

Date of Hearing: August 5, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 1326 (Wahab) – As Amended June 11, 2026

Policy Committee: Natural Resources

Vote: 13 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

SUMMARY:

This bill revises definitions and procedures for tribal consultation and consideration of impacts to tribal cultural resources (TCRs) under the California Environmental Quality Act (CEQA).

Specifically, this bill, among other things:

- 1) Revises the definition of TCRs to include any resource that is (a) included or eligible for inclusion in the National Register of Historical Places, (b) identified by the Native American Heritage Commission (NAHC) as a sacred place, or (c) included in a local tribal register and provided to the lead agency by a consulting California Native American tribe.
- 2) States that TCRs are a separate category from cultural resources and archaeological resources, and that certain archaeological methods and standards may not be appropriate for identifying TCRs.
- 3) Requires the lead agency, if it uses archaeological methods and standards in the identification of TCRs instead of tribal methods and standards or tribal traditional knowledge submitted by a California Native American tribe during tribal consultation, to explain its decision, supported by substantial evidence, in the environmental documents for the project.
- 4) Requires the lead agency, when feasible, to adopt mitigation measures to avoid or minimize significant adverse impacts to TCRs and expands the list of examples of mitigation measures.
- 5) Requires the lead agency (a) to consider avoidance and preservation of the TCR in place when requested by the consulting California Native American tribe and (b), if the lead agency determines that avoidance and preservation of the resource in place are not feasible, to document the basis for that determination with substantial evidence and, when feasible, adopt mitigation measures to avoid or minimize significant adverse impacts to the resource.
- 6) Requires the lead agency (a), in developing mitigation and treatment measures, to consider and incorporate, to the extent feasible, culturally appropriate mitigation measures, identified by the consulting California Native American tribe and (b), if it does not recommend for adoption treatment and mitigation measures preferred and submitted by a California Native American tribe, to explain its decision, as specified.
- 7) Provides that curation of a TCR at private or public repository facilities may occur only if agreed upon by the consulting California Native American tribe and that any curation may be subject to federal and state repatriation laws and repository fees.

FISCAL EFFECT:

- 1) The Governor's Office of Land Use and Climate Innovation – which serves as the technical advisor, rulemaking body, and clearinghouse for CEQA – estimates General Fund costs of approximately \$114,000 annually for two years for one-half of one air pollution specialist to work and coordinate with the NAHC, tribes, and the public, as well as to update appropriate CEQA guidance documents to reflect the changes proposed in this bill.
- 2) Potential ongoing annual costs of an unknown amount to state agencies subject to CEQA for publicly funded or agency-led projects (General Fund or special fund) to comply with the bill's expanded requirements related to tribal consultation and consideration of impacts to TCRs under CEQA.
 - a) The Department of Forestry and Fire Protection (CAL FIRE) preliminarily estimates ongoing annual General Fund costs of about \$10.2 million: \$6.2 million for 32 new positions; \$800,000 for contract services to pay tribes to consult on TCRs for timber harvest, fuel reduction, and forest health-related activities (consistent with CAL FIRE's practice) as well as for data, analysis, and technical services related to TCRs; and \$3.2 million for 26 vehicles. CAL FIRE contends that authorizing tribal designation of TCRs may significantly increase the number and scope of TCRs on the landscape and, in doing so, may raise the evidentiary threshold for categorical exemption findings and trigger exceptions to CEQA exemptions, potentially resulting in CAL FIRE needing to prepare higher-level environmental review documents.
 - b) The Department of Fish and Wildlife (CDFW) estimates General Fund costs of approximately \$218,000 in fiscal year (FY) 2027-28 and \$209,000 in FY 2028-29 and ongoing to comply with the bill's expanded scope of TCR considerations and mitigation requirements as they relate to CDFW permits (such as Lake and Streambed Alteration Agreements and Incidental Take Permits).
 - c) The Department of Parks and Recreation (State Parks) estimates ongoing annual General Fund costs of approximately \$792,000 for four positions to address the increased workload associated with adopting mitigation measures and engaging in enhanced tribal consultation as required by this bill. State Parks notes that it routinely consults with tribes as currently required under CEQA, however, to comply with this bill, the department contends it would need to work with tribes more closely to develop survey methodologies as well as increase tribal participation in surveying, identifying, recording, and analyzing TCRs to consider potential project avoidance or mitigation measures. While it is difficult to definitively determine the magnitude of increased costs, State Parks estimates this bill would increase project costs (including for some natural resource restoration projects and park operations) by between 25% and 50%.
 - d) The Department of Transportation estimates ongoing General Fund costs and cost pressures in the low tens of millions of dollars annually, including \$1.6 million for 15 positions, additional compensation for tribal expertise in identifying TCRs, mitigation costs, right-of-way-related costs, project scope changes, legal support, increased workload related to the preparation of CEQA documents, additional consultant services, and other cost drivers.

- e) The Air Resources Board (ARB) anticipates ongoing General Fund costs of an unknown amount, likely in the hundreds of thousands of dollars annually, to comply with the requirements of the bill. ARB notes the bill does not distinguish between the obligations of statewide regulatory agencies and the obligations of local land use agencies with direct land use control over projects that may affect TCRs. Therefore, while ARB's environmental impact analyses (which are generally for statewide initiatives, regulations, and policies, rather than for a specific project or site) programmatically disclose reasonably foreseeable potential impacts and recommend mitigation measures that local entities with permitting authority may exercise when adopting a project implemented pursuant to ARB regulations, ARB argues this bill potentially requires it to expand its impact and mitigation measure analysis to consider mitigation measures that are more appropriate for site-specific development projects, rather than statewide regulatory actions designed to protect air quality and reduce greenhouse gas emissions.
- f) The State Water Resources Control Board estimates ongoing annual General Fund costs of \$1.5 million to deploy the necessary expertise to work with confidential tribal information, identify a potentially larger number of TCRs, conduct enhanced analyses of project impact to TCRs, and conduct a greater number of California Historical Resources Information System searches.
- g) The Department of Water Resources and the Department of Corrections and Rehabilitation anticipate minor and absorbable costs.

Conversely, the bill sponsors, including Federated Indians Graton Rancheria, United Auburn Indian Community, and Picayune Rancheria of the Chukchansi Indians, argue this bill primarily changes how CEQA consultation is conducted and documented and does not create new substantive duties for lead agencies that require additional staffing, studies, or mitigation.

The sponsors argue that because agencies already prepare CEQA findings supported by substantial evidence and retain discretion under this bill to adopt only feasible mitigation measures, any additional workload to state agencies should be limited to minor documentation that should be absorbable within existing resources. Further, the sponsors contend the bill does not contain any new CEQA triggers or new consultation requirements; lead agencies are already required to engage in tribal consultation when requested, and the bill changes how agencies evaluate tribal recommendations during that existing consultation process. The sponsors argue the "when feasible" qualifier in the bill means agencies are not compelled to adopt any specific mitigation proposals from tribes, or acquire property, redesign projects, or implement expensive mitigation if such measures are infeasible. Protecting the cultural character, integrity, and traditional use of TCRs is the mitigation baseline in current law, and the sponsors argue this bill clarifies these existing requirements to aid lead agencies in fulfilling their existing mitigation requirements.

Given the significant discrepancy in how the sponsors and various state agencies interpret the bill language and what is expected of lead agencies with respect to TCRs, the author may wish to work with stakeholders and impacted state agencies to clarify legislative intent.

COMMENTS:

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

California has taken significant steps to protect Native American culture and TCRs, including artifacts and objects, sacred places, and landscapes. However, CEQA lead agencies have interpreted the law related to the handling of TCRs narrowly, disrespecting a California Native American tribe's knowledge and failing to identify and protect TCRs. California Native American tribes, not CEQA project lead agencies, are best positioned to identify their own TCRs and how best to protect them. Relying on a project lead agency to determine the cultural significance of a TCR is problematic, insensitive, and can disregard tribal knowledge and Native American culture.

- 2) **Background.** As detailed in the Assembly Natural Resources Committee's analysis of this bill, consideration of TCRs, as distinct from cultural, historical, or archaeological resources, has been an essential requirement of CEQA review since the passage of AB 52 (Gatto), Chapter 532, Statutes of 2014. AB 52 created a process to identify California Native American tribes traditionally and culturally affiliated with a project site and an obligation for lead agencies to consult with the appropriate tribe(s) to identify the existence of TCRs and measures to avoid or mitigate significant impacts.

By requiring consideration of TCRs early in the CEQA process, the Legislature intended to ensure that local and tribal governments, public agencies, and project proponents would have information available early in the project planning process to identify and address potential adverse impacts. Further, AB 52 requires the NAHC to provide each California Native American tribe with a list of all public agencies that may be a lead agency under CEQA within the geographic area with which the tribe is traditionally and culturally affiliated, the contact information of those public agencies, and information on how the tribe may request the public agency to notify the tribe of projects within the jurisdiction of those public agencies for purposes of requesting consultation.

Among other co-sponsors and supporters of the bill, the Federated Indians of Graton Rancheria (FIGR) argues this bill significantly enhances the protection TCRs through the CEQA process. FIGR writes:

[The bill] updates the CEQA definition of [TCRs] to empower California Native American tribes to assert authority over the protection of their cultural resources and ensure sacred places are accorded appropriate dignity during the review process. The bill prioritizes avoiding impacts to tribal cultural resources and protects tribal cultural resources against significant impacts from projects by requiring CEQA lead agencies to document when avoidance and protection is not feasible. Lead agencies must also consider and incorporate culturally appropriate mitigation measures identified by a consulting tribe.

Writing in an oppose-unless-amended position, the League of California Cities, Rural County Representatives of California, California State Association of Counties, and Association of California Water Agencies relay they are concerned about the transparency and procedures for identifying and automatic inclusion of sites in a local tribal register "as those decisions may have profound impacts on private landowners and are broadly crafted to include a large

universe of groups irrespective of federal recognition.” The coalition further objects to the provision in the bill that requires lead agencies to adopt mitigation measures to avoid or minimize significant adverse impacts, as feasible (as opposed to the requirement in current law for a lead agency to consider mitigation measures based on feasibility). The coalition writes:

SB 1326 could be unreasonable for dense urban areas or where projects cannot feasibly adopt mitigation measures. CEQA is already one of the most litigated environmental statutes in the country, and these new requirements could lead to further litigation exposure for lead agencies and delay necessary projects, including housing, transportation, and infrastructure projects.

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