

Date of Hearing: May 6, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 1881 (Ramos) – As Amended April 16, 2026

Policy Committee: Judiciary

Vote: 10 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill enacts the California Indian Freedom Act of 2026, prohibiting a governmental agency from substantially burdening a California Indian or California Native American tribe's exercise of religious or spiritual practices on state public lands — even when the burden results from a rule of general applicability — unless the agency demonstrates the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.

Specifically, this bill:

- 1) Authorizes a California Indian or tribe to assert a violation of the Act as a claim or defense in any judicial or administrative proceeding.
- 2) Requires governmental agencies to allow California Indians access to sacred sites on state public lands and to obtain free, prior, informed, and written consent from affected tribes before undertaking any project that may pose a risk to sacred sites on state public land.
- 3) Exempts from Public Records Act (PRA) disclosure information identifying sacred sites, cultural landscapes, or religious practices obtained by a governmental agency, with required findings.
- 4) Requires the Department of General Services, in coordination with the Capitol Protective Section, to uphold tribal religious freedom, ceremonial practices, sacred sites, and cultural patrimony when accessing the State Capitol Building Annex and grounds, and to avoid undue harm when handling tribal instruments and regalia.

FISCAL EFFECT:

- 1) Ongoing workload costs (General Fund and various special funds), likely in the tens of millions annually, across state agencies with jurisdiction over state public lands — including the Department of Parks and Recreation, State Lands Commission, Department of Water Resources, Department of Fish and Wildlife, Caltrans, and the University of California and California State University systems — to conduct expanded tribal consultation, seek and document written consent where required, screen records for new PRA exemption findings, and develop implementation procedures. For its part, the State Water Board estimates a fiscal impact of at least \$30.5 million annually due to this bill's provisions. Of those costs, the Water Boards estimate \$27 million annually (108 full-time positions) for staffing and approximately \$3.5 million in annual contracting costs. The increased workload and need for

contracting services would be due to the substantial increase in tribal outreach and consultations under this bill, the need to increase data and analysis on Water Board impacts to tribal religious sites and practices, and the need for extensive documentation demonstrating why Water Board actions should withstand strict scrutiny regarding burdens to tribal religious practices. This bill's requirements would add additional review to a large segment of the Water Boards' programs, which would increase current program timelines. Furthermore, given the bill's application to all "public lands"— a substantial portion of which is the land underneath the state's streams, rivers, other water bodies, and coastal waters — the regulatory scope of this bill would fall onto the Water Boards. The Water Boards' workload estimate may overstate the marginal cost of this bill, given that the Boards already conduct tribal consultation under CEQA and other existing frameworks.

- 2) Potentially significant ongoing litigation and legal defense costs (General Fund) to the Department of Justice and affected state agencies arising from the bill's private right of action and strict scrutiny standard. Magnitude depends on the volume of claims and defenses asserted. Also potentially significant one-time defense costs associated with constitutional challenges to the Act itself, given unresolved questions regarding a state legislature's authority to direct courts to apply strict scrutiny in free exercise cases.
- 3) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate any additional filings. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.
- 4) The Department of General Services (General Fund) estimates ongoing costs of \$480,000 for two full-time senior environmental planners, and unknown ongoing costs for CEQA mitigations ranging from nominal to \$100,000 per consultation. Given the broad definition of a sacred site, including the possibility an unknown number of state-owned properties to be subsequently identified as sacred sites, this fiscal estimate must assume some number of properties. If 10% of state-owned parcels are considered sacred sites, that would be approximately 4,000 state-owned properties impacted. General Services estimates needing one planner dedicated just to Capital Park, and another for the rest of its real estate holdings.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around \$35 billion per year beginning in the 2027-28 fiscal year.

COMMENTS:

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

California is home to hundreds of tribes, each with its own distinct religious and spiritual practices... Tribes were driven away from the places they held most sacred. To this day, access to ceremonial sites, burial grounds, and traditional gatherings places continues to be restricted. AB 1881 intends to restore and protect Native peoples' ability to practice their religions on their ancestral lands. The bill aims

to reduce the bureaucratic barriers that have long prevented tribal communities from exercising their spiritual traditions and to ensure that Native voices are included whenever decisions are made that could affect their sacred sites.

- 2) **Background.** Existing state and federal law protects Native American religious exercise and prohibits interference with access to sacred sites on public property. CEQA, as amended by AB 52 (Gatto, Chapter 532, Statutes 2014), requires government agencies to consult with affected California tribes before undertaking projects that could impact tribal cultural resources, and protects information submitted during consultation from disclosure. This bill layers additional obligations on top of those existing frameworks, including a strict scrutiny standard, a tribal consent requirement for projects posing a risk to sacred sites on state public land, a broad private right of action, and a new PRA exemption.

The bill does not define “state public lands,” which materially affects the scope of affected state agencies and the volume of consultation and consent workload. The policy committee has flagged this ambiguity — including whether the term reaches waterways crossing state lands. Fiscal estimates are correspondingly preliminary.

The bill permits any California Indian or tribe to assert a violation of the Act as a claim or defense in any judicial or administrative proceeding. This broad standing provision is the largest source of uncertainty in the state’s fiscal exposure. Litigation volume is difficult to estimate in advance but could be material, particularly during the period before courts resolve threshold questions about the Act’s scope and constitutionality.

As discussed in the Judiciary Committee analysis, directing courts to apply strict scrutiny in free exercise cases raises questions under *City of Boerne v. Flores*, which held that Congress lacked authority to require strict scrutiny of state and local government action in the federal Religious Freedom Restoration Act (RFRA), a 1993 law that sought to require strict scrutiny review of any government action substantially burdening religious exercise, including laws of general applicability. Whether a state legislature may direct its own courts to apply strict scrutiny in this context is unsettled. The state is likely to incur defense costs if the Act is challenged on these grounds.

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