

CALIFORNIA COASTAL COMMISSION

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October 27, 1995

TO: Coastal Commissioners and Interested Public

FROM: Peter M. Douglas, Executive Director
James W. Burns, Chief Deputy Director
Jeffrey Stump, Legislative Coordinator

SUBJECT: LEGISLATIVE REPORT FOR NOVEMBER 1995

CONTENTS:

This report is divided into two sections. **Section I** provides summaries and the status of bills that staff identified as priority issues for the 1995 Legislative session. **Section II** provides summaries of priority bills that are no longer active.

Please contact Jeff Stump, Legislative Coordinator, at (916) 445-6067 with any questions on the material contained in this report.

SECTION I PRIORITY LEGISLATION

AB 356 (W. Murray) Alleys: Vehicular and Pedestrian Access: Local Regulation

AB 356 would authorize local agencies to adopt rules and regulations prohibiting and restricting vehicular or pedestrian traffic to or through any alley, by means of gates, barriers, or other traffic control devices, when, in the opinion of the local authority having jurisdiction over the alley, it is necessary for the protection or preservation of the public peace, safety, health, or welfare. AB 356 was amended to subject such action to review by the Coastal Commission where the alley provides direct public access to any public beach or state waters.

Position	NEUTRAL
Introduced	02/10/95
Last Amend	05/16/95
Status	Chapter 215, Statutes of 1995.

AB 1303 (McPherson) Coastal Resources: Coastal Development Permit Applications: Appeals

AB 1303 would clarify the "patently frivolous" appeals procedures established by SB 303 (Beverly) in 1993. Would permit a local government, after certification of its local coastal program, to waive the public hearing requirement on a coastal development permit application for minor development, if certain conditions are met.

Position	SUPPORT
Introduced	02/23/95
Last Amend	07/10/95
Status	Chapter 669, Statutes of 1995.
Votes	Senate Natural Resources - Pass 9-0 Assembly Natural Resources - Pass 9-0 (Consent) Assembly Appropriations - Pass 18-0 (Consent) Assembly Floor - (Consent)

SB 297 (Campbell) State Regulatory Activities: Principal Agencies

SB 297 would require that, notwithstanding any other provision of law, and to the extent it is not in conflict with federal law, a principal state agency shall be designated by the Governor for every definable area of regulatory activity under the jurisdiction of the state or imposed federal law or regulation. All other state agencies would be required to defer to the principal agency in the performance of their duties in a particular regulatory area, or upon a particular project.

Position	OPPOSE
Introduced	02/09/95
Last Amend	09/14/95
Status	Chapter 650, Statutes of 1995.
Votes	Senate Floor - Pass 26-4 Assembly Floor - Pass 55-7

SB 654 (Craven) Coastal Resources: Beach Replenishment

SB 654 would appropriate an unspecified amount of funds from the Harbor and Watercraft Revolving Fund to the Controller for a grant to the San Diego Association of Governments to pay for costs associated with the United States Navy Aircraft Carrier Homeporting Project in the San Diego Harbor. Determinations regarding the use of the money would be made, in cooperation with the state, by local government officials from the coastal cities in the San Diego Region.

Introduced	02/22/95
Last Amend	06/08/95
Status	Chapter 606, Statutes of 1995.

SB 787 (Mello) California Coastal Commission: Secretary of Trade and Commerce

SB 787 would include the Secretary of Trade and Commerce as a nonvoting member of the commission, and would make a related statement of legislative intent. This bill was amended to replace a subsection of the Coastal Act that was inadvertently deleted during the 1994 Legislative session. (Urgency Bill)

Introduced 02/23/95
Last Amend 04/24/95
Status Chapter 208, Statutes of 1995.
Votes Senate - Pass 38-0 (Consent)
Assembly Natural Resources Committee - Pass 12-0 (Consent)

SB 872 (O'Connell) Oil Spills: Response

SB 872 would require the administrator for oil spill response to establish a unified incident command team to supervise or oversee the response and cleanup process related to an oil spill in the marine waters of the state. The unified command team would consist of the state's incident commander designated by the administrator, the representative or representatives of the local jurisdiction or jurisdictions directly effected by the spill, and the senior representative of the party responsible for the spill, if the party is identified and assumes responsibility.

Introduced 02/23/95
Last Amend 07/06/95
Status Vetoed by Governor
Votes Passed Senate 22-12

SB 1083 (Beverly) Oil Spills: Response

SB 1083 would vest in the administrator for oil spill response the state authority over the use of all oil spill response methods, including burning agents, dispersants, and any oil spill cleanup agents in connection with an oil discharge and would delete the requirement that it be consistent with specified regulations.

Introduced 02/24/95
Last Amend 06/22/95
Status Chapter 265, Statutes of 1995.
Votes Senate Committee on Governmental Organization - Pass 9-0
Assembly Appropriations Committee - Pass 11-0

SECTION II PRIORITY LEGISLATION - INACTIVE

AB 450 (Hauser) Pollution

AB 450 would: a) authorize a person to retain and maintain certain structures treated with creosote that are in contact with the waters of the state if the structure was in existence on January 1, 1996, b) permit a person to proceed with the installation of new or replacement structures treated with creosote that are in whole, or in part, in contact with the marine waters of the state if all applicable permits have been approved by January 1, 1996, under specified conditions, and c) require the Department of Fish and Game, in cooperation with the Regional Water Quality Control Boards, to report to the Legislature, by January 1, 1999, on the number and types of discharge permits approved, and other matters relating to the use of creosote. This bill would be repealed on January 1, 2000.

Introduced 02/16/95
Last Amend 05/18/95
Status Senate Natural Resources and Wildlife Committee - Hearing canceled.

AB 678 (Woods) Restoration of Land: Disasters: CEQA Exemption

AB 678 would create a new exemption from "any environmental review" for repairs and restoration to land and any appurtenant structures in need of repairs due to any natural or manmade disaster or an emergency. The bill would provide that the land and structures may be restored to the state that they were in immediately prior to the disaster or emergency.

Introduced 02/21/95
Last Amend
Status This is a two year bill.

AB 1119 (Kuykendall) Vessels: Oil Spills

Would amend the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act to require any disabled vessel to report to the United States Coast Guard within one hour of becoming disabled.

Introduced 02/23/95
Last Amend 04/18/95
Status Held in Assembly Appropriations Committee

AB 1319 (Olberg) Private Property Rights Protection

AB 1319 would require each state agency to evaluate its proposed regulatory actions for compliance with the most recent decisions of the United States Supreme Court, the California Supreme Court, and other relevant judicial authority in order to ensure the appropriate protection of private property rights. The bill would require each state agency to take appropriate measures to assure that its actions affecting private property are properly supported by the administrative record, existing statutory and other legal authority, and comply fully with judicial authority.

Introduced 002/23/95
Last Amend
Status This is a two year bill.

AB 1320 (Olberg) Real Property: Takings

AB 1320 would require a state agency to certify that it has completed a private property taking impact analysis before commencing any regulatory action that could result in a taking or diminution of use or value of private property and to provide copies of that analysis to the public and to the property owner. Any costs, values, or estimates contained in a private property taking impact analysis shall be presumed to be outdated and inaccurate if the analysis was completed more than 5 years before a judicial or administrative proceeding and not updated within that 5-year period. The bill would create a cause of action against the state if any regulatory action infringes upon a right to real property that would otherwise exist and this infringement would result in a discrete and nonnegligible reduction in the fair market value of the affected portion of the real property, and provides that a prevailing plaintiff shall be awarded reasonable litigation costs and that any award or judgment for the plaintiff shall be paid out of the budget of the agency or agencies undertaking the regulatory action. AB 1320 would create within the Resource Agency the Real Property Ombudsman with specified powers and duties relating to issues of taking and diminution of use or value of private property. This bill would apply to any regulatory action occurring on or after January 1, 1996, and would require that an action taken under this bill would have be brought within 6 years of the regulatory action.

Introduced 02/23/95
Last Amend
Status This is a two year bill.

SB 337 (Campbell) Administrative Regulations: Certification

SB 337 would require the Office of Administrative Law, prior to approving a regulation adopted by a state agency, to certify that the regulation imposes the least restriction and economic hardship on business for any of the regulatory options proposed.

Introduced 02/10/95
Last Amend 04/03/95
Status Senate Committee on Governmental Organization - Failed Passage

SB 339 (Campbell) Administrative Regulations: Expiration

SB 339 would prohibit all regulations adopted by a state agency after January 1, 1996, from remaining in effect for more than five years from the date of its filing with the Secretary of State, unless the regulation is readopted before the five year expiration date.

Introduced 02/10/95
Last Amend 03/23/95
Status Senate Committee on Governmental Organization - Failed Passage

SB 466 (Leonard) Eminent Domain: Inverse Condemnation

SB 466 would provide that if a public entity adopts or enacts a statute, ordinance, resolution, or other measure, or institutes any other official decision, action, policy, or practice, which results directly in the reduction of the market value of real property other than real property owned by a public entity by 25% or more, the property owner may bring an action for inverse condemnation. This bill would also provide that in such an action, the property owner shall carry the burden of proving the extent of the reduction in market value of the real property by the testimony of at least 3 certified real estate appraisers.

Introduced 02/17/95
Last Amend 03/28/95
Status This is a two year bill.

SB 635 (Haynes) Property and Homeowner Protection Act

SB 635 would enact the Property and Homeowner Protection Act, which would include findings and declarations of the Legislature relating to the rights of property owners. The bill would require that, whenever implementation of a regulatory program by the state or a political subdivision thereof denies a permitted use, without adequate compensation therefor, by a landowner of his or her land, the property shall be deemed to have been taken for public use and the landowner shall be entitled to compensation. This bill would limit the authority of a public agency to regulate land use, and would require public agencies to review all proposed regulatory actions as to their impact on the rights of effected property owners, and require the Attorney General to promulgate a publication, as specified, to which each state agency would be required to refer to in evaluating actions involving private property rights.

Introduced 02/22/95
Last Amend
Status This is a two year bill.

SB 1084 (Beverly) Oil Spills: Financial Responsibility

SB 1084 would require the administrator for oil spill response to establish, no later than January 31, 1996, a standing committee to be known as the Marine Facilities Oil Spill Protection Committee. The committee would be required to submit a report to the Governor and the Legislature, on or before January 1, 1997, and annually thereafter. This bill would prohibit the administrator for oil spill response from requiring the marine facility to demonstrate the ability to pay an amount greater than \$10,500 per barrel of oil that could be released during a reasonable worst case oil spill, as defined, and would authorize the administrator to issue a certificate of financial responsibility to a marine facility based on an amount less than \$10,500 per barrel, based on acceptable evidence submitted by the applicant.

Introduced	02/24/95
Last Amend	
Status	This is a two year bill.