
THIRD READING

Bill No: AB 1881
Author: Ramos (D), et al.
Amended: 8/3/26 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-1, 6/30/26
AYES: Umberg, Allen, Ashby, Durazo, Laird, Reyes, Stern, Wahab, Weber
Pierson, Wiener
NOES: Niello
NO VOTE RECORDED: Caballero, Valladares

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/13/26
AYES: Cervantes, Cabaldon, Grayson, Richardson, Wahab
NO VOTE RECORDED: Seyarto, Dahle

ASSEMBLY FLOOR: 65-0, 5/27/26 - See last page for vote

SUBJECT: California Indian Freedom Act of 2026

SOURCE: Indigenous Justice

DIGEST: This bill establishes a framework for California Native American tribes to exercise their religious beliefs or spiritual practices on state lands, and requires a governmental agency to obtain 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, as specified.

ANALYSIS:

Existing federal law:

- 1) Provides that, on and after August 11, 1978, it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiian peoples, including, but

not limited to, access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites. (42 United States Code (U.S.C.) § 1996.)

- 2) Establishes the Religious Freedom Restoration Act (RFRA), which provides that a government shall not substantially burden a person's exercise of religion even if the burden results form a rule of general applicability, unless the government demonstrates that the burden is both:
 - a) In furtherance of a compelling government interest.
 - b) The least restrictive means of furthering that compelling governmental interest. (42 U.S.C. § 2000bb-1.)
- 3) Provides that 3) cannot be enforced against state and local laws. (*City of Boerne v. Flores* (1997) 521 U.S. 507, 532-536.)
- 4) Establishes the Religious Land Use and Institutionalized Persons Act (RLUIPA), which prohibits a government agency from implementing a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that the imposition of that person, assembly, or institution is both:
 - a) In furtherance of a compelling governmental interest.
 - b) The least restrictive means of furthering that compelling governmental interest. (42 U.S.C. § 2000cc.)
- 5) Provides that 4) applies in any case in which:
 - a) The substantial burden is imposed in a program or activity that receives federal financial assistance, even if the burden results from a rule of general applicability.
 - b) The substantial burden affects, or removal of that financial burden would affect, commerce with foreign nations, among the several states, or with Indian tribes, even if the burden results from a rule of general applicability.
 - c) The substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved. (42 U.S.C. § 2000cc.)

Existing state law:

- 1) Gives a California Native American tribe that is on the contact list maintained by the Native American Heritage Commission certain rights with respect to land use. (E.g., Government (Gov.) Code, §§ 65902, 65351, 65352, 65352.3, 65562.5.)
- 2) Prohibits a public agency, or a private property using or operating public property under a public license, permit, lease, or contract made on or after July 1, 1977, from interfering with the free expression or exercise of Native American religion as provided in the United States Constitution and the California Constitution, or 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 and necessity so require. (Public (Pub.) Resources Code, § 5097.9.)
- 3) Provides that 2) shall not be construed to limit the requirements of the Environmental Quality Act of 1970 (CEQA) and does not apply to the public property of all cities, counties, and city and county located within the limits of the city, county, and city and county, except for all parklands in excess of 100 acres. (Pub. Resources Code, § 5097.9.)
- 4) Establishes the Native American Heritage Commission (Commission) within the state government. (Pub. Resources Code, § 5097.91.)
- 5) Establishes the powers and obligations of the Commission, which include:
 - a) Identifying and cataloguing places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands.
 - b) Making places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands.
 - c) Bringing an action to prevent severe and irreparable damage, or assure appropriate access for Native Americans, to a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, as specified.
 - d) Assisting Native Americans in obtaining appropriate access to sacred places that are located on public lands for ceremonial or spiritual activities. (Pub. Resources Code, § 5097.94.)

- 6) Requires every state and local agency to cooperate with the Commission in carrying out its duties, as specified. (Pub. Resources Code, § 5097.95.)
- 7) Permits the Commission, in the event that any Native American organization, tribe, group, or individual advises the Commission that a proposed action by a public agency may cause severe or irreparable damage to a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, or may bar appropriate access thereto by Native Americans, to conduct an investigation into the effect of the proposed action and, if the Commission finds that the proposed action would result in such damage or interference, to recommend mitigation measures to the agency; if the agency fails to accept the mitigation action, the Commission may ask the Attorney General to take appropriate legal action. (Pub. Resources Code, § 5097.97.)
- 8) Provides, within CEQA, that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their tribal cultural resources, and requires the lead agency, prior to the release of a declaration or environmental impact report, to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if both of the following conditions are met:
 - a) The California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe.
 - b) The California Native American tribe responds, in writing, within 30 days of receipt of the formal notification and requests the consultation. (Pub. Resources Code, § 21080.3.1.)

This bill:

- 1) Establishes the California Indian Freedom Act of 2026 (the Act).
- 2) Makes findings and declarations relating to the long history of Native Nations within California, the history of government policies in California intended to exterminate or culturally erase Indigenous groups, including through the suppression of religious and spiritual practices, and the lack of state laws protecting Indigenous religious freedom.

- 3) Exempts, from the disclosure requirements of the CPRA, information identifying sacred sites, cultural landscapes, or religious practices of California Native American tribes.
- 4) Defines the following relevant terms:
 - a) “California Indian” means a Native American who is a member or citizen of a California Native American tribe.
 - b) “California Native American tribe” means a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission.
 - c) “Consultation” has the same meaning as in CEQA.
 - d) “Cultural landscape” means a geographical area on state lands that includes cultural and natural resources associated with the spiritual and cultural practices of a California Native American tribe.
 - e) “Exercise of religious beliefs or spiritual practices” means any tribal practice undertaken as part of California Indian religious, spiritual, or sacred observance, whether or not compelled by, or central to, a system of religious beliefs, as specified.
 - f) “Governmental agency” means any state agency, department, board, or commission.
 - g) “Least restrictive means” shall be interpreted consistent with strict judicial scrutiny jurisprudence of California.
 - h) “Sacred site” means any specific location, landscape, landform, waterbody, or area on state lands that is both (1) historically, culturally, or spiritually significant to a California Indian or tribe; and used, or has historically been used, for religious, ceremonial, or cultural purposes.
 - i) “State lands” means lands owned by the state or any state agency, excluding lands owned by, or under the jurisdiction of, any city, county, or district; but does not include private lands or lands used for public infrastructure or services, or authorized for private use or development.
 - j) “Substantial burden” means any government action or policy that occurs on or after January 1, 2027, excluding routine administrative procedures, minor restrictions, or actions that do not materially prevent or significantly interfere

with a California Indian or tribe's exercise of religious beliefs or spiritual practices, that does any of the following:

- i. Significantly restricts, denies, or unreasonably interferes with gathering or collecting traditional foods and plants used in ceremonies, including funerals, feasts, and celebrations on state lands.
 - ii. Denies or unreasonably restricts access to sacred sites, ceremonial grounds, or other locations of religious or spiritual significance on state lands.
 - iii. Destroys, desecrates, materially alters, or otherwise interferes with sacred sites, cultural landscapes, or ceremonial items on state lands in a manner that prevents or substantially impedes the practice of sincerely held religious or spiritual beliefs.
 - iv. Screens or restricts items of cultural, sacred, or religious significance, including, but not limited to, regalia, headdresses, eagle feathers, traditional medicines, gourd rattles, or other ceremonial items, when entering state government buildings; these items shall be permitted and may be inspected only by hand or through other nontechnological means, and shall not be inspected by technological screening.
- 5) Provides that a governmental agency shall not substantially burden 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 or 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 the application of the burden is (1) in furtherance of a compelling governmental interest, and (2) the least restrictive means of furthering that interest.
- 6) Provides that a California Indian or tribe shall have standing and may assert a violation of 5) as a claim or defense in any judicial or administrative proceeding, and may obtain declaratory or injunctive relief.
- 7) Provides that a prevailing party asserting a claim under the Act is entitled to reasonable attorney's fees and costs, and any other equitable remedies determined by the court.
- 8) Requires a governmental agency to allow California Indians access to sacred sites on state lands for Native American religious, ceremonial, or cultural activities, except where public safety or resource protection makes access impossible.

- 9) Requires, consistent with Articles 11, 12, 25, and 32 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a governmental agency 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 has been formally notified that may result in any of the following:
 - a) Physical destruction or alteration of a sacred site.
 - b) Loss of access, privacy, or quiet use.
 - c) Long-term environmental degradation affecting religious and spiritual practices.
- 10) Requires the affirmative consent required under 9) to be in writing from the governing body of the affected tribe, subject to the following:
 - a) If a tribe does not respond within a reasonable timeframe designated in the request, then the governmental agency may interpret the lack of response as a grant of request.
 - b) If a tribe responds to a request for consent by objecting to the undertaking, the governmental agency may request consultation with the tribe to see if issues raised by the tribe can be addressed.
- 11) Provides that information identifying sacred sites, cultural landscapes, or religious practices obtained by a governmental agency for the purposes of the Act shall be confidential and exempt from public records laws, including the CPRA.
- 12) Requires the Department of General Services (DGS), 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.
- 13) Requires the Capitol Protective Section, to the greatest extent possible, to avoid undue harm when handling tribal instruments and regalia.
- 14) Provides that nothing in the Act shall be construed to limit or restrict the authority of the state or any state agency to enter into an agreement, memorandum of understanding (MOU), or other arrangement with any tribe to allow access to any state lands for the purpose of conducting religious, cultural, or ceremonial practices.

15) Provides the following with respect to the Act:

- a) The application of the Act is strictly limited to a governmental agency's management actions that involve only state lands, regardless of whether this limitation is specified in any provision in the Act.
- b) The Act has no application to any actions or direct or indirect effects arising out of, pertaining to, or relating to, lands that are not state lands.
- c) To the extent there is a conflict between these provisions and any other provision of the Act, these provisions shall control.

16) Includes a severability clause.

Comments

California has the highest population of Native Americans in the United States. California's over 100 Native Nations are an essential part of California, each with their own religions, spiritual traditions, and ceremonies that predate statehood. Unfortunately, colonization and California's early policies toward Native Americans disrupted centuries-old religious practices for many California Native American tribes. Many sacred sites and other locations of religious significance are located on what is now state-owned lands, and current law does not reliably protect California Native American tribes' ability to practice their spiritual and cultural practices free from state interference.

This bill establishes the California Indian Freedom Act of 2026 to ensure that California Native Americans have access to traditional sacred sites and are not unduly denied the right to exercise their religious beliefs and engage in spiritual practices on state public lands. This bill specifically prohibits state agencies from substantially burdening California Native American tribal religious practices, as defined, on state lands unless the burden is the least restrictive means of achieving a compelling state interest, also known as the "strict scrutiny" standard. This bill also requires a state agency to seek free, prior, and informed consent from any California Native American tribe whose sacred sites will be affected by an agency's project on state lands, provided that the agency has actual knowledge of the site.

From a constitutional standpoint, it appears that this bill is within the state's authority to regulate relations with Indian tribes consistent with federal guidance. Opponents of this bill, however, are concerned that the bill's provisions could harm the ability to deliver water throughout the state.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, the fiscal effect is as follows:

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.

SUPPORT: (Verified 8/13/26)

Indigenous Justice (Source)

Building Healthy Communities – Kern

CA Native Organizing Network

California Consortium for Urban Health

Chalon Indian Council of Bakersfield

Chalon Indian Nation of California

Coalition of California State

County Supervisor Joe Baca, San Bernardino 5th District

Davis Joint Unified School District

East Valley Water District

Fernandeño Tataviam Band of Mission Indians

Indian Health Center of Santa Clara Valley

International Indian Treaty Council

Intertribal Friendship House

Juaneño Band of Mission Indians, Acjachemen Nation

Kno'Qoti Native Wellness, Inc.

Native American Health Center

Sacramento Native American Health Center, Inc.

Sacred Placed Institute for Indigenous Peoples

Santa Ynez Band of Chumash Indians

So'oh-Shinálí Sister Project

Southern Hill Nisenan Band dba Nashville Enterprise Miwok-Maidu-Nishinam
Teamsters Local 1932
Unitarian Universalist Church of Long Beach, Native Justice Team
Wilton Rancheria
Yuhaaviatam of San Manuel Nation
Wilton Rancheria
One individual

OPPOSITION: (Verified 8/13/26)

Agricultural Council of California
Association of California Water Agencies
California Chamber of Commerce
California Municipal Utilities Association
California Special Districts Association
California State Association of Counties
City of Corona
El Dorado Immigration District
League of California Cities
Northern California Water Association
Regional Water Authority
Solano County Water Agency
Valley Ag Water Coalition
Water Blueprint for San Joaquin Valley Advocacy Fund
Western Growers Association

ARGUMENTS IN SUPPORT: According to Indigenous Justice:

AB 1881 strengthens protections for Tribes' religious and spiritual practices by ensuring that the state cannot interfere with their ability to practice their traditions. This bill recognizes tribes' deep connections to the land and natural resources, which are central to tribal identity and community, and affirms that these connections are inseparable from their spiritual and religious practices.

These protections must include the ability of tribal members to access their sacred sites without unnecessary barriers. These places are not simply historic locations, but living spaces where prayer, teaching, and responsibilities to the land continue every day. When access is restricted, it disrupts the continuation of these practices and harms the cultural and spiritual wellbeing of tribal communities.

Equally important is the freedom to gather the traditional materials needed for ceremonies. Many require certain plants, foods, water sources, and other natural elements that cannot simply be replaced or collected elsewhere. Protecting the right to gather these materials freely is essential to keeping these traditions alive.

AB 1881 also affirms the right of tribal members to carry traditional instruments, regalia, and sacred items without being questioned or stopped. These items are part of spiritual practices, and the ability to transport them safely and without interference is an important component of religious freedom.

ARGUMENTS IN OPPOSITION: According to a coalition of this bill's opponents:

The California Environmental Quality Act (CEQA) provides a framework for the assessment of environmental impacts from projects that require discretionary action and provides for public disclosure of those environmental impacts, including proposed mitigation measures and project alternatives as part of the overall project analysis. Lead agencies must follow a formal process for early government-to-government consultation with California Native American tribes traditionally and culturally affiliated with the geographic area of a proposed project as part of the environmental review process under CEQA.

This bill would create a duplicative path for tribal consultation outside of the CEQA process and set standards that could result in projects not moving forward. Such provisions like requiring a government agency to “seek and document free, prior, and informed consent from an affected tribe for any project” could drastically constrain projects, including those necessary to modernize water infrastructure in the face of a changing climate. This shift from consultation to mandating consent marks a fundamental change in California land use law and could effectively grant a single tribe the power to halt or indefinitely delay any project—including projects that have already undergone extensive environmental review and received all other required approvals.

ASSEMBLY FLOOR: 65-0, 5/27/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Chen, Connolly, Elhawary, Flora, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle

Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins,
Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO VOTE RECORDED: Castillo, Davies, DeMaio, Dixon, Ellis, Gallagher,
Hadwick, Hoover, Johnson, Lackey, Macedo, Papan, Celeste Rodriguez, Ta,
Tangipa

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
8/15/26 16:27:13

**** **END** ****