee – held under submission.

**SB 1301 (HUESO) TIJUANA RIVER VALLEY: SAN DIEGO RIVER CONSERVANCY BINATIONAL WATERSHED MANAGEMENT PLAN**

This bill requires the San Diego River Conservancy, subject to an appropriation and in tandem with the State Water Resources Control Board, the State Coastal Conservancy, and the California Environmental Protection Agency, to create a binational watershed management plan for the Tijuana River Valley. This bill also authorizes the Tijuana River Watershed Advisory Panel to use the plan to satisfy or further an existing requirement that the panel prepares a strategic plan for the Tijuana River watershed.

**STATUS:** Signed into law, Chapter 368, Statutes of 2020.