

## CALIFORNIA COASTAL COMMISSION

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December 1, 1995

TO: Coastal Commissioners and Interested Public

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

SUBJECT: FINAL LEGISLATIVE REPORT FOR 1995

## CONTENTS:

This report is divided into **four** sections. **Section I** provides summaries of priority bills that were chaptered into law during the 1995 Legislative session. **Section II** provides summaries of priority bills that were vetoed by the Governor. **Section III** provides summaries of priority bills that were held over during the first half of the session but could be acted on during 1996. **Section IV** provides a copy of SB 654 and the Governor's veto message for SB 872.

Note: The legislature will reconvene on January 3, 1996.

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

## SECTION I. CHAPTERED LEGISLATION

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

Authorizes 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.

Commission Position **NEUTRAL**  
Status Chapter 215, Statutes of 1995.

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

Clarifies the "patently frivolous" appeals procedures established by SB 303 (Beverly) in 1993. Authorizes 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.

Commission Position **SUPPORT**  
Status Chapter 669, Statutes of 1995.

### SB 297 (Campbell) State Regulatory Activities: Principal Agencies

Requires 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 can be required to defer to the principal agency in the performance of their duties in a particular regulatory area, or upon a particular project.

Commission Position **OPPOSE**  
Status Chapter 650, Statutes of 1995.

### SB 654 (Craven) Coastal Resources: Beach Replenishment

SB 654 appropriated \$1,044,000 from the Harbor and Watercraft Revolving Fund to Department of Boating and Waterways to fund a \$700,000 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. This money will be used to supplement federal funds for the direct or indirect placement of dredged sand on the beaches in the San Diego Harbor area and other related uses.

Status Chapter 606, Statutes of 1995.

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

Reinstates the Secretary of Trade and Commerce as a nonvoting member of the commission, and makes a related statement of legislative intent. Replaces a subsection of the Coastal Act that was inadvertently deleted during the 1994 Legislative session. (Urgency Bill)

Status Chapter 208, Statutes of 1995.

### SB 1083 (Beverly) Oil Spills: Response

Vests 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 deleted the requirement that it be consistent with specified regulations.

Status Chapter 265, Statutes of 1995.

## SECTION II. VETOED LEGISLATION

### SB 872 (O'Connell) Oil Spills: Response

SB 872 would have required 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 have consisted 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.

Status Vetoed by Governor (SEE ATTACHED VETO MESSAGE)

## SECTION III. PRIORITY LEGISLATION - MAY BE ACTED ON IN 1996

### 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 This is a two year bill.

### 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 None  
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 This is a two year bill.

### 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 None  
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 None  
Status This is a two year bill.

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 None  
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	None
Status	This is a two year bill.

## **SECTION IV. ATTACHMENTS**

SB 654 - CHAPTER 606  
APPROVED BY GOVERNOR OCTOBER 4, 1995

INTRODUCED BY Senators Craven and Killea (Co-author: Senator Johnston)  
(Co-authors: Assembly Members Alpert, Baldwin, and Kaloogian)

Under existing law, funds are deposited in the Harbor and Watercraft Revolving Fund from vessel fuel taxes, various licensing statutes, and loan repayments.

This bill would appropriate \$1,044,000 from that fund to the Department of Boating and Waterways for allocation of (1) \$700,000 for the 1996-97 fiscal year 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 San Diego Harbor, as described, and (2) \$344,000, without regard to fiscal year, for a local assistance grant to the City of Stockton for construction and reconstruction at the Buckley Cove boat launching facility.

This bill would require that determinations regarding the use of the funds for the homeporting project be made, in cooperation with the state, by local government officials from the coastal cities in the San Diego region. The bill would prohibit the grant of the funds for the homeporting project unless the San Diego Regional Water Quality Control Board certifies in writing that specified testing of sand proposed to be deposited has been accomplished and unless the results have been made available to the public at least 2 weeks before a hearing by the board.

Appropriation: yes.

SECTION 1. (a) The sum of one million forty-four thousand dollars (\$1,044,000) is hereby appropriated from the Harbors and Watercraft Revolving Fund, or from any other fund or funds designated in the annual Budget Act, to the Department of Boating and Waterways for allocation in the following amounts for the following purposes:

(1) Seven hundred thousand dollars (\$700,000) for the 1996-97 fiscal year 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 San Diego Harbor.

(2) Three hundred forty-four thousand dollars (\$344,000), without regard to fiscal years, for a local assistance grant to the City of Stockton to pay the costs of construction and reconstruction at the Buckley Cove boat launching facility.

(b) Any money appropriated pursuant to paragraph (1) of subdivision (a) shall be used to supplement federal funds that are received for the United States Navy Aircraft Carrier Homeporting Project for support, planning, design, construction, and operation of the following activities:

(1) The onshore or offshore deposition of sand that results in the direct or indirect placement of the United States Navy's dredged materials on the beaches.

(2) The stabilization of structures, such as groins, offshore breakwaters, and refraction structures, that would further increase the effectiveness of beach replenishment operations by holding sand on the beach for longer periods of time.

(c) Determinations regarding the use of money for the activities specified in subdivision (b) shall be made, in cooperation with the state, by local government officials from the coastal cities in the San Diego region.

SEC. 2. No funds shall be granted pursuant to paragraph (1) of subdivision (a) of Section 1 until the San Diego Regional Water Quality Control Board certifies in writing that all of the following have been accomplished:

(a) Sand proposed to be deposited on beaches has been tested according to the protocols established in the "1991 Evaluation of Dredge Materials Proposed for Ocean Disposal" published by the federal Environmental Protection Agency and the tests included tests for dioxin and radioisotopes.

(b) The samples tested included sand samples taken from project depth, overdredge, and side slopes of the area proposed to be dredged.

(c) The complete test results and a summary thereof have been made available to the public at least two weeks in advance of a meeting of the San Diego Regional Water Quality Control Board for which public notice was given and, during that meeting, public comment was solicited by the board.

BILL NUMBER: SB 872  
VETOED DATE: 10/04/95

To the Members of the California Senate:

I am returning Senate Bill No. 872 without my signature.

This bill would require the administrator of the Office of Oil Spill Prevention and Response (OSPR), at his or her discretion or upon request from a local jurisdiction directly affected by a spill to establish a Unified Incident Command Team (UIC).

This bill largely seeks to accomplish what is already being done within existing administrative authority. OSPR is currently working with local governments to establish a Memorandum of Understanding (MOU) which will ensure an appropriate, predefined arrangement between local agencies and the unified command during a spill response.

This measure, however, would upset the current process by allowing a local jurisdiction to request the creation of UIC. It mandates the state to create a team even in situations where the necessity of its creation may be questionable. Further, the measure mandates the involvement of federal officials participating in a team which exceeds the authority of state law.

I have, however, directed the Administrator of Office of Oil Spill Prevention and Response to give high priority to working with local jurisdictions in completing their local area contingency plans and the related MOU. I have also asked the Administrator to report back to me within six months on progress made toward achieving local participation and integration into the unified command process through completed MOUs.

Cordially,

PETE WILSON