

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 06/26/2012
POSITION: Neutral, note concerns

BILL NUMBER: AB 2676
AUTHOR: Calderon, Charles

BILL SUMMARY: Humane Treatment of Farmworkers Act

This bill would provide that a person who directs an agricultural employee to perform outdoor work without providing access to shade and cool potable drinking water throughout the employee's work shift is guilty of a misdemeanor. This measure also provides that a violation is punishable by imprisonment in a county jail and/or a fine.

FISCAL SUMMARY

Because the Department of Industrial Relations (DIR) currently enforces current laws and regulations related to heat illness and investigates complaints alleging violations, no additional cost would be incurred by the DIR as a result of this bill.

The Judicial Council is unable to predict the number of new misdemeanor filings that would result from this bill. However, if 50 new misdemeanors were filed, the fiscal impact would be \$24,078 annually to the courts. Additionally, this bill creates a new crime which could increase the number of cases entering the court system, cause a delay of civil cases, and/or create a backlog among the criminal cases to be heard.

Any local government costs resulting from the mandate in this measure would not be state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the original version include the following significant amendments which do change our position:

The original version of this bill was related to information sharing between the Employment Development Department and the Board. The June 26, 2012 version is related to consequences for persons who direct agricultural employees to perform outdoor work without providing access to shade and potable drinking water.

COMMENTS

The Department of Finance is neutral on this bill because it could increase the safety of agricultural employees by deterring persons from directing an agricultural employee to perform work without available shade and drinking water, as required by law, with institution of a fine and imprisonment for violations. However, we do note concerns that this bill could increase the statewide adult jail population and impact the ability of counties to manage their jail populations since certain lower-level offenders now serve their sentence in county jails. As counties implement public safety realignment, it is critical to allow maximum flexibility to address these types of offenses. Additionally, Finance notes that, depending on the number of violations found during enforcement, this measure could increase the number of cases entering the court system, cause a delay of civil cases, and/or create a backlog among the criminal cases to be heard.

Analyst/Principal (0241) J.Morozumi	Date	Program Budget Manager Lisa Ann Mangat	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

Calderon, Charles

06/26/2012

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COMMENTS (continued)

Existing law requires employers to follow specified guidelines to prevent heat illness in outdoor places of employment and to provide safe and healthful working conditions for all employees. Existing law authorizes the DIR to conduct enforcement activities, and provides for research, information, education, and training in the occupational safety and health area. Finally, existing law requires every employer to establish, implement, and maintain an Injury and Illness Prevention Program.

Existing regulations require that employees have access to potable drinking water, and where drinking water is not plumbed, that employers provide sufficient drinking water so that the employee may drink one quart per hour for their entire shift. Employers are required to encourage employees to drink water frequently. Existing regulations also require employers to provide shade, alternative equivalent procedures for providing access to shade, or effective cooling measures other than shade. Employers are required to allow and encourage cool-down rest breaks in the shade as needed.

This bill would make it a misdemeanor to direct an agricultural employee to perform or supervise an agricultural employee in the performance of outdoor work without providing the employee with ready access to shade sufficient to allow the body to cool and cool potable drinking water in sufficient quantities to allow the employee to drink one quart of water per hour throughout an employee's shift. This bill would provide a fine of up to \$10,000 and/or imprisonment up to six months for a conviction of this new crime. Additionally, this measure would provide a fine up to \$25,000 and/or imprisonment up to one year if the violation results in injury to the employee.

Finally, the California Constitution requires the state to reimburse local entities for increased costs associated with any new program or higher level of service imposed by the state on local entities if the Commission on State Mandates determines that the new program or higher level of service is reimbursable and a state mandate. Any local government costs resulting from the mandate in this measure would not be state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)					Fund Code	
	LA	(Dollars in Thousands)						
	CO	PROP						
	RV	98	FC	2012-2013	FC	2013-2014	FC	2014-2015
0250/Jud Branch	SO	No		-----	See Fiscal Summary	-----		0001
7350/DIR	SO	No		-----	No/Minor Fiscal Impact	-----		3152
<u>Fund Code</u>	<u>Title</u>							
0001	General Fund							
3152	Labor Enforcement and Compliance Fund							