

Date of Hearing: May 3, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 1159 (Aguiar-Curry) – As Amended April 12, 2023

Policy Committee: Natural Resources

Vote: 11 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill clarifies that, to ensure all greenhouse gas (GHG) emissions reductions and removals are in addition to any reductions and removals that would otherwise occur, natural and working lands projects and actions that receive state funding are not eligible to generate credits under any market-based compliance mechanism for any GHG emissions reduced or removed as a result of the state funding.

FISCAL EFFECT:

ARB estimates ongoing annual costs of approximately \$213,000 (Cost of Implementation Account) for one position to track new and existing state funding sources for natural and working lands project types and determine if they render funded projects ineligible for compliance offsets, continue to assess California-based compliance offset projects for compliance with this bill, provide guidance to natural and working lands project proponents and other government jurisdictions on eligibility requirements for ARB's compliance protocols, and coordinate with CNRA and other entities as needed on state grant programs to develop procedures to determine if a natural and working lands funding source should be designated as reducing GHG emissions or increasing sequestration.

COMMENTS:

1) **Purpose.** According to the author:

Last year, the Legislature passed AB 1757 (C. Garcia and R. Rivas), which required the Natural Resources Agency to determine a range of targets for natural carbon sequestration and for nature-based carbon solutions for GHG reductions. AB 1757 also includes well-intended provisions to ensure any emission reductions work used toward achieving targets is not double-counted and that projects or actions that receive state funding are not eligible to generate credits under any market-based mechanisms. However, the existing law under AB 1757, is overly broad, and could be interpreted to apply to *all* state funds, not just funds intended for carbon sequestration or GHG emissions reduction. This interpretation has the potential to halt projects that return ancestral lands to tribes because these projects rely on state funds for the acquisition and restoration grants, but also generate carbon sequestration projects.

- 2) **Background.** AB 1757 (C. Garcia), Chapter 341, Statutes of 2022, among other things, requires the California Natural Resources Agency (CNRA), by January 1, 2024, in collaboration with other state agencies, to determine an ambitious range of targets for natural carbon sequestration, and for nature-based climate solutions, that reduce GHGs for 2030, 2038, and 2045, to support state goals to achieve carbon neutrality and foster climate adaptation and resilience.

Under ARB's cap-and-trade program, covered entities can invest in "offsets" – projects that sequester carbon in forests, flooded rice fields, biogas control systems for manure management on dairy cattle and swine farms, and others – to satisfy a small percentage of their overall compliance obligation. Any reduction of GHG emissions used for compliance purposes must be real, permanent, quantifiable, verifiable, enforceable, and additional.

AB 1757 provides that any emissions reduction project and action that receives state funding is not eligible to generate credits under cap-and-trade. The intent was to ensure there is no "double payment" for stored carbon or avoided emissions from natural and working lands projects. This creates a scenario for project proponents in which they either receive financial recognition for stored carbon and avoided emissions as an offset project completed under an ARB-approved compliance offset protocol or receive state funding with the primary purpose being to help the state achieve its climate targets developed pursuant to AB 1757.

The Hoopa Valley Tribe writes:

Our Tribe has developed significant partnerships with California public agencies, including CalFire and the State Coastal Conservancy, to carry out habitat restoration projects, water quality improvements, and fuel reduction work that protects critical infrastructure and public safety. None of these activities implicate double-counting of emissions reductions in the state's accounting. Yet AB 1757's overly broad language suggests that if we receive state grants for such activities, we might be unable to generate carbon offset revenue that would support ongoing land management and the wellbeing of Tribal members. This outcome would hinder important State and Tribal priorities, and it would be profoundly unfair to cut us off from the Air Resources Board carbon offset market if we should choose to participate in future.

Similarly, the Conservation Fund, a national nonprofit organization, owns and manages more than 75,000 acres on California's north coast. The Conservation Fund's restoration and progressive management regimes have improved habitat for the endangered Northern Spotted Owl and state-threatened Coho salmon and steelhead trout. Instrumental to the ability of The Conservation Fund to manage these vast forestlands is the revenue generated through the sale of carbon offsets via the cap-and-trade program. In 2022, The Conservation Fund secured more than \$900,000 in state grants in partnership with Trout Unlimited and California Department of Fish and Wildlife for the improvement of salmon and trout habitat. With the passage of AB 1757, according to the author, The Conservation Fund must now decline those grants.

ARB has issued guidance to interpret how AB 1757 applies to various projects. In the context of state funding for sustainable forest management practices or conservation easements projects, ARB explains:

A project receiving compliance offset credits in the Cap-and-Trade Program can still receive State funding for actions that do not have as their primary purpose climate mitigation and increases in quantified stored carbon or avoided GHG emissions.

In addition to its issued guidance, ARB works with offset project registries and third-party verifiers on a case-by-case basis to verify projects are in compliance with AB 1757 before issuing offset credits. The author intends this bill to be consistent with ARB's guidance.

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