
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

AB 1881 (Ramos) - California Indian Freedom Act of 2026

Version: August 3, 2026

Urgency: No

Hearing Date: August 10, 2026

Policy Vote: JUD. 10 - 1

Mandate: No

Consultant: Bob Franzoia

Bill Summary: AB 1881, the California Indian Freedom Act of 2026, would prohibit a governmental agency from substantially burdening a California Indian or California Native American tribe's exercise of religious beliefs or spiritual practices on state lands, including their access to and use of sacred sites and objects, and their ability to 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 in the least restrictive means of furthering that interest.

Fiscal Impact: Ongoing workload costs, potentially in the millions of dollars 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 Public Records Act exemption findings, and develop implementation procedures. (General Fund and various special funds)

Major cost pressure on the courts to adjudicate additional filings. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. 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. The FY 2025-27 Budget provided \$70 million General Fund to backfill the Trial Court Trust Fund to offset revenue reductions.

Background: 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 unless the agency demonstrates the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.

Provides that a California Indian or tribe shall have standing and may assert a violation as a claim or defense in any judicial or administrative proceeding and may obtain declaratory or injunctive relief. A prevailing party asserting a claim under this act shall be entitled to reasonable attorney fees and costs, and any other equitable remedies determined by the court.

Proposed Law: This bill would require a governmental entity to seek and document free, prior, and informed consent from affected tribes before undertaking any physical change to a state land which the agency has actual knowledge is a sacred site where

the action may pose a risk to sacred sites. The bill would require the affirmation of consent from the governing body of the affected tribe to be in writing.

This bill raises implementation issues that may arise at the project level. For example, the bill requires informed consent from a tribe for a project that might impact, harm or affect a sacred site before the project can proceed. The bill states consultation can occur where an objection is raised by a tribe, but unlike a CEQA consultation, the project proponent has no clear option, like an overriding consideration, under which it can move forward and it is unclear what happens if resolution is not achieved. However, the bill does include specific language relating to injunctive and declaratory relief, and tribal standing to seek relief through the courts, so it appears to be structured with the expectation that there would be a challenge to projects through the courts.

Further, a lack of clarity would almost assure a determination by a court in almost every instance. The Department of Water Resources notes the required informed consent could come into play if the project has the potential to affect a sacred site, including the site's "essential characteristics." Since Public Resources Code 5097.1002 (b) (1), as added by the bill, addresses "physical destruction of a sacred site," it is unclear if "essential characteristics" mean something else and that something else likely means something different to each party involved, leaving the courts to decide.

Caltrans anticipates major workload increases with annual, ongoing costs of approximately \$1.52 million. Caltrans estimates both an increase in the number of requests to access state lands for exercise of religious beliefs and spiritual practices, as well as the need for enhanced engagement and coordination with tribes to ensure they are not wrongfully denied access. This engagement will include:

- Establishing regular, standing coordination meetings with each tribe to compare tribal ceremonial calendars with Caltrans activities, discuss concerns, and track follow-up items.
- Conducting meetings with individual cultural practitioners to understand religious or ceremonial needs, document them, and address potential issues of concern.
- Draft and maintain memorandums of understanding regarding recurring ceremonial access to reduce incident workload, build trust, and provide predictable access to tribes.

Additionally, there will be workload to seek and document free, prior, and informed consent of any affected tribe before undertaking any project action on state lands that may pose a risk to sacred sites of which the agency has actual knowledge or been put on notice. This will require an enhanced level of notice and engagement by Caltrans to ensure that tribes can thoughtfully consider and provide informed consent on project actions.

To ensure all appropriate actions were taken, Caltrans also anticipates workload to document, track, and review all tribal engagement.

This bill would require the Department of General Services, in coordination with the Capitol Protective Section and the Joint Rules Committee to uphold the religious freedom, ceremonial practices, sacred sites, cultural patrimony, and cultural landscapes

of tribes when accessing the State Capitol grounds. The bill would require the Joint Rules Committee, 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, as specified.

This bill would provide that the application of the act is strictly limited to a governmental agency's management actions that involve only state lands. The bill would declare that specified provisions of the bill do not apply to the authority of the State Water Resources Control Board to authorize, curtail, or otherwise regulate the diversion and use of water, or to the Porter-Cologne Water Quality Control Act.

Related Legislation: AB 2115 (Ramos) provides that the State of California recognizes and accepts responsibility for all of the harms and atrocities perpetrated against Native Americans and requires a plaque memorializing the apology to be publicly and conspicuously installed and maintained in the State Capitol Building. AB 2115 is pending before the Senate Appropriations Committee.