

## CALIFORNIA COASTAL COMMISSION

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# W-22

November 4, 2009

TO: Coastal Commissioners and Interested Public

FROM: Peter M. Douglas, Executive Director  
 Sarah Christie, Legislative Coordinator

SUBJECT: LEGISLATIVE REPORT FOR NOVEMBER 2009

CONTENTS: This report provides summaries and status of bills that affect the Coastal Commission and California's Coastal Program as well as bills that staff has identified as coastal-related legislation.

**Note: Information contained in this report is accurate as of 010/19/09. Changes in the status of some bills may have occurred between the date this report was prepared and the presentation date.<sup>1</sup>** Current status of any bill may be checked by visiting the California Senate Homepage at [www.senate.ca.gov](http://www.senate.ca.gov). This report can also be accessed through the Commission's World Wide Web Homepage at [www.coastal.ca.gov](http://www.coastal.ca.gov)

## 2009 Legislative Calendar

Jan 1	Statutes take effect
Jan 5	Legislature reconvenes
Jan 10	Budget must be submitted by Governor
Jan 30	Last day to submit bills to Legislative Counsel
Feb 27	Last day for bills to be introduced
April 2	Spring Recess begins
April 13	Legislature reconvenes
May 1	Last day for Policy Committees to hear and report 1 <sup>st</sup> House fiscal bills to the Floor
May 15	Last day for Policy Committees to hear and report 1 <sup>st</sup> House nonfiscal bills to the Floor
May 22	Last day for Policy Committees to meet prior to June 8
May 29	Last day for Fiscal Committees to hear and report 1 <sup>st</sup> House fiscal bills to the Floor
June 1-5	Floor Session only. No committees may meet
June 5	Last day to pass bills from house of origin
June 8	Committee meetings may resume
June 15	Budget must be passed by midnight
July 10	Last day for Policy Committees to hear and report bills to the Floor from the second house
July 17	Summer Recess begins at the end of session if Budget Bill has been enacted
Aug 17	Legislature reconvenes
Aug 28	Last day for Fiscal Committees to meet and report bills to the Floor
Aug 31-Sept 11	Floor session only. No committees may meet
Sept 4	Last day to amend bills on the Floor
Sept 11	Last day for any bill to be passed. Interim Recess begins on adjournment of session
Oct 11	Last day for Governor to sign or veto bills passed by the Legislature before Sept. 11

<sup>1</sup> Terms used in this report relating to bill status. 1) "On Suspense" means bill is held in Appropriations because of potential costs to state agency. Bills usually heard by Appropriations near Fiscal Committee Deadline in June. 2) "Held in committee" means bill was not heard in the policy committee this year. 3) "Failed passage" means a bill was heard by policy committee but failed to get a majority vote. Reconsideration can be granted by the committee.

## **PRIORITY LEGISLATION**

### **ABX3 33 (Villines) Energy: commission and department**

This bill would abolish the Energy Commission and the Electricity Oversight Board, and establish the Department of Energy, and the California Energy Board, and the Office of Energy Market Oversight. The Department would be headed by the Secretary of Energy, appointed by the Governor. The bill, in relevant part, would vest the new department with sole permitting and siting authority over thermal and non-thermal power plants and transmission lines.

Introduced 05/05/09  
Last Amended 08/26/09  
Status Assembly Utilities and Commerce Committee

### **AB 42 (Blakeslee) Electricity: Pacific Gas & Electric: seismic fault**

This bill would require the California Energy Commission, in consultation with other specified agencies, to determine what, if any seismic or other hazard studies are urgently needed at the Diablo Canyon Nuclear Power Facility. The bill would also require the CEC, in consultation with other state agencies including the Coastal Commission, conduct or facilitate peer review of any studies generated as a result of this bill.

Introduced 12/01/08  
Last Amended 06/23/09  
**Status Vetoed**

### **AB 64 (Krekorian) Energy: renewable energy resources**

This bill would, in relevant part to the Coastal Commission, give the Energy Commission the exclusive authority to issue permits for renewable energy facilities greater than 5 megawatts, effectively pre-empting all local and state regulatory authority. *Amendments of 5/06 exempt projects within the coastal zone from the bill.*

Introduced 12/09/08  
Last Amended 06/23/09  
**Status Vetoed**

### **AB 68 (Brownlee) Solid waste: single-use carry out bags**

This bill would prohibit stores from providing single-use carryout bags to customers after July 10, 2010, unless the store charges a fee of not less than \$0.25 for the bag. The fees collected would be deposited into the Bag Pollution Fund, which the bill would establish, on a quarterly basis. Funds would be expended, after appropriation by the Legislature, to implement programs that educate consumers and reduce the use of plastic bags, and to reduce and mitigate the effects of plastic bag litter.

Introduced 12/12/08  
Last Amended 4/23/09  
Status Assembly Appropriations Committee, Suspense File

**AB 87 (Davis) Single use carryout bags: environmental effects**

This bill would prohibit stores from providing single-use carryout bags to customers after July 10, 2010, unless the store charges a fee of not less than \$0.25 for the bag. The fees collected would be deposited into the Bag Pollution Fund, which the bill would establish, on a quarterly basis. Funds would be expended, after appropriation by the Legislature, to implement programs that educate consumers and reduce the use of plastic bags, and to reduce and mitigate the effects of plastic bag litter.

Introduced 01/05/09  
Last Amended 04/27/09  
Status Assembly Appropriations Committee, Suspense File

**AB 226 (Ruskin) Coastal resources: enforcement**

This bill would give the Coastal Commission administrative civil liability authority and deposit any resulting revenues into the Coastal Act Services Fund (CASF). This bill would also redirect existing civil penalty revenue from State Coastal Conservancy to the Commission's CASF, subject to appropriation by the Legislature. Amendments taken by the author in Senate Natural Resources Committee 6/23 clarify that a lien filed by the Commission would not be a "super lien" and that the provisions of the bill would not apply to local governments when acting in their legislative or quasi-judicial capacity.

Introduced 02/03/09  
Amended 09/03/09  
**Status Passage refused, reconsideration granted, Senate Inactive File**  
**Commission Position Support**

**AB 248 (Lowenthal) Public resources; ballast water management**

This bill would require the owner or operator of a vessel that carries or is capable of carrying ballast water to maintain written or electronic records regarding the make and type of ballast water treatment system, and when and by whom it was approved.

Introduced 02/10/09  
Last amended 07/08/09  
**Status Chaptered with Secretary of State, Chapter 317, Statutes of 2009**

**AB 291 (Saldana) Coastal resources: coastal development permits**

This bill would prohibit the issuance of a coastal development permit for any property for which a notice of violation has been received, unless the Executive Director of the Commission determines that an application has been filed that fully resolves the violation. Amendments of 5/11 clarify that the violation runs with the land, not the person, and exclude de minimis violations from the provisions of the bill. Amendments of 8/17 exempt local governments functioning in their quasi-legislative or quasi-adjudicative capacity.

Introduced 02/13/09  
Last amended 8/17/09  
**Status Passage refused, reconsideration granted, Senate Inactive File**  
**Commission Position Support**

**AB 305 (Nava) Hazardous materials: penalties**

This bill would make failure to report an oil spill or knowingly provide a false or misleading report about an oil spill in waters of the state a crime punishable by a \$50,000 fine, imprisonment, or both.

Introduced 02/17/09  
Last amended 05/06/09  
**Status Chaptered with Secretary of State, Chapter 429, Statutes or 2009**

**AB 650 (Hill) Local government: City of Half Moon Bay**

This bill would require the Infrastructure and Economic Development Bank to loan \$10,000 to the city of Half Moon Bay to purchase the Beachwood property in response to the city's settlement agreement in the matter of *Yamagiwa v. City of Half Moon Bay* (N.D. Cal. 2007). Under the settlement agreement the city waived its right to appeal, and now owes the plaintiff \$18 million in exchange for purchase of the Beachwood property. This is an urgency bill.

Introduced 02/27/09  
Last amended 4/30/09  
Status Assembly Appropriations Committee.

**AB 694 (Saldana) Tidelands and submerged lands: San Diego**

This bill would clarify that all state tidelands underlying U.S. Naval installations in the City of San Diego shall revert back to the jurisdiction of the State Lands Commission after decommissioning, rather than remaining the property of the Navy.

Introduced 02/26/09  
Status **Vetoed, Governor's message below**

To the Members of the California State Assembly:

I am returning Assembly Bill 694 without my signature.

This bill would shift authority over a portion of land from the City of San Diego to the State Lands Commission, effectively removing the ability of the city to cooperate with the United States government in the protection and public use of these tidelands and submerged lands.

Last year, I vetoed a similar measure, AB 1832 (Saldana), which would have applied to tidelands and submerged lands throughout California. I recognize that the author has limited the scope of this bill to tidelands already granted within the City of San Diego. Unfortunately, this measure suffers the same fatal flaw: it imposes trust restrictions on certain tidelands parcels which could significantly undermine the authority of local officials to administer trust resources.

Once again, I believe that local governments have an inherent interest in creating partnerships with the federal government and others in utilizing water front lands for the benefit of the people of California. I remain firm in my belief that they can do so in a way that balances both our environmental and economic interests. For this reason, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger

**AB 783 (Anderson) State agencies: repeal**

This bill would require that all statutorily created state agencies, boards, and state commissions that are funded by General Fund revenues, except for the Franchise Tax Board, be repealed on January 1, 2022.

Introduced 02/26/09  
Status Assembly Business and Professions Committee

**AB 925 (Saldana) Recycling: single use beverage container caps**

This bill would prohibit the sale of single-use plastic beverage containers without a cap that is not affixed to the container.

Introduced 02/26/09  
Last amended 06/30/09  
Status Senate Inactive File  
**Commission position Support**

**AB 964 (Committee)**

This bill would set in statute the provisions of a MOU between the state and several bargaining units representing state employees, regarding calculations for retirement allowances.

Introduced 02/26/09  
Last amended 03/23/09  
Status Assembly Floor, urgency clause failed adoption, reconsideration granted

**AB 1347 (Price) Desalination**

This bill would repeal Section 12949.6 of the Water Code. This section establishes the Water Desalination Task Force, and requires the Department to report to the Legislature no later than July 1, 2004, on the potential opportunities for sea water and brackish water desalination in California. The Commission participated in the task force, but did not sign on to the final report.

Introduced 02/27/09  
Status Assembly Water, Parks and Wildlife Committee

**AB 1358 (Hill) Product management: disposable food containers**

This bill would prohibit food vendors or state facilities from dispensing food or beverages in disposable polystyrene food or beverage containers, beginning January 1, 2012.

Introduced 02/27/09  
Last amended 05/05/09  
Status Assembly Floor, inactive file.

**AB 1408 (Krekorian) Water demand mitigation fund**

This bill would allow a local government to establish a "water demand mitigation fund." The bill would permit public water agencies to use revenues from said funds to implement water efficiency measures in existing structures. The bill would authorize local governments to require developer of new subdivisions (tract maps) to contribute into a water demand mitigation fund, as a condition of approval.

Introduced 02/27/09  
Last amended 04/30/09  
Status Passage refused, reconsideration granted, to inactive file.

**AB 1442 (Committee on Water, Parks and Wildlife)**

This bill would, in relevant part, require the Wildlife Conservation Board to take into consideration areas of the state where public access and hunting/fishing opportunities are most needed when determining which streams and lakes are suitable for hunting and fishing. It would allow the WCB to lease areas of degraded habitat to nonprofit organizations for the purpose of habitat restoration and public access. It would authorize the taking of any game species for a prize or other inducement of reward.

Introduced 02/27/09

Last amended 07/15/09

**Status Chaptered with Secretary of State, Chapter 294, Statutes of 2009**

**AJR 3 (Nava) Offshore oil drilling**

This measure would request that Congress reinstate the federal offshore oil and gas leasing moratorium for the 2009 fiscal year and beyond. This measure also would memorialize the Legislature's opposition to the proposed expansion of oil and gas drilling of the Pacific Coast and any federal energy policies and legislation that would weaken California's role in energy siting decisions by those policies.

Introduced 01/23/09

Last amended 04/30/09

Status Adopted

**SB 4 (Oropeza) State beaches and parks: smoking**

This bill would prohibit smoking of any tobacco product on a state coastal beach on in any unit of the State Parks system. The bill authorizes the Department of Parks and Recreation, or any other relevant state agency, to develop and post signs to provide notice of the smoking prohibition.

Introduced 12/01/08

Last amended 07/13/09

Status Assembly Inactive File

**Commission Position Support**

**SB 21 (Simitian) Fishing gear**

This bill would require the Department of Fish and Game to make recommendations to the Fish and Game Commission regarding a sustainable funding source for the recovery of derelict fishing gear and the prevention of lost of fishing gear. The bill would require any persons and/or vessels who lose fishing gear at sea to report the loss within 48 hours. The bill would require all fishing licenses issued by the DFG to include information and phone numbers related to the new requirement. The bill would also require DFG to establish a data base of all known and reported sites of derelict/lost fishing gear, and to establish performance targets for their removal.

Introduced 12/01/08

Last amended 03/25/09

Status Senate Appropriations Committee, Suspense File

**SB 42 (Corbett) Coastal resources: seawater intake**

This bill would prohibit a state agency from approving any new power plant or industrial facility that utilizes Once-Through-Cooling (OTC). The bill would also establish a per-gallon fee for sea water used for OTC in an amount to be set by the SWRCB. Fees would be deposited in the Marine Life Restoration Account, which the bill would create, within the Coastal Conservancy's Coastal Trust Fund. The bill would also require the SWRCB to establish and implement a statewide policy on the use of sea water for OTC.

Introduced 01/06/09

Last Amended 04/14/09

Status Senate Energy, Utilities and Commerce Committee

**SB 262 (Lowenthal) Coastal resources**

This bill would repeal the requirement that the Commission must meet monthly. Instead, the Commission would be required to meet at least 10 times per year. In the event that the Commission did cancel a meeting, this bill would extend all statutory deadlines to the following month.

Introduced 02/24/09

Last amended 07/13/09

**Status Vetoed, Governor's veto message below**

**Commission Position Support**

To the Members of the California State Senate:

I am returning Senate Bill 262 without my signature.

This bill reduces the number of public meetings the California Coastal Commission (Commission) is required to have from once a month to ten times per year. In addition, in the event the Commission does cancel a meeting, this bill extends the timelines for action by the Commission pursuant to the California Environmental Quality Act and the Permit Streamlining Act.

Given these difficult fiscal times, I appreciate the author's desire to allow the Commission to save money by potentially canceling two meetings each year. But canceling hearings that allow for public input into the Commission's actions is not in the best interests of Californians. The public hearing process was established to serve the citizens of our state and reducing the number of Commission meetings limits opportunities for public participation. I encourage the Commission to find other operational efficiencies within existing law.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger

**SCR 56 (Oropeza) Coastal development and Marina del Rey**

This measure would request that the County of Los Angeles undertake a comprehensive review of its Local Coastal Program prior to any further LCP amendments or permit approvals.

Introduced 08/20/09

Status Senate Natural Resources and Water Committee

**SB 149 (Kehoe) Claims against the state**

This bill in relevant part would make an appropriation in the amount of \$159,084 to the Coastal Commission to pay the judgment in *McAllister v. California Coastal Commission*, Monterey Superior Court, Case No. M73043.

Introduced 02/12/09

**Status Chaptered with Secretary of State, Chapter 170, Statutes of 2009**

**SB 428 (Kehoe) Tide and submerged lands**

This bill would specify that a “marine mammal park for the education and enjoyment of children” is an allowable use for the City of San Diego to authorize at the property known as “Children’s Pool.” The intent of the legislation is to allow the City some relief in deciding how/whether to comply with a 2001 appeals court decision ordering the city to dredge the pool to eliminate harbor seal habitat, in light of a subsequent restraining order to prevent the dredging based on environmental concerns.

Introduced 02/28/09

**Status Chaptered with Secretary of State, Chapter 19, Statutes of 2009**

**SB 459 (Wolk) Tidelands and submerged lands: removal of vessels**

This bill would allow the State Lands Commission to immediately remove without notice any unattended vessel that is moored, docked, beached or stranded in such a way that it is creating a hazardous condition. This bill would provide that any vessel under the State Lands Commission’s jurisdiction that is allowed to persist in an unseaworthy or dilapidated state for more than 30 days shall be declared abandoned and authorize the Commission to sell, destroy or otherwise dispose of the vessel. Any proceeds from the sale of abandoned property, less the commission's costs, be deposited into the General Fund.

Introduced 02/26/09

Last amended 07/14/09

**Status Vetoed, Governor’s veto message below**

To the Members of the California State Senate:

I am returning Senate bill 459 without my signature.

This bill is intended to make it easier for the state, under the authority of the State Lands Commission (Commission), to remove abandoned and other illegally placed vessels and watercraft when they pose a safety or environmental hazard.

I recognize that, to the extent that unattended and abandoned property can be removed from public lands and waterways more quickly, state and local agencies could experience potentially significant savings in court costs and environmental cleanup costs. However, there are also potentially significant costs that the state would incur under this bill since it would enhance the Commission’s ability to remove and dispose of abandoned vessels. These implementation costs cannot be overlooked, especially given the state’s current fiscal condition and the fact that no source of funding is identified in this bill.

The Department of Boating and Waterways currently administers the Abandoned Watercraft Abatement Program, which is funded annually through a legislative appropriation from the Harbors and Watercraft Revolving Fund and which provides grants to local public agencies with jurisdiction over navigable waterways in California and meeting specified criteria, including a 10 percent funding match, for the removal of abandoned vessels and navigational hazards. As such, this program has an identifiable funding source, as well as built-in state cost containments through the annual budgetary process and the prerequisite local funding match.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger



**SB 650 (Yee) Half Moon Bay**

This bill would appropriate \$10 million from Proposition 84 funds to the city of Half Moon Bay to purchase the property known as Beachwood to assist with the city's settlement agreement in the matter of *Yamagiwa v. City of Half Moon Bay* (N.D. Cal. 2007). Under the settlement agreement the city waived its right to appeal, and now owes the plaintiff \$18 million.

Introduced 02/27/09  
Last amended 05/06/09  
Status Senate Natural Resources and Water Committee, Hearing cancelled at author's request.

**SB 790 (Pavley) Coastal resources; project grants**

This bill would make Low Impact Development (LID) projects eligible for Prop 84 bond funds, if those projects contribute to the protection of water quality or reduce storm water runoff, and authorize the State Water Resources Control Board, in consultation with the Coastal Conservancy, to award grants to public agencies and non-profit organizations.

Introduced 02/27/09  
Last amended 07/02/09  
Status **Chaptered with Secretary of State, Chapter 620, Statutes of 2009**

**SB 801 (Walters) Coastal resources: City of Laguna Niguel**

This bill states that it is the intent of the Legislature to revise the current coastal zone boundary to terminate at the western edge of the city. This would remove much of the incorporated area of the city of Laguna Niguel from the coastal zone. *Amendments taken on 4/13 replace the initial language with language that makes technical, non-substantive changes to the California Environmental Quality Act.*

Introduced 02/27/09  
Last amended 04/13/09  
Status Senate Rules  
Commission Position **Oppose**

**SB 833 (Natural Resources and Water Committee) Natural resources**

This bill makes numerous minor changes to several sections of the Public Resources Code, including Section 30716(c)(3)(B) relating to de minimis amendments to Port Master Plans. This bill would delete an inadvertent self cross-reference to (c), and a mistaken cross reference to 30716(b), which governs minor amendments. The bill would replace that cross reference with a referral to 30716(a) which governs regular PMP amendments. This would allow the Commission, if 3 or more members disagree with an Executive Director's determination that a PMP amendment is de minimis, to set the amendment for public hearing.

Introduced 04/15/09  
Last Amended 06/26/09  
Status **Chaptered with Secretary of State, Chapter 208, Statutes of 2009**