

CALIFORNIA COASTAL COMMISSION

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**W-31**

April 13, 2011

TO: Coastal Commissioners and Interested Public

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

SUBJECT: LEGISLATIVE REPORT FOR APRIL 2011

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 04/05/11. Changes in the status of some bills may have occurred between the date this report was prepared and the presentation date.¹ The Governor has 30 days from the date of passage to sign or veto enrolled bills. Current status of any bill may be checked by visiting the California Senate Homepage at www.senate.ca.gov. This report can also be accessed through the Commission's World Wide Web Homepage at www.coastal.ca.gov

2011 Legislative Calendar

Jan 1	Statutes take effect
Jan 3	Legislature reconvenes
Jan 10	Budget must be submitted by Governor
Jan 21	Last day to submit bill requests to Legislative Counsel
Feb 18	Last day for bill introduction
April 14	Spring Recess begins
April 25	Legislature reconvenes
May 6	Last day for Policy Committees to hear and report 1 st House fiscal bills to the Floor
May 13	Last day for Policy Committees to hear and report 1 st House non-fiscal bills to the Floor
May 20	Last day for Policy Committees to meet prior to June 7
May 27	Last day for Fiscal Committees to hear and report 1 st House fiscal bills to the Floor
May 31-June 3	Floor Session only. No committees may meet
June 3	Last day to pass bills from house of origin
June 6	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 8	Last day for Policy Committees to hear and report bills to the Floor from the second house
July 15	Summer Recess begins at the end of session if Budget Bill has been enacted
Aug 15	Legislature reconvenes
Aug 26	Last day for Fiscal Committees to meet and report bills to the Floor
Aug 29-Sept 9	Floor session only. No committees may meet
Sept 2	Last day to amend bills on the Floor
Sept 9	Last day for any bill to be passed. Interim Recess begins on adjournment of session

¹ 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

AB 206 (Harkey), Coastal resources: fireworks displays

This bill would provide that a fireworks display conducted by a public entity does not constitute “development” as defined by the Coastal Act. *Amendments on 3/24 expand the bill to exempt fireworks displays from CEQA, replace the term “public entity” with the term “municipal fireworks display,” and define it as follows:*

“a public display of fireworks conducted, organized, or sponsored by a city or county.”

Introduced	01/27/11
Status	Assembly Natural Resources Committee
Last Amended	03/24/11
Commission position	Oppose

AB 337 (Monning) Ocean Protection Council: sustainable seafood

This bill would require the Ocean Protection Council to develop and implement a voluntary sustainable seafood program for the state, including a marketing assistance program for seafood caught in California that follows the protocols established by the program. *Amendments of 3/25 specify that the OPC shall follow a transparent public process.*

Introduced	02/10/11
Last Amended	03/25/11
Status	Passed Assembly Water, Parks and Wildlife Committee

AB 376 (Fong) Shark fins

This bill would make it a crime to possess, sell, trade, offer for sale or distribute a detached shark fin in any form, other than one that has been obtained from a shark landed lawfully with a commercial or recreational license or permit.

Introduced	02/10/11
Last Amended	03/14/11
Status	Passed Assembly Natural Resources Committee
Commission position	Support

AB 484 (Alejo) Land use: natural resources: transfer of long term management funds

This bill would authorize funds set aside for the long-term management of any lands or easements conveyed to a nonprofit organization to also be conveyed directly to the nonprofit organization. The bill also provides that the funds shall revert to the state or local public agency if the nonprofit ceases operations, is dissolved, becomes insolvent or fails to perform its duties.

Introduced	02/10/11
Last Amended	03/29/11
Status	Passed Assembly Natural Resources Committee

AB 565 (Monning) Conservation: State Coastal Conservancy

This bill would authorize the State Coastal Conservancy to award a grant to a for-profit company for dam removal or alteration if .the project were of regional or statewide significance, the Conservancy determined that no public agency or non-profit entity could achieve the same result.

Introduced 02/16/11
Status Assembly Natural Resources Committee

AB 1112 (Huffman)

This bill would raise the fee of \$.05 per-barrel of oil landed at a marine terminal to \$.08. The bill would require the OSPR administrator to conduct a screening mechanism and risk assessment of vessels engaged in fuel bunkering or lightering.

Introduced 01/27/11
Status Assembly Natural Resources Committee
Commission position Support

SB 1 (Kehoe) 22nd Agricultural Association: Del Mar Racetrack: sale of state property

This bill would divide the 22nd Ag District in San Diego County into two separate entities. The newly created Agricultural District 22a would be comprised of the Del Mar Racetrack and Fair Grounds. The bill would authorize the Department of General Services to sell the assets of District 22a to the City of Del Mar. Upon completion of the sale, Agricultural District 22a would be dissolved.

Introduced 12/06/10
Status Senate Government Organization Committee

SB 366 (Calderon, Pavley) Regulations: agency review

This bill would require all state agencies, including the Coastal Commission, within 180 days of enactment of the bill, to review and revise/repeal all regulations that are considered duplicative, overlapping, inconsistent or out of date. All agencies, including the Commission, would have to report to the Legislature and the Governor on any actions taken to address this requirement. This bill would also create the "Streamlined Permit Review Team" consisting of the Secretary of Business, Transportation and Housing, the Secretary for Environmental Protection and the Secretary for Natural Resources. Upon request of any applicant, the SPRT would be convene all applicable permitting agencies with jurisdiction over an application, to coordinate actions on permits, eliminate delays, reduce paperwork, and ensure that agencies take action in the earliest feasible timeframe. The bill creates time limits for agencies to review and act on applications. If those timelines are not met, the projects would be deemed approved by operation of law.

Introduced 02/15/11
Status Senate G.O. Committee

SB 468 (Kehoe) Department of Transportation: capacity-increasing state highway projects: coastal zone

This bill would prohibit the expansion of freeways in the coastal zone until existing, approved, but undeveloped public transportation projects that meet the same goals are completed. It would also require Caltrans to identify and mitigate the impacts of increased traffic on city and county streets that result from freeway expansion projects, and require Caltrans to identify ways to meet program goals without compromising unique coastal zone features. *Amendments of 3/29 require consultation with the Coastal Commission, require projects to demonstrate that they will reduce vehicle miles travelled, and expand the Legislative findings and declarations.*

Introduced	02/17/11
Last amended	03/29/11
Status	Senate Rules Committee
Commission position	Support, if amended

SB 568 (Lowenthal) Recycling: polystyrene food containers

This bill would prohibit any food vendor, after January 1, 2013, from dispensing prepared food to a customer in a polystyrene foam food container. The measure would not apply to correctional facilities or food vendors selling freshly cut meat.

Introduced	02/17/11
Status	Passed Senate Environmental Quality Committee
Commission Position	Recommend Support—analysis attached

SB 587 (Gordon) Public works: volunteers

This bill would extend until 2017 the sunset provision in existing law that allows volunteers, volunteer coordinators and California Conservation Corps staff to work for free or for less than prevailing wage on projects that are funded in whole or in part by public funds.

Introduced	02/17/11
Last amended	03/29/11
Status	Senate Labor and Employment Committee

SB 588 (Evans) Coastal Commission: enforcement

This bill would authorize the Coastal Commission to collect administrative civil penalties up to \$50,000 per violation. The bill would require that any penalties collected for violation of the Coastal Account be deposited into the Coastal Act Services Fund.

Introduced	02/17/11
Status	Passed Senate Natural Resources Committee. Double-referred to Senate Judiciary.
Commission position	Support

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BILL ANALYSIS
SB 568 (Lowenthal)
As Introduced, January 17, 2011

SUMMARY

SB 568 would prohibit any food vendor, after January 1, 2013, from dispensing prepared food to a customer in a polystyrene foam food container

PURPOSE OF THE BILL

The purpose of the bill is to reduce the amount of non-biodegradable, petroleum-based food containers in the waste stream and reduce ocean debris.

EXISTING LAW

The state does not specifically regulate polystyrene food containers, however, forty seven jurisdictions in California have already banned this type of container. Under the Integrated Waste Management Act of 1989 (IWMA) cities and counties are required to divert 50% of their solid waste by 2000. The IWMA provides various programs to reduce litter and educate consumers about the importance of recycling. (§40000 et seq.).

LEGISLATIVE HISTORY

The legislature has considered a number of related measures over the last few years, including:

- **AB 904 (Feuer)** of 2008 would have prohibited a takeout food provider from distributing single-use food service packaging to a consumer unless the packaging is either compostable or recyclable. This bill died in the Senate Appropriations Committee.
- **AB 1329 (Brownley)** of 2009 would have prohibited the sale and distribution of rigid polyvinyl chloride packaging containers. This bill was amended on the Senate Floor to address another policy matter.
- **AB 1358 (Hill)** of 2009 would have prohibited a food vendor from dispensing prepared food to a customer in a disposable polystyrene food container, a disposable nonrecyclable plastic food container, or a disposable nonrecycled content paper container. It would have allowed a food vendor to distribute prepared food in a compostable plastic container in a jurisdiction where organic waste is collected curbside for composting. This bill was amended on the Assembly Floor to address another policy matter.
- **AB 2138 (Chesbro)** of 2010 would have prohibited a food provider from distributing disposable food service packaging, including bags, to a consumer unless it is either compostable or recyclable, as defined. AB 2138 would have also prohibited a food provider from distributing disposable food service packaging, including bags, to a consumer, unless the Department of Resources Recycling and Recover determines the disposable food service packaging is recovered for composting or recycling at a rate of 25% or more. This bill died in the Assembly Appropriations Committee.

BACKGROUND

Ocean debris is a significant threat to the world's oceans. Approximately 90% of floating marine debris is comprised of plastic, and 80% is land-based. Because plastic is non-biodegradable, buoyant, and inherently toxic, it is particularly harmful to marine wildlife. Birds, fish and mammals often mistake plastic for food. Some birds even feed it to their young. With plastic filling their stomachs, animals have a false feeling of being full, and may die of starvation. Plastic consumed by marine life appears to either pass through the digestive tract intact, if it is small enough, or remains in the animal, blocking the intestinal tract, causing death. When the animal dies, the plastic is either released to be eaten again, or it is swallowed by a predator eating the plastic-ridden prey. In the case of seabirds, many of them simply perish on shore with their stomach contents eventually being the only thing to remain.

The "Great Pacific Garbage Patch" is an area of extremely high debris concentration of in the center of North Pacific Subtropical Gyre. It is not actually "patch" or a floating "island" of debris, but it rather a "plastic soup" where the plastic is distributed throughout the water column. The first studies of this vortex showed high concentrations of plastic that spanned across hundreds of miles.

Polystyrene makes up a large portion of ocean debris for the same reason it is used as packaging; it is light weight, durable and water resistant.

ANALYSIS

The Coastal Commission, through its Public Education Program, Coastal Clean Up Day, and Adopt-A-Beach program, has been educating the public about the dangers of marine debris for over two decades. Coastal Act Section 30232 requires that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

SB 568 would reduce, but not eliminate, the number of polystyrene containers that find their way into the waste stream, and would therefore reduce the number of these containers ending up in the marine environment. Once in the marine environment, polystyrene does not biodegrade, it simply breaks down into smaller and smaller pieces that continue to disrupt the food chain and have harmful effects on wildlife. Although polystyrene can be recycled, food contamination interferes with its recovery. As a result, many facilities that accept polystyrene will only accept product packaging.

If SB 568 is enacted, polystyrene from outside of California as well as other types of non-biodegradable plastics will still contribute to ocean debris, but some percentage of food vendors will replace these containers with products made from biodegradable materials. Therefore, prohibiting the use of polystyrene containers in California would have a direct beneficial effect on the marine environment, and may encourage other states to pursue similar policy.

RECOMMENDED POSITION

Staff recommends the Commission **Support** SB 568.

SUPPORT/OPPOSITION

Support for SB 568:

Breast Cancer Fund
California Resource Recovery Association
Californians Against Waste
Clean Water Action
Defenders of Wildlife
Endangered Habitats League
Environment California
Heal the Bay
Institute for Local Self-Reliance
Malibu Surfing Association
Marin Sanitary Service
City of Monterey
Napa Recycling and Waste Services
Orange County Interfaith Coalition for the Environment
City of Richmond
Sacramento Unified School District, Superintendent
Santa Clara County Board of Supervisors
City and County of San Francisco
Save Our Shores

Seventh Generation Advisors
Sierra Club California
Surfrider Foundation
The Plastic Pollution Coalition
The Watershed Project
World Centric

Opposition against SB 568:

American Chemistry Council
California Chamber of Commerce
California Film Extruders and Converters Association
California Manufacturers and Technology Association
California Restaurant Association
The Dardanelle Group
Dart Container Corporation
Industrial Environmental Association
Pactiv Corporation
Society of the Plastics Industry

BILL NUMBER: SB 568 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Lowenthal
(Coauthor: Assembly Member Wieckowski)
FEBRUARY 17, 2011

An act to add Chapter 6.6 (commencing with Section 42391) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 568, as introduced, Lowenthal. Recycling: polystyrene food containers.

Existing law requires all rigid plastic bottles and rigid plastic containers sold in the state to be labeled with a code that indicates the resin used to produce the rigid plastic bottle or rigid plastic container. The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state to generally meet one of specified criteria.

This bill would prohibit a food vendor, on and after January 1, 2013, from dispensing prepared food to a customer in a polystyrene foam food container and would define related terms.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 6.6 (commencing with Section 42391) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 6.6. POLYSTYRENE FOAM FOOD CONTAINERS

42391. For the purposes of this chapter, the following terms have the following meanings:

- (a) "Customer" means a person obtaining prepared food from a food vendor.
- (b) (1) "Polystyrene foam food container" means a container made of thermoplastic petrochemical material utilizing the styrene monomer, that meets all of the following conditions:
 - (A) Polystyrene is the sole resin used to produce the rigid plastic packaging container.

(B) The container is required to be labeled with a "6" pursuant to subdivision (a) of Section 18015.

(C) The container is used, or is intended to be used, to hold prepared food.

(2) A polystyrene foam food container may be processed by a number of techniques, including, but not limited to, fusion of polymer spheres or expandable bead polystyrene.

(3) Polystyrene foam may also be referred to as Styrofoam(T), a Dow Chemical Company trademarked form of polystyrene foam insulation.

(4) A polystyrene foam food container includes, but is not limited to, a cup, bowl, plate, tray, or clamshell container that is intended for single use.

(c) (1) "Food vendor" means a food facility, as defined in Section 113789 of the Health and Safety Code, including, but not limited to, a restaurant or retail food and beverage vendor located or operating within the state.

(2) A food vendor also includes, but is not limited to, an itinerant restaurant, pushcart, vehicular food vendors, a caterer, a cafeteria, a store, a shop, a sales outlet, or other establishment, including a grocery store or a delicatessen.

(3) A food vendor does not include a correctional facility, including, but not limited to, a state prison, county jail, facility of the Division of Juvenile Justice, county-or city-operated juvenile facility, including juvenile halls, camps, or schools, or other state or local correctional institution.

(d) "Prepared food" means food, as defined in Section 109935 of the Health and Safety Code, including a beverage, that is served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared for consumption. Prepared food includes "ready-to-eat food," as defined in Section 113881 of the Health and Safety Code.

(1) "Prepared food" does not include raw, butchered meats, fish, or poultry that is sold from a butcher case or a similar retail appliance.

(2) "Prepared food" may be eaten either on or off the premises, and includes takeout food.

42392. On and after January 1, 2013, a food vendor shall not dispense prepared food to a customer in a polystyrene foam food container.

42393. This chapter does not preempt the authority of a county, city, or city and county to adopt and enforce additional single-use takeout food packaging ordinances, regulations, or policies that are more restrictive than the applicable standards required by this chapter.

42394. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.