ASSEMBLY THIRD READING
AB 1881 (Ramos)
As Amended May 18, 2026
Majority vote

SUMMARY

Enacts the California Indian Freedom Act of 2026 which prohibits a governmental agency from substantially burdening a California Native American tribe from exercising religious beliefs or spiritual practices on state lands unless it is in furtherance of a compelling government interest by the least restrictive means.

Major Provisions

1) Makes findings and declarations relating to the history of government policies in California that have harmed California's indigenous people, including efforts to suppress Native American cultural and religious practices.

2) Exempts from disclosure under the Public Records Act information identifying sacred sites, cultural landscapes, or religious practices that are obtained by a governmental agency, as specified. Makes required findings justifying limiting the right to access public records.

3) Prohibits a governmental agency from substantially burdening a California Indian or California Native American tribe's exercise of religious or spiritual practices on state lands, including anything that burdens access to and use of sacred sites and objects, or perform religious ceremonies and rites, even if the burden results from a rule of general applicability, unless the governmental agency demonstrates that application of the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.

4) Authorizes a California Indian or tribe to assert a violation of the above provisions as a claim or defense in any judicial or administrative proceeding, as specified.

5) Requires a governmental agency to allow California Indians access to sacred sites on state lands, as specified.

6) Requires a governmental agency to seek and document free, prior, informed, and written consent from affected tribes before undertaking any project that may pose a risk to sacred sites on state land, as specified.

7) Defines "state lands" for purposes of the above provisions to mean lands owned by the state or any state agency, excluding lands owned by or under the jurisdiction of any city, county, or district. Specifies that "state lands" does not include private lands or lands used for public infrastructure or services or authorized for private use or development.

8) Requires the Department of General Services, in coordination with the Capitol Protective Section, to the greatest extent possible, to uphold the religious freedom, ceremonial practices, sacred sites, cultural patrimony, and cultural landscapes of tribes when accessing the State Capitol Building Annex and grounds. The bill requires the Capitol Protective Section, to the greatest extent possible, to avoid undue harm when handling tribal instruments and regalia.

COMMENTS

This bill creates the California Indian Freedom Act of 2026 in order to ensure that California Native Americans have access to traditional sacred sites and are permitted to exercise their religious beliefs and spiritual practices on state public lands. Although existing constitutional law protects religious exercise from government action that is arbitrary, intentionally discriminatory, or serves no legitimate government purpose, this bill would hold government actions that infringe upon religious exercise to a heightened standard of review, or "strict scrutiny," even when the government action stems from a law of general applicability.

In addition to requiring government agencies to meet a strict scrutiny standard, this bill makes several other changes to existing law in order to better protect California Native American access to state public lands, including state parks, and to protect the integrity of tribal cultural resources. For example, the bill does all of the following: 1) exempts information identifying sacred sites, cultural landscapes, or religious practices obtained by a government agency from disclosure under the Public Records Act; 2) grants a California Indian or tribe standing to assert a violation of the provisions of this bill as a claim or defense; 3) requires government agencies to allow California Indians access to sacred sites on state public lands; 4) requires a government agency to seek and document free, prior, informed, and written consent of any affected tribe before undertaking any project action that may pose a risk to sacred sites; and 5) requires the Department of General Services, to the greatest extend possible, to uphold religious freedoms of tribes accessing the State Capitol Building and grounds, and avoid harm when handling tribal instruments and regalia.

Existing Protections for Native American religious practice and access to sacred sites. Federal law, and in particular the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), prohibits government agencies from adopting land use regulations that impose a "substantial burden" on the religious exercise of a person, including a religious assembly or institution, unless it is demonstrated that the imposition of the burden is in furtherance of a compelling governmental interest and the least restrictive means of furthering that interest. State law also generally prohibits a public or private entity from using public property in a way that interferes with the free exercise of Native American religion. (United States Constitution, Amendment I and California Constitution Article I, Section 4.) Both public and private entities are prohibited from causing severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require. In addition, the California Environmental Quality Act (CEQA), as amended by AB 52 (Gatto) Chapter 532, Statutes of 2014, requires governmental agencies to consult with impacted California Native American tribes, as specified, before undertaking a project that could impact "tribal cultural resources," which are defined to include cultural landscapes, sacred sites, and objects of cultural value to California Native Americans. Existing law also requires that any information about these cultural resources that are submitted by a tribe during the consultation process cannot be included in the environmental document or otherwise disclosed without the prior consent of the tribe. (Public Resources Code Sections 21080.3.1 *et seq.*)

Notwithstanding the protections noted above, the author maintains that there are "no enforceable legal protections to prevent government agencies from approving actions that damage Native American sacred sites or impede religious practices," thus leaving California Native Americans "with little to no meaningful legal recourse to prevent irreversible harm." To say that there are

"no enforceable legal protections" and "no meaningful legal recourse" may be an overstatement, but it is certainly true that this bill would enhance existing protections in numerous ways, not least of which by requiring government actions to survive strict scrutiny and granting broad standing to assert a claim or defense based on a violation of the bill's provision. The bill also appears to considerably strengthen the AB 52 "consultation" process by not only requiring an agency to engage in good faith negotiations, but also by requiring a government agency to seek the "consent" of an affected tribe before undertaking any project that poses a risk to sacred sites on state public lands. However, as the groups who oppose the bill (or oppose unless amended) point out, it is not entirely clear how the new provisions added by this bill relate to the AB 52 "consultation" process. That process, which amended CEQA, applies not so much to "access" to "state public lands" as it does to any government "project" that impacts tribal cultural resources. While the AB 52 process requires good faith consultation and deference to tribal knowledge before undertaking a project, it does not require a tribe to "consent" to the project before it can be undertaken. It is possible under existing law that, after a project is initiated, a tribe could challenge the project based on various causes of action, whether on constitutional grounds or upon the government agency's failure to comply with CEQA or AB 52 requirements. But nothing in existing law requires prior consent.

What are "state public lands" – and do they include waterways? While the bill restricts the right of access to "state public lands" in most provisions of the bill, it does not define "state public lands." This lack of definition is not unusual. A search for "state public lands" across all California codes does not produce a definition. Where the term is used in a handful of code sections, the Legislature apparently assumed that the definition of "state public lands" was self-evident. But does this self-evident definition mean any "public lands" within the state, or does it mean only public land that is owned by, or under the jurisdiction of, a state entity? Some of the opponents asked whether "state public lands" would include a waterway that crossed state public land. Would access to a waterway on public lands mean that a California Native American could enter the waterway, or would it mean that a California Native American could divert water from the stream, so long as doing so was linked to a religious purpose? If it included the latter, the bill could disrupt established water rights.

According to the Author

> California is home to hundreds of tribes, each with its own distinct religious and spiritual practices. Yet diversity of these traditions is often overlooked. Instead, broad assumptions are made about what "Native spirituality" is. For Native people, these lands are not simply "parks" but their ancestral homelands. These lands are the settings of their creation stories and the landscapes where their communities have lived, gathered, and prayed for thousands of years until colonization disrupted that relationship.
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> 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.

Arguments in Support

Indigenous Justice, the sponsor of this bill, writes in support: "We believe this bill is essential to protecting the religious freedom of California Tribal Nations and ensuring that Native cultural

and ceremonial practices are respected and protected by state and local agencies. AB 1881 reflects California's growing commitment to international human rights standards, including the principles of Free, Prior, and Informed Consent (FPIC) recognized under UNDRIP and reinforced in CEDAW General Recommendation No. 39 on the Rights of Indigenous Women and Girls. FPIC affirms that Indigenous Peoples must have the right to meaningful consultation and consent regarding actions that impact their lands, sacred places, cultural practices, and ways of life. For Indigenous Peoples, spiritual practice is inseparable from land. Sacred sites gathering places, waters, plants, and ceremonial materials are not merely resources; they are relatives and responsibilities that sustain Indigenous cultural identity and community wellbeing.

Arguments in Opposition

The California Building Industry Association (CBIA), writing in response to the bill as introduced, fears that "AB 1881 would create significant, far-reaching, unpredictable, and unnecessary obstacles to housing production and critical infrastructure at a time when California faces a severe housing and affordability crisis that demands urgent action." In particular CBIA believes that the bill elevates tribal interests above all other interests; changes the existing CEQA requirement that agencies "consult" with tribes before initiating a project to a requirement that tribes "consent" to the project, and apparently extends the requirement beyond CEQA to encompass any government action; contains confidentiality and public record exemption provisions that will undermine project planning; and creates a private right of action that will create significant new litigation exposure.

Several groups, including the California Chamber of Commerce and associations representing cities, counties, special districts, and water agencies, among others (Chamber coalition) oppose this bill unless amended. As with the others, their letter does not address the bill as recently amended. However, they have communicated to the Committee they continue to have serious concerns about the bill as amended. Overall, they contend that the scope of the bill is still unclear. They contend that many of the provisions in AB 1881 duplicate and potentially conflict with existing state and federal laws. It is not clear, opponents contend, what specific deficiencies in existing law the bill is attempting to address. Moreover, it is not clear to the Chamber coalition how this bill, even as recently amended, will interact with AB 52 "consultation" amendments to CEQA. The Chamber coalition also cites other features of the bill that, unless amended, would make the bill "unimplementable." Finally, the Chamber coalition points to the private right of action that grants standing, not only to tribes, but to any individual California Native American to assert "a claim or defense in any judicial or administrative proceeding." They claim that this permissive standing will lead to litigation, which could be used to strategically delay or block projects.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

1) Ongoing workload costs (General Fund and various special funds) of an unknown amount across state agencies with jurisdiction over state public lands.

2) 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.

3) 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.

VOTES

ASM JUDICIARY: 10-0-2
YES: Kalra, Macedo, Bauer-Kahan, Bryan, Connolly, Harabedian, Pacheco, Sanchez, Stefani, Zbur
ABS, ABST OR NV: Dixon, Papan

ASM APPROPRIATIONS: 11-0-4
YES: Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache
ABS, ABST OR NV: Hoover, Dixon, Ta, Tangipa

UPDATED

VERSION: May 18, 2026

CONSULTANT: Tom Clark / JUD. / (916) 319-2334 FN: 0002865