

**CALIFORNIA COASTAL COMMISSION**

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**W-23**

August 11, 2010

TO: Coastal Commissioners and Interested Public

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

SUBJECT: LEGISLATIVE REPORT FOR August 2010

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 08/01/10. 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)

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### 2010 Legislative Calendar

Jan 1	Statutes take effect
Jan 4	Legislature reconvenes
Jan 10	Budget must be submitted by Governor
Jan 31	Last day for each house to pass bills introduced in 2009
Feb 19	Last day for bills to be introduced
March 25	Spring Recess begins
April 5	Legislature reconvenes
April 23	Last day for Policy Committees to hear and report 1 <sup>st</sup> House fiscal bills to the Floor
May 7	Last day for Policy Committees to hear and report 1 <sup>st</sup> House nonfiscal bills to the Floor
May 14	Last day for Policy Committees to meet prior to June 7
May 28	Last day for Fiscal Committees to hear and report 1 <sup>st</sup> House fiscal bills to the Floor
June 1-4	Floor Session only. No committees may meet
June 4	Last day to pass bills from house of origin
June 7	Committee meetings may resume
June 15	Budget must be passed by midnight
June 24	Last day for a legislative measure to qualify for the November General Election ballot
July 2	Last day for Policy Committees to hear and report bills to the Floor from the second house
July 2	Summer Recess begins at the end of session if Budget Bill has been enacted
Aug 2	Legislature reconvenes
Aug 13	Last day for Fiscal Committees to meet and report bills to the Floor
Aug 16-31	Floor session only. No committees may meet
Aug 20	Last day to amend bills on the Floor
Aug 31	Last day for any bill to be passed. Interim Recess begins on adjournment of session

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<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**

### **AJR 44 (Hill) Commercial whaling: moratoriums**

This Joint Resolution would request that the President and the Congress of the United States to take stronger steps to conserve and protect whale populations. It would memorialize the Legislature's opposition to the International Whaling Commission's proposal to lift the current moratorium on commercial whaling, which would legalize commercial whaling.

Introduced 02/14/10  
Status Assembly Third Reading

**Commission Position: Support**

### **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 01/13/10  
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  
Last Amended 07/15/10  
Status Passage refused, reconsideration granted, Senate Inactive File

**Commission Position Support**

### **AB 234 (Huffman) Oil spill prevention and response: transfer of oil**

This bill would require "pre-booming" of all marine transfers or loading of petroleum products between vessels, unless it is determined that such pre-booming is unsafe or infeasible. This bill would raise the fee for a barrel of crude oil landed at a marine terminal from \$0.05 to \$0.06, and give the OSPR Administrator the authority to raise that fee according to the CPI, up to a maximum of \$0.10. This bill would increase the fees on non-tank vessels from a maximum of \$2,500 to \$3,000.

Introduced 02/05/09  
Last Amended 07/15/10  
Status Senate Appropriations Committee

**Recommend Support, analysis attached**

**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 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. Amendments taken on 6/30/10 eliminated the previously proposed prohibition on retail sales of non-recycled containers.

Introduced 02/26/09

Last amended 06/30/09

Status Senate Inactive File

**Commission position Support**

**AB 1253 (Harkey) Coastal resources: development: fireworks displays**

This bill would amend Section 30106 of the Coastal Act to exempt local governments from any requirement to obtain a coastal development permit for a fireworks display. This is an urgency measure.

Introduced 02/18/10

Last Amended 06/09/10

Status Senate Natural Resources & Water Committee. Hearing cancelled at request of author.

**AB 1998 (Brownley) Solid waste: single use carry out bags**

This bill would, after July 1, 2013, prohibit convenience food stores, foodmarts, and certain specified stores from providing a single-use carryout bag to a customer. The bill would require stores to only provide reusable bags, as defined, or to make available for sale recycled paper bags at a reasonable cost, but not less than \$0.05.

Introduced 02/18/10

Last Amended 05/28/10

Status Senate Appropriations Committee

**Commission position Support**

**AB 2074 (Monning) Natural resources: Andrew Molera State Wilderness**

This bill would designate the Andrew Molera State Park Wilderness as a component of the California wilderness preservation system. The bill also would authorize the California Coastal Trail to be located, designed, constructed, or operated within the Andrew Molera State Wilderness.

Introduced 02/18/10

Status Assembly Water, Parks & Wildlife Committee

**AB 2503 (Perez) Ocean resources: artificial reefs**

This bill would repeal Section 6429.5 of the Public Resource Code, which establishes the Artificial Reef Program administered by the Department of Fish and Game. In its place, it would create the Marine Life Legacy Act, establishing a program of artificial reef research and development, administered by DFG. The act would authorize the department to conditionally approve the conversion of an offshore oil platform or production facility into an artificial reef, pursuant to CEQA and consistent with specified criteria. The act would require the Ocean Protection Council to consult with and advise the California Coastal Commission and other responsible agencies in determining criteria against which the environmental benefit of any proposed conversions will be judged. It would authorize the department to take title to a decommissioned offshore oil platform or production facility in either state or federal waters, with an accelerated platform decommissioning program. The bill would establish the California Endowment for Marine Preservation, specify the appointment structure for the governing Board of Directors, and require that 10% of the funding be made available to qualified state agencies for approved projects and programs that will conserve, protect, restore, and enhance the open coastal marine resources of the state.

Introduced 02/19/10  
Last Amended 06/21/10  
Status Senate Appropriations Committee

**AB 2228 (Lieu) Vehicles: overnight parking**

This bill that would exempt the city of Los Angeles from requiring a coastal development permit to establish a preferential parking zone in the community of Venice, if the parking restrictions applied to public streets between the hours of 2-5 a.m. the bill would also allow the city to establish ordinances that would allow residents to park during those times, without the need for Coastal Commission approval.

Introduced 02/03/10  
Last Amended 04/08/10  
Status Assembly Natural Resource Committee. Hearing cancelled at request of author

**Commission position: Oppose**

**AB 2598 (Brownlee) Tidelands and submerged lands: seal level action plans**

This would require trustees of granted public trust lands to take all reasonable actions to prepare for sea level rise. The bill would require the agencies to prepare a sea level rise plan prior to July 1, 2012, and submit the plan to Natural Resources Agency, the Governor's Office of Planning and Research, and the State Lands Commission. The bill would require the plan to include, among other things, an assessment of the impact of sea level rise on granted public trust lands, an estimate of the financial cost of this impact, and strategies to prevent or mitigate damage to development and infrastructure and to protect and enhance habitat.

Introduced 02/19/10  
Last Amended 07/15/10  
Status Senate Natural Resources and Wildlife Committee

**AB 2664 (Chesbro) State Lands Commission: violations**

This bill would authorize the State Lands Commission to administer a civil penalty for any violation involving the placement of any structure or facility on any lands under the Commission's jurisdiction without a valid lease or permit. The civil penalty could not exceed \$1,000 per day.

Introduced 02/19/10  
Last Amended 04/14/10  
Status Senate Third Reading

**AJR 26 (Chesbro) Climate change**

This joint resolution request that the U.S. congress establish a comprehensive framework for climate change adaptation focusing on wildlife, habitats, coasts, watersheds, rivers and other natural resources and ecosystems, and dedicate funding to that effort.

Introduced 09/09/09  
Status Senate Third Reading

**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. Amendments of 3/11 allow smoking in campgrounds and the Oceano Dunes State Vehicular Recreation Area.

Introduced 12/01/08  
Last amended 03/11/10  
Status Vetoed by Governor

**Commission Position Support**

**SB 21 (Simitian) Fishing gear**

This bill would require the Department of Fish and Game to include on all fishing licenses any toll-free telephone numbers, websites or addresses available for the purpose of reporting derelict fishing gear. Amendments taken on 6/10/10 would authorize the Ocean Protection Council to develop recommendations for the identification, removal, and disposal of derelict fishing gear and procedures that enable fishermen and fisheries to voluntarily, recover, remove, and keep derelict fishing gear.

Introduced 12/01/08  
Last amended 06/10/10  
Status Assembly Third Reading

**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 941 (Wyland) Parks and recreation: State park system**

This is a spot bill that may be amended to address a coastal issue.

Introduced 02/03/10  
Status Senate Rules Committee

**SB 959 (Ducheny) Development: expedited permit review**

This bill would require the Office of Planning and Research (OPR) to develop guidelines to cities and counties for the development of an expedited permitting process. The guidelines would be advisory only. The bill would require every county or city to provide for coordinated review and decision making and the provision of information regarding the status of all applications and permits for residential, commercial, and industrial developments by a single administrative entity. Amendments of 04/05 declare this to be an urgency statute, requiring a 2/3 vote.

Introduced 02/05/10  
Last amended 06/22/10  
Status Senate Appropriations Committee, Suspense File

**SB 1001 (Strickland) State property: San Buenaventura State Beach**

This bill would terminate a recorded deed restriction from a vacant parcel of land and an adjacent public pier which limits its use to public recreational purposes. The parcel was given to the City of Ventura by the Department of Parks and Recreation in 1987 on the condition that it would be used exclusively for public park purposes. Removal of the deed restriction would make the property available for non-park uses such as commercial and/or residential facilities.

Introduced 02/09/10  
Status Senate Governmental Organization Committee. Hearing cancelled at request of author.

**SB 1006 (Pavley) Natural resources: climate change**

This bill would require the Strategic Growth Council too coordinate programs that address global climate change, and provide guidelines to local governments to assist in developing climate change adaptation strategies. The bill would also authorize the Council to provide financial assistance to local governments that undertake climate adaptation plans, projects or strategies.

Introduced 02/10/10  
Last Amended 06/21/10  
Status Senate Appropriations Committee, Suspense File

**SB 1034 (Ducheny) Archeological resources: civil penalties**

This bill would establish the maximum penalty for someone who knowingly excavates or damages an archeological resource on public lands to be \$10,000, one-year in a County jail, or both. The bill would also require a court to order restitution to the state agency with primary management jurisdiction over the land on which the damage occurred. The bill also authorizes forfeiture of the archeological resource(s), and any vehicles and/or equipment used in its excavation.

Introduced 02/12/10  
Last Amended 04/14/10  
Status Assembly Appropriations Committee

**SB 1177 (Kehoe) Agriculture: 22<sup>nd</sup> District Agricultural Association**

This bill would require the 22<sup>nd</sup> Agricultural District in the County of San Diego to establish and maintain a 100-foot greenway buffer zone and public access trail between the San Dieguito river and adjacent wetlands, and proposed new development at the District's property at that location.

Introduced 02/03/10  
Last Amended 07/01/10  
Status Senate Agriculture Committee

**HR 3534, the Consolidated Land, Energy and Aquatic Resources Act of 2009**

This bill contains provisions regarding federal oil and gas development, oil and gas royalty reform, creation of the agencies within Department of Interior's, new requirements for oil and gas spill prevention and response, and funding Gulf of Mexico restoration. Of most relevance to the Coastal Commission are provisions in the bill that: 1) establish a "Ocean Resource Conservation Assistance (ORCA) Fund", and 2) establish Regional Coordination Councils to improve coordination and collaboration between Federal, state and local agencies with authorities for ocean, coastal and Great Lakes management. Similar to the Land and Water Conservation Fund (LWCF), the ORCA Fund would use a portion of oil and gas lease sale receipts to fund ocean and coastal resource conservation, protection, maintenance, and restoration; eligible activities also include: planning for and managing coastal development to minimize the loss of life and property associated with sea level rise and associated coastal hazards and research, assessment, monitoring and dissemination of information that contributes to achieving the above purposes. A portion of the ORCA Fund would also be used for grants to Regional Ocean Partnerships.

Status: Passed the House on Friday, July 30, 2010. Senate or Conference Committee action date uncertain

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### BILL ANALYSIS

#### AB 234 (Huffman) Oil spill prevention and response

As Amended July 15, 2010

#### RECOMMENDED ACTION

Staff recommends the Commission **Support** AB 234.

#### SUMMARY

AB 234 would amend the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act to require the use of booms around any vessel that loads oil or lubricants to another vessel, unless “pre-booming” is determined not to be safe or effective. This bill would also raise the fee assessed on barrels of oil landed at a marine terminal from \$0.05 to \$0.06 landed at a marine terminal, and give the Office of Spill Prevention and Response (OSPR) Administrator the authority to adjust the fee in accordance with the Consumer Price Index (CPI). The bill would also increase the fees on non-tank vessels to a maximum of \$3,000. The fees would continue to be used to fund spill prevention and response activities and programs.

#### PURPOSE OF THE BILL

The purpose of the bill is to require greater measures to prevent and contain oil spills in the marine environment, and to increase funding for California’s oil spill prevention, preparedness, and response programs.

#### EXISTING LAW

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (The Act) of 1990 (Commencing with Government Code 8670.1) gives primary authority to the OSPR Administrator to direct the prevention, preparedness, containment, and cleanup of oil spills affecting State waters, as well as the authority to require natural resource restoration and conduct studies and incorporate the findings into spill prevention, preparedness and response programs throughout California.

The Act and other existing law give the State Lands Commission (SLC) jurisdiction over oil spills at offshore drilling platforms operating on submerged lands owned by the state. In addition, the Act and other existing law give the Coastal Commission and the San Francisco Bay Conservation Commission (BCDC) additional oil spill prevention and response program responsibilities within their jurisdictions.

Existing Regulations (14 CCR 840 - 845.2) require a vessel to either provide 1) pre-booming of the water surrounding a transfer operation or 2) stand-by booming, which is the ability to deploy at least 600 feet of boom within 30 minutes of discovering a spill. In both situations, the vessel must have access to an additional 600 feet of boom that can be deployed within one hour in the event of a spill.

#### PROGRAM BACKGROUND

The Office of Spill Prevention and Response is a division of the Department of Fish and Game, and is the lead State agency in charge of California's oil spill prevention, preparedness, response, and natural resource restoration. The OSPR was established by the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (The Act) of 1990. The Act gives the OSPR Administrator substantial authority to



direct all oil spill prevention, response and clean-up activities, natural resource damage assessment and restoration, as well as the authority to conduct studies and incorporate the findings into spill prevention and response programs throughout California.

As a division of the Department of Fish and Game, OSPR retains the Department's regulatory authority and public trustee responsibility to protect and manage the State's wildlife, plants, and their habitats. The Department is the only coastal state agency in the United States that has a combined regulatory, pollution response, and public trustee authority for wildlife resources. The OSPR's combined regulatory and trustee authority assures that oil spill prevention, as well as response, will safeguard wildlife and the ecosystems in which they live, and restore habitats damaged by pollution incidents.

The Oil Spill Administration Fund (OSPAPF) is the sole funding source for the OSPR's numerous statewide spill prevention, preparedness and response programs. The OSPAPF also funds the oil spill prevention programs of the SLC, the Coastal Commission, and BCDC. The OSPAPF is funded by a fee imposed on each barrel of oil or petroleum product delivered to a marine terminal. The current cap on the fee is \$0.05 per barrel, with a maximum fee on non-tank vessels of \$2,500. The Coastal Commission, Bay Conservation Commission, and State Lands Commission all participate in oil spill prevention programs funded by the OSPAPF.

## **ANALYSIS**

At issue are two basic questions:

- 1) Is an increase in the fees warranted?
- 2) Would pre-booming reduce environmental impacts of marine oil spills?

### **Fee Increase**

The last fee increase from \$0.04 to \$0.05 occurred in 2002. Adjusted for inflation, the California Research Bureau estimates that this is now worth approximately \$0.03 in 2002 dollars. During this time, the OSPR program has taken on new responsibilities and significantly expanded its oil spill prevention and preparedness programs since the last fee increase in 2002, most notably because of legislation in 2008 in response to the Cosco Busan 2007 spill (e.g. expanded drills and exercise programs, vessel inspections, and shoreline protection strategy testing). If fee revenues to the OSPAPF are not increased, it is projected that the OSPR's budget for current operation levels would be in deficit by 2012, requiring a curtailment or reduction of its statewide oil spill prevention and preparedness programs. In addition, without a fee increase there will be a reduction in funds for the operation of the Coastal Commission, SLC, and BCDC oil spill prevention and response programs.

### **Pre-Booming**

Opponents of the bill argue that pre-booming is not necessary, as adequate precautions are already taken under existing regulations, and that pre-booming is not feasible in many cases because of strong currents. However, the author cites the Dubai Star spill in San Francisco Bay on October 30, 2009, as an example where a spill could have been largely contained by pre-booming. Instead, it was too late to deploy the booms by the time operators realized that the Dubai Star's fuel tank was overflowing, and as much as 800 gallons of bunker fuel was released into the bay as a result.

While some ocean conditions may not be conducive to pre-booming, technological advances have the potential to increase the efficacy of pre-booming. For instance, opponents contend that booming in

currents over 0.7 knots is ineffective. Since currents in San Francisco Bay exceed 1.0 knots 67% of the time, booms are rarely used in the Bay. But boom technologies used in the Columbia River are regularly deployed as a preventative measure despite the fact that currents there exceed 1.0 knot. Highly advanced booms in Norway are deployed in currents from 3-5 knots.

But even if booms were completely ineffective in currents exceeding .07 knots, that would mean 33% of the time pre-booming would be indicated prior to transferring petroleum products between vessels. Thus, even the worst-case-scenario with respect to effectiveness would improve preventative standards by one-third. However, it is reasonable to expect that pre-deployed booms in currents faster than 0.7 knots would contain some percentage of spilled oil, thus providing a modicum of improved environmental protection.

### **SUPPORT/OPPOSITION (as of 08/01/10)**

#### **Support for AB 234**

Pacific Environment – sponsor  
Association of Bay Area Governments  
Blue Frontier Campaign  
California Association of Professional Scientists  
California League of Conservation Voters  
Center for Biological Diversity  
Center for Oceanic Awareness, Research, and Education  
Clean Water Action  
Crab Boat Owners Association  
Defenders of Wildlife  
East Bay Bird Advocates  
Environment California  
Environmental Defense Center  
Farallones Marine Sanctuary Association  
Friends of the Earth  
Marin Audubon Society  
Marine Conservation Biology Institute  
Natural Resources Defense Council

Ocean Conservancy  
Ocean Conservation Research  
Ocean Defenders Alliance  
Oceana  
Pacific Coast Federation of Fisherman's Association  
Richmond Shoreline Citizens Response  
Save the Bay  
Save the San Francisco Bay  
Surfrider Foundation  
Turtle Island Restoration Network  
Waterways Restoration Institute

#### **Opposition to AB 234:**

California Labor Federation  
Department of Fish and Game  
Matson Navigation Company  
Pacific Merchant Shipping Assn.  
Sailors' Union of the Pacific  
San Francisco Harbor Safety Committee

AMENDED IN SENATE AUGUST 2, 2010  
AMENDED IN SENATE JULY 15, 2010  
AMENDED IN SENATE JUNE 23, 2010  
AMENDED IN SENATE JUNE 16, 2010  
AMENDED IN SENATE JUNE 9, 2010  
AMENDED IN SENATE JUNE 1, 2010  
AMENDED IN SENATE DECEMBER 16, 2009  
AMENDED IN SENATE JULY 16, 2009  
AMENDED IN SENATE JUNE 9, 2009  
AMENDED IN ASSEMBLY MAY 18, 2009  
AMENDED IN ASSEMBLY MAY 6, 2009  
AMENDED IN ASSEMBLY APRIL 23, 2009  
AMENDED IN ASSEMBLY APRIL 14, 2009  
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 234**

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**Introduced by Assembly Member Huffman**

February 5, 2009

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An act to amend Sections 8670.40 and 8670.41 of, and to add Section 8670.17.3 to, the Government Code, *and to add Section 6226 to the Public Resources Code*, relating to oil spills.

## LEGISLATIVE COUNSEL'S DIGEST

AB 234, as amended, Huffman. Oil spill prevention and response: transfer of oil.: *State Lands Commission*.

~~The~~

(1) *The* Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law requires the administrator to adopt and implement regulations regarding the equipment, personnel, and operation of vessels to and from marine terminals that are used to transfer oil.

This bill would require the administrator to adopt regulations governing oil transfers that would require a transfer unit, as defined, to provide, at the point of transfer, appropriate equipment and supplies for the containment and removal of spills of oil in water adjacent to the transfer site. The regulations would require the transfer unit, prior to beginning an oil transfer, to preboom each oil transfer for the duration of the transfer, unless prebooming is determined not to be safe and effective.

~~Existing~~

(2) *Existing* law imposes an oil spill prevention and administration fee in an amount determined by the administrator to implement oil spill prevention activities, but not to exceed \$0.05 per barrel of crude oil or petroleum products, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, money in the fund is available for specified purposes.

This bill would revise that fee to an amount not to exceed \$0.06 per barrel of crude oil or petroleum products. The bill would also authorize the administrator to adjust the fee annually as measured by the California Consumer Price Index.

~~Existing~~

(3) *Existing* law requires the administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing certain provisions relating to nontank vessels. Revenue from the fee is deposited into the

Oil Spill Prevention and Administration Fund for appropriation by the Legislature for specified purposes.

This bill would establish that fee at \$3,000 per nontank vessel.

*(4) Under existing law, the State Lands Commission has jurisdiction over state lands and ungranted tidelands and submerged lands owned by the state.*

*This bill would require the State Lands Commission, on or before July 1, 2011, to report to the Legislature on regulatory action, pending or already taken, and statutory recommendations for the Legislature to ensure maximum safety and prevention of harm during offshore oil drilling.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 8670.17.3 is added to the Government
- 2 Code, to read:
- 3 8670.17.3. (a) For purposes of this section, the following
- 4 definitions apply:
- 5 (1) "Boom" means flotation boom or other effective barrier
- 6 containment material suitable for containment of oil that is
- 7 discharged onto the surface of water.
- 8 (2) "Transfer unit" means a vessel involved in a bunkering or
- 9 lightering operation.
- 10 (b) The administrator shall adopt regulations governing oil
- 11 transfers that would require a transfer unit to provide, at the point
- 12 of transfer, appropriate equipment and supplies for the containment
- 13 and removal of spills of oil in water adjacent to the transfer site.
- 14 These regulations shall require the transfer unit, prior to beginning
- 15 an oil transfer, to preboom each oil transfer for the duration of the
- 16 transfer, unless prebooming is determined not to be safe and
- 17 effective according to subdivision (d). The regulations shall be
- 18 adopted, and thereafter periodically revised, to ensure the best
- 19 achievable protection of the public health and safety and the
- 20 environment.
- 21 (c) The regulations in subdivision (b) shall include, but are not
- 22 limited to, all of the following:
- 23 (1) Minimum boom amounts to which a vessel shall have access.

1 (2) Requirements for the transfer unit to periodically check the  
2 boom positioning and adjust as necessary throughout the duration  
3 of the transfer, and specifically during tidal changes and significant  
4 wind or wave events, to maintain maximum containment of any  
5 oil spilled into the water.

6 (3) Requirements for positing of boom to provide maximum  
7 containment of any oil spilled into the water.

8 (4) Alternatives to prebooming when prebooming is determined  
9 not to be safe and effective pursuant to subdivision (d) including,  
10 but not limited to, minimum boom amounts and boom positioning  
11 requirements, availability of an oil spill tracking system in the  
12 event of a spill, and response preparedness requirements.

13 (d) The regulations in subdivision (b) shall include requirements  
14 for a transfer unit to develop thresholds for each location at which  
15 it conducts oil transfers to determine when it is safe and effective  
16 to preboom on a case-by-case basis.

17 (1) The thresholds shall be based on all of the following:

18 (A) Personnel safety.

19 (B) Sea state values in feet, including typical wave periods.

20 (C) Water current velocity.

21 (D) Wind speed.

22 (E) Other conditions such as vessel traffic, fishing activities,  
23 and other factors that influence oil transfers.

24 (2) The transfer unit shall develop a safe and effective  
25 determination threshold report that includes a summary of the safe  
26 and effective threshold values as well as information and analysis  
27 to support the values. The report shall be submitted to the Office  
28 of Spill Prevention and Response for review and approval.

29 (e) The regulations shall include a standard method for the vessel  
30 operator to communicate to the Office of Spill Prevention and  
31 Response when an operation was not preboomed, a process for  
32 reviewing the notifications, and a course of action when a vessel  
33 operator did not preboom, but the office determines it would have  
34 been safe and effective to preboom.

35 SEC. 2. Section 8670.40 of the Government Code is amended  
36 to read:

37 8670.40. (a) The State Board of Equalization shall collect a  
38 fee in an amount determined by the administrator to be sufficient  
39 to carry out the purposes set forth in subdivision (e), and a  
40 reasonable reserve for contingencies. The annual assessment may

1 not exceed six cents (\$0.06) per barrel of crude oil or petroleum  
2 products. The administrator may adjust the fee annually for  
3 inflation, as measured by the California Consumer Price Index.

4 (b) (1) The oil spill prevention and administration fee shall be  
5 imposed upon a person owning crude oil at the time that the crude  
6 oil is received at a marine terminal from within or outside the state,  
7 and upon a person owning petroleum products at the time that  
8 those petroleum products are received at a marine terminal from  
9 outside this state. The fee shall be collected by the marine terminal  
10 operator from the owner of the crude oil or petroleum products  
11 based on each barrel of crude oil or petroleum products so received  
12 by means of a vessel operating in, through, or across the marine  
13 waters of the state. In addition, an operator of a pipeline shall pay  
14 the oil spill prevention and administration fee for each barrel of  
15 crude oil originating from a production facility in marine waters  
16 and transported in the state by means of a pipeline operating across,  
17 under, or through the marine waters of the state. The fees shall be  
18 remitted to the board by the terminal or pipeline operator on the  
19 25th day of the month based upon the number of barrels of crude  
20 oil or petroleum products received at a marine terminal or  
21 transported by pipeline during the preceding month. A fee shall  
22 not be imposed pursuant to this section with respect to crude oil  
23 or petroleum products if the person who would be liable for that  
24 fee, or responsible for its collection, establishes that the fee has  
25 been collected by a terminal operator registered under this chapter  
26 or paid to the board with respect to the crude oil or petroleum  
27 product.

28 (2) An owner of crude oil or petroleum products is liable for  
29 the fee until it has been paid to the board, except that payment to  
30 a marine terminal operator registered under this chapter is sufficient  
31 to relieve the owner from further liability for the fee.

32 (3) On or before January 20, the administrator shall annually  
33 prepare a plan that projects revenues and expenses over three fiscal  
34 years, including the current year. Based on the plan, the  
35 administrator shall set the fee so that projected revenues, including  
36 interest, are equivalent to expenses as reflected in the current  
37 Budget Act and in the proposed budget submitted by the Governor.  
38 In setting the fee, the administrator may allow for a surplus if the  
39 administrator finds that revenues will be exhausted during the

1 period covered by the plan or that the surplus is necessary to cover  
2 possible contingencies.

3 (c) The moneys collected pursuant to subdivision (a) shall be  
4 deposited into the fund.

5 (d) The board shall collect the fee and adopt regulations for  
6 implementing the fee collection program.

7 (e) The fee described in this section shall be collected solely  
8 for all of the following purposes:

9 (1) To implement oil spill prevention programs through rules,  
10 regulations, leasing policies, guidelines, and inspections and to  
11 implement research into prevention and control technology.

12 (2) To carry out studies that may lead to improved oil spill  
13 prevention and response.

14 (3) To finance environmental and economic studies relating to  
15 the effects of oil spills.

16 (4) To reimburse the member agencies of the State Interagency  
17 Oil Spill Committee for costs arising from implementation of this  
18 chapter, Article 3.5 (commencing with Section 8574.1) of Chapter  
19 7 of this code, and Division 7.8 (commencing with Section 8750)  
20 of the Public Resources Code.

21 (5) To implement, install, and maintain emergency programs,  
22 equipment, and facilities to respond to, contain, and clean up oil  
23 spills and to ensure that those operations will be carried out as  
24 intended.

25 (6) To respond to an imminent threat of a spill in accordance  
26 with the provisions of Section 8670.62 pertaining to threatened  
27 discharges. The cumulative amount of an expenditure for this  
28 purpose shall not exceed the amount of one hundred thousand  
29 dollars (\$100,000) in a fiscal year unless the administrator receives  
30 the approval of the Director of Finance and notification is given  
31 to the Joint Legislative Budget Committee. Commencing with the  
32 1993–94 fiscal year, and each fiscal year thereafter, it is the intent  
33 of the Legislature that the annual Budget Act contain an  
34 appropriation of one hundred thousand dollars (\$100,000) from  
35 the fund for the purpose of allowing the administrator to respond  
36 to threatened oil spills.

37 (7) To reimburse the board for costs incurred to implement this  
38 chapter and to carry out Part 24 (commencing with Section 46001)  
39 of Division 2 of the Revenue and Taxation Code.



1 (8) To reimburse the costs incurred by the State Lands  
2 Commission in implementing the Oil Transfer and Transportation  
3 Emission and Risk Reduction Act of 2002 (Division 7.9  
4 (commencing with Section 8780) of the Public Resources Code).

5 (9) To cover costs incurred by the Oiled Wildlife Care Network  
6 established by Section 8670.37.5 for training and field collection,  
7 and search and rescue activities, pursuant to subdivision (g) of  
8 Section 8670.37.5.

9 (f) The moneys deposited in the fund shall not be used for  
10 responding to an oil spill.

11 SEC. 3. Section 8670.41 of the Government Code is amended  
12 to read:

13 8670.41. (a) The administrator shall charge a nontank vessel  
14 owner or operator a fee, to be collected with each application to  
15 obtain a certificate of financial responsibility, in the amount of  
16 three thousand dollars (\$3,000) per nontank vessel for the  
17 administrator's costs in implementing this chapter relating to  
18 nontank vessels.

19 (b) Notwithstanding subdivision (a), the administrator may  
20 charge a reduced fee under this section for nontank vessels  
21 determined by the administrator to pose a reduced risk of pollution,  
22 including, but not limited to, vessels used for research or training  
23 and vessels that are moored permanently or rarely move.

24 (c) The administrator shall deposit all revenue derived from the  
25 fees imposed under this section in the Oil Spill Prevention and  
26 Administration Fund established in the State Treasury under  
27 Section 8670.38.

28 (d) Revenue derived from the fees imposed under this section  
29 shall be spent for the purposes listed in subdivision (e) of Section  
30 8670.40, and may not be used for responding to an oil spill.

31 SEC. 2. Section 6226 is added to the Public Resources Code,  
32 to read:

33 6226. (a) *On or before July 1, 2011, the commission shall*  
34 *report to the Legislature on regulatory action, pending or already*  
35 *taken, and statutory recommendations for the Legislature to ensure*  
36 *maximum safety and prevention of harm during offshore oil*  
37 *drilling. The report shall include, but not be limited to, all of the*  
38 *following:*

39 (1) *A comprehensive set of requirements for offshore oil drilling*  
40 *rigs operating in state waters to have fully redundant and*

1 *functioning safety systems to prevent a failure of a blowout*  
2 *preventer from causing a major oil spill.*

3 *(2) A complete description of a response plan to control a*  
4 *blowout and manage the accompanying discharge of hydrocarbons,*  
5 *including both of the following:*

6 *(A) The technology and timeline for regaining control of a well.*

7 *(B) The strategy, organization, and resources necessary to avoid*  
8 *harm to the environment and human health from hydrocarbons.*

9 *(3) Requirements for the use of the best available and safest*  
10 *technologies and practices, if the failure of equipment would have*  
11 *a significant effect on safety, health, or the environment.*

12 *(b) (1) A report to be submitted pursuant to subdivision (a)*  
13 *shall be submitted in compliance with Section 9795 of the*  
14 *Government Code.*

15 *(2) Pursuant to Section 10231.5 of the Government Code, this*  
16 *section is repealed on January 1, 2015.*