



California Special Districts Association
Districts Stronger Together



Date: June 2, 2026

To: Senate Judiciary Committee

**SUBJECT: AB 1881 (RAMOS): CALIFORNIA INDIAN FREEDOM ACT OF 2026
OPPOSE UNLESS AMENDED – AS AMENDED MAY 19, 2026**

Dear Chair Umberg:

The undersigned organizations must respectfully convey our **OPPOSE UNLESS AMENDED** position on **AB 1881 (Ramos)**, the California Indian Freedom Act of 2026, a measure that would fundamentally reshape how California's lands and waters are managed by granting tribes—or individual tribal members—broad authority to challenge, delay, or override state land use and water management decisions. We recognize and respect the importance of protecting Indigenous religious freedom, preserving access to sacred sites, and safeguarding sensitive tribal cultural information. These are legitimate and important interests. However, as currently written, **AB 1881** would impose sweeping new legal obligations on state agencies—including a strict-scrutiny standard for agency actions affecting tribal religious exercise and a free, prior, and informed consent (FPIC) requirement before agencies may undertake project actions on state lands—without providing the procedural clarity or safeguards necessary to ensure that critical public functions continue to be carried out.

Our opposition primarily centers on two provisions. First, the bill creates a private right of action—including injunctive relief and attorney's fees—allowing tribes or individual tribal members to challenge state actions involving state lands and waterways. Second, it requires state agencies to obtain written tribal consent before undertaking project actions on state public lands that may affect sacred sites, with no defined timeline, no binding outcome standard, and no mechanism to resolve an impasse.

We are particularly concerned about the bill's implications for water management. **AB 1881** expressly defines waterbodies as potential sacred sites and cultural landscapes subject to its FPIC requirements and private right of action. This is especially significant given the scope of "state lands" under the bill. The public trust doctrine establishes that the state holds certain natural resources—including tidelands, navigable waterways, and submerged lands—in trust for the benefit of all Californians. These public trust resources are, by definition, state-owned lands, and would therefore fall squarely within **AB 1881's** coverage. The result is that the agencies entrusted with managing California's most critical water resources would be required to obtain tribal consent before undertaking project actions on the very waterways they are legally obligated to manage in the public interest—with no timeline, no override, and a private right of action available to enforce compliance.

AB 1881 creates a private right of action that would lead to significant litigation exposure

AB 1881 would authorize a California Native American tribe or individual tribal member to assert a violation of the act as a claim or defense in any judicial or administrative proceeding. The available remedies—declaratory relief, injunctive relief, and attorney's fees—are broad and potent. This private right of action is

not limited to physical project actions; it extends to any state agency proceeding touching state lands or waterways, including water rights applications, water quality control plan amendments, permitting decisions, modifications to the Long-Term Operations of the State Water Project, and much more.

The breadth of this enforcement mechanism raises serious concerns. Private rights of action in land use and environmental law are frequently deployed as litigation strategy—to delay approvals, extract concessions, or block outcomes for reasons unrelated to the statute's underlying purpose. Under **AB 1881**, any state agency proceeding that implicates a waterbody or state land where tribal religious exercise may be affected becomes a potential target, at any stage, with injunctive relief available as a remedy. For water infrastructure and regulatory proceedings—where schedule delays translate directly into cost overruns and deferred public benefits—the litigation exposure created by this provision is substantial.

The consequence is not merely legal uncertainty in individual cases. Pervasive litigation risk will be priced into every project and regulatory action subject to the bill, compounding the affordability challenges already facing water infrastructure delivery across California.

AB 1881 creates a strict scrutiny standard for tribal government interests above other land use interests

Compounding concerns over the private right of action, **AB 1881** would shift the burden of proof to the state and impose a strict scrutiny standard of review—one of the highest legal bars known in constitutional law. Codifying this standard for tribal interests would elevate tribal religious freedom of expression, spiritual practices, sacred sites, objects, and ceremonies above all other competing interests, with no clear limiting principle.

This standard would apply sweepingly to all state actions—including permitting decisions, land use approvals, enforcement actions, environmental review, contracting, licensing, and regulatory activities. In practice, any such action that a tribe asserts substantially burdens its religious freedom could be subject to strict scrutiny, forcing the state to demonstrate a compelling governmental interest pursued through the least restrictive means available. That burden would fall entirely on the state, creating significant legal exposure and uncertainty across virtually every area of state governance.

AB 1881 duplicates and conflicts with existing state and federal laws that already provide for tribal protections and tribal consultation.

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.

The 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.

Additionally, Government Code §7927.000 already requires that records of Native American graves, cemeteries, and sacred places, including those records that are maintained by the Native American Heritage Commission, another state agency, or a local agency are exempt from mandatory public disclosure under the California Public Records Act due to being of historical and cultural significance.

Based on these existing laws, AB 1881 would introduce far-reaching and unworkable changes that inhibit government decision-making and conflict with existing law, including tribal consultation processes and confidentiality measures.

AB 1881 remains unimplementable and must be amended.

Our organizations have communicated with the author's office and the sponsors of the bill on the overall goal and intent of the measure. We have a set of amendments that we have proposed to the author and the sponsors based on our discussions with them about the real challenges they are looking to solve. We believe the current bill is beyond the scope of some of the concerns raised in our discussions, which included accessing state properties to perform and practice religious ceremonies, as well as ensuring tribal religious instruments are handled properly when entering state security systems. We appreciate that the definition of "state lands" was amended to exclude lands used for public infrastructure or services. However, "public infrastructure" and "services" are not defined, and land required as mitigation for public infrastructure or land that has been acquired for public infrastructure would still be considered "state lands." Additionally, the bill must include a clear definition of state lands so as to not include lands held in public trust.

For these reasons, our organizations must **OPPOSE AB 1881 (Ramos)** unless it is amended.

Sincerely,



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Alexandra Biering
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Brittany Barsotti
Legislative Representative
California Special Districts Association

A handwritten signature in black ink, appearing to read "Jim Peifer". The signature is fluid and cursive, with the first name "Jim" and last name "Peifer" clearly distinguishable.

James Peifer
Executive Director
Regional Water Authority

cc: The Honorable James Ramos
Members, Senate Judiciary Committee