

# RECORD PACKET COPY

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

## CALIFORNIA COASTAL COMMISSION

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December 29, 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 JANUARY 1996

### CONTENTS:

This report provides summaries and the status of two year bills that staff identified as priority issues for the 1996 Legislative session. A copy of SB 635 is attached.

Note: New legislation must be introduced by **February 23, 1996**.

This information can be accessed through the Commission's World Wide Web Homepage at <http://ceres.ca.gov/coastalcomm/web/>

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

### PRIORITY LEGISLATION

#### AB 450 (Hauser) Pollution

AB 450 would authorize a person to retain and maintain, or to proceed with the installation of certain new or replacement, structures treated with creosote that are in whole or in part in contact with the waters of the state if the structure was in existence on January 1, 1996, and if the application of creosote and the installation is made in a manner consistent with best management practices and is in compliance with the Safe Drinking Water and Toxic Enforcement Act of 1986.

Introduced	02/16/95
Last Amend	05/18/95
Status	Must be heard by Assembly policy committee by January 19, 1996.

#### 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	Must be heard by Assembly policy committee by January 19, 1996.

#### 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. The bill would also make several changes with regard to pilotage, regulation and control of anchoring, mooring, towing and docking of all vessels by harbor districts.

Introduced	02/23/95
Last Amend	04/24/95
Status	Must be heard by Assembly policy committee by January 19, 1996.

#### AB 1319 (Olberg) Private Property Rights Protection

AB 1319 would require state agencies to evaluate 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	Must be heard by Assembly policy committee by January 19, 1996.

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. 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.

Introduced	02/23/95
Last Amend	None
Status	Must be heard by Assembly policy committee by January 19, 1996.

SB 466 (Leonard) Eminent Domain: Inverse Condemnation

SB 466 would enable a property owner to bring an action for inverse condemnation 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 by 25% or more. 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	Must be heard by Senate policy committee by January 19, 1996.

SB 635 (Haynes) Property and Homeowner Protection Act

SB 635, the Property and Homeowner Protection Act, would enact numerous provisions expanding the right of a landowner to receive compensation from agencies whose regulations decrease their property value, limit the authority of a public agency to regulate land use and establishes complex procedural steps that public agencies must follow when formulating or implementing policies that have takings implications.

Introduced	02/22/95
Last Amend	None
Status	Hearing scheduled for 1/16/95 - Senate Judiciary Committee.

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	Must be heard by Senate policy committee by January 19, 1996.

INTRODUCED BY Senator Haynes

FEBRUARY 22, 1995

An act to amend Sections 65922 and 65928 of, to add Section 14682 to, and to add Chapter 9.5 (commencing with Section 66040) to Division 1 of Title 7 of, the Government Code, relating to land use.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 635, as introduced, Haynes. Property and Homeowner Protection Act.

(1) Existing law authorizes governmental entities to regulate the use of buildings, structures, and land among open space, including agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes. Existing law contains numerous provisions regulating the use of land. Existing law generally authorizes the legislative body of a city or county to regulate the use of buildings, structures, and land.

This bill would enact the Property and Homeowner Protection Act, which would include findings and declarations of the Legislature relating to the rights of property owners, and generally 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, as specified. The bill would authorize a court to review regulatory actions that affect private property, as specified. The bill would require a court to order the compensation of a landowner under specified circumstances, would further authorize a landowner to have the amount of this compensation determined by a jury, and would require county assessors to reassess the value of property whose value has been negatively affected by regulatory actions as specified.

This bill would generally limit the authority of a public agency to regulate land use, and would generally require public agencies to review all proposed regulatory actions as to their impact on the rights of affected property owners. The bill would require the Attorney General to promulgate a publication, as specified, to which each state agency would be required to refer in evaluating actions involving private property rights. The bill would set forth specified principles and criteria with which state and local governmental agencies would be required to comply in proposing, or taking actions affecting private property rights.

(2) Existing law contains various provisions relating to the purchase, sale, exchange, and lease of state property by the Department of General Services and other authorized state agencies.

This bill would require that any purchase of privately owned land by the state be offset by the sale of state-owned land of equal value as the privately owned land being acquired by the state.

Because the bill would require local government entities to compensate landowners under these circumstances, would further require the adoption of new procedures of those entities, and would make numerous changes in existing procedures, ordinances, and regulations relating to land use, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of

mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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

SECTION 1. Section 14682 is added to the Government Code, to read:

14682. Any purchase of privately owned land by the state shall be offset by the sale of state owned land of equal value as the privately owned land being acquired by the state.

SEC. 2. Section 65922 of the Government Code is amended to read:

65922. ~~The provisions of this~~ *This* chapter shall not apply to the following:

(a) Activities of the State Energy Resources Development and Conservation Commission established pursuant to Division 15 (commencing with Section 25000) of the Public Resources Code.

(b) *(1) Administrative appeals within a state or local agency or to a state or local agency, except as provided by paragraph (2).*

*(2) For any administrative appeal within a state or local agency, or to a state or local agency, relating to a development project, the appeal shall be heard by the state or local agency within 60 days of the date on which the appeal is filed by the agency.*

SEC. 3. Section 65928 of the Government Code is amended to read:

65928. "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the *providing of entitlements, including entitlements that would require legislative approvals, for a specific plan of development, or the* issuance of a permit for construction or reconstruction but not a permit to operate. "Development project" does not include any ministerial projects proposed to be carried out or approved by public agencies.

SEC. 4. Chapter 9.5 (commencing with Section 66040) is added to Division 1 of Title 7 of the Government Code, to read:

## CHAPTER 9.5. PROPERTY AND HOMEOWNER PROTECTION ACT

66040. This chapter shall be known, and may be cited, as the Property and Homeowner Protection Act.

66041. (a) The Legislature finds and declares all of the following:

(1) Property owners throughout the State of California are increasingly being denied the fundamental right to use their property. There has been an explosion of environmental regulatory activity at the federal, state, and local level that restricts the use of private property and renders some private property, in part or in whole, with no economic value. Government confiscation of private property through the regulatory process is unfair and inequitable.

(2) Environmental regulations have profoundly affected the fundamental rights of property owners. The ability to own, to use, and to transfer private property is not a benefit or privilege

granted by the government; property rights are clearly guaranteed under the Fifth and Fourteenth Amendments of the United States Constitution.

(3) Certain environmental regulations are, however, necessary or desirable for the benefit of all citizens. Inasmuch as all citizens benefit from improved environmental quality at the expense of circumventing the property rights of particular individuals, the state is obligated to provide compensation to those particular individuals whose property rights are denied to benefit the public at large.

(4) The protection of the use of an individual's property is essential to economic growth and political freedom in the State of California. The improper or unreasonable delay or restriction of the use of private property restricts the availability of housing affordable for all Californians, rich and poor alike, and threatens the economic and political freedom of the landowner by threatening his or her capital accumulation or threatening his or her retirement funds.

(b) It is, therefore, the intent of the Legislature to ensure a prompt and fair disposition of all applications for land use entitlements.

66042. The Legislature finds and declares that the right of a homeowner or landowner to the use of his or her property is a fundamental right protected by the Fifth Amendment of the United States Constitution and includes:

(a) The right to buy or sell any interest in land through private consensual arrangements.

(b) The right to the rents and profits from the property in amounts that can be obtained through private consensual arrangements during the entire time the property is owned by the landowner.

(c) The right to obtain a reasonable return on his or her investment in the property, so long as that investment is based on reasonable expectations of a return based on capitalization rates and market forces.

(d) The vested right to develop the property in accordance with an approved land use plan within five years after the approval in accordance with the conditions of development.

(e) The right to change the use of the property, or to continue a preexisting use after that use has been involuntarily terminated, without unreasonable interference from a public agency.

(f) The right to be free of restrictions on the use or development of the property which are intended to confer public benefit by restricting the landowner's use without adequate compensation, or which prevent a nuisance to neighboring landowners.

(g) The right to be free from regulatory actions, fees, or assessments that impose a burden in excess of the cost to the public of the approved land use for the property or unit which are designed to, intended to, or actually compel, the landowner to provide public benefits, rather than to control private harms, without adequate compensation.

(h) The right to compensation from any public agency which unreasonably interferes with any of the above described rights, whether by physical occupation or regulatory infringement.

66043. (a) The Legislature finds and declares both of the following:

(1) Responsible fiscal management and fundamental principles of good government require that government decisionmakers evaluate carefully the effect of their administrative, regulatory, and legislative actions on constitutionally protected property rights.

(2) State and local departments and agencies should review their actions carefully to prevent unnecessary takings and should account, in decisionmaking, for those takings that are necessitated by statutory mandate.

(b) (1) To assist state and local departments and agencies in undertaking the reviews described in subdivision (a) and in proposing, planning, and implementing actions with due regard for the constitutional protections provided by the United States and California Constitutions and to reduce the risk of undue or inadvertent burdens on the public treasury resulting from lawful governmental action, the Attorney General shall, consistent with the principles stated herein and in consultation with the state departments and agencies, promulgate a publication to be entitled "Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings," to which each state department or agency shall refer in making the evaluation required by this section, or otherwise taking any action that is the subject of this section.

(2) The guidelines shall be promulgated no later than June 1, 1996, and shall be disseminated to all units of each state and local department and agency no later than July 1, 1996. The Attorney General shall, as necessary, update the guidelines to reflect fundamental changes in the law relating to takings occurring as a result of state and federal Supreme Court decisions.

(c) For the purpose of this section:

(1) "Actions" refers to proposed state regulations, proposed state legislation, comments on proposed state legislation, applications of state regulations to specific property, or state governmental actions physically invading or occupying private property, or other policy statements or actions related to state regulation or direct physical invasion or occupancy, but does not include:

(A) Actions in which the power of eminent domain is formally exercised.

(B) Law enforcement actions involving seizure, for violation of a criminal statute, of property for forfeiture or as evidence in criminal proceedings.

(C) Studies or similar efforts on planning activities.

(D) Communications between state or local land use planning agencies and federal agencies or departments regarding planned or proposed state or local actions regulating private property regardless of whether those communications are initiated by a state or local authority or are undertaken in response to an invitation by a federal agency or department.

(2) "Guidelines" means the "Guidelines for the Evaluation of Risk and Avoidance and Unanticipated Takings" promulgated pursuant to subdivision (b).

(3) "Policies that have takings implications" means state or local regulations, proposed state regulations, proposed state or local legislation, comments on proposed state legislation or other state or local policy statements that, if implemented or enacted, could effect a taking, such as rules and regulations that propose or implement licensing, permitting, or other condition requirements or limitations on private property use, or that require dedications or exactions from owners of private property. "Policies that have takings implications" does not include any of the following:

(A) Actions abolishing regulations, discontinuing governmental programs, or modifying regulations in a manner that lessens interference with the use of private property.

(B) Law enforcement actions involving seizure, for violation of a criminal statute, of property for forfeiture or as evidence in criminal proceedings.

(C) Studies or similar efforts or planning activities.

(D) Communications between state or local land use planning agencies and federal agencies or departments regarding planned or proposed state or local actions regulating private property regardless of whether those communications are initiated by a state or local authority or are undertaken in response to an invitation by the federal agency or department.

(4) "Private property" means all property protected by the Just Compensation clauses of the Fifth Amendment to the United States Constitution, as incorporated and made applicable to the states by the Fourteenth Amendment, and Section 19 of Article I of the California Constitution.

66044. In formulating or implementing policies that have implications with regard to the issue of takings, each state department and agency shall be guided by the following general principles:

(a) Governmental officials should be sensitive to, anticipate, and account for, the obligations imposed by the Just Compensation clauses of the United States and California Constitutions in planning and carrying out governmental actions so that they do not result in the imposition of unanticipated or undue additional burdens on the public fisc.

(b) Actions undertaken by governmental officials that result in a physical invasion or occupancy of private property, and regulations imposed on private property that substantially affects its value or use, may constitute a taking of property. Further, governmental action may amount to a taking even though the action results in less than a complete deprivation of all use or value, or of all separate and distinct interests in the same private property, and even if the action constituting a taking is temporary in nature.

(c) Government officials whose actions are taken specifically for purposes of protecting public health and safety are ordinarily given broader latitude by courts before their actions are considered to be takings. However, the mere assertion of a public health and safety purpose shall be insufficient to avoid a taking. Actions characterized as being taken to protect the public often may be better characterized as taken to benefit the public. Actions to which this section applies, and which are asserted to be for the protection of public health and safety, therefore, should be undertaken only in response to real and substantial threats to public health and safety, and shall be no more extensive than is necessary to achieve the health and safety purpose.

(d) Although normal governmental processes do not ordinarily effect takings, undue delays in decisionmaking, during which the use of private property is interfered with, may be held to be takings. Additionally, a delay in processing may increase significantly the size of compensation due if a taking is later found to have occurred.

(e) The Just Compensation clauses of the United States and California Constitutions are self-actuating, requiring that compensation be paid whenever governmental action results in a taking of private property, regardless of whether the underlying authority for the action contemplated a taking or authorized the payment of compensation. Accordingly, governmental actions that may have a significant impact on the use or value of private property should be scrutinized to avoid undue or unplanned burdens on the public fisc.

66045. In addition to the fundamental principles set forth in Section 66044, state and local departments and agencies shall adhere, to the extent permitted by law, to the following criteria when implementing policies that have takings implications:

(a) When a state or local department or agency requires a private party to obtain a permit in order to undertake a specific use of, or action with respect to, private property, any conditions imposed on the granting of a permit shall do both of the following:

- (1) Serve the same purpose that would have been served by a prohibition of the use or action.
- (2) Substantially advance that purpose.

(b) When a proposed action would place a restriction on a use of private property, the restriction imposed on the use shall not be disproportionate to the extent to which the use contributes to the overall problem that the restriction is imposed to redress.

(c) When a proposed action involves a permitting process or any other decisionmaking process that will interfere with, or otherwise prohibit, the use of private property pending the completion of the process, the duration of the process shall be kept to the minimum necessary to accomplish the purpose of the action.

(d) (1) Before undertaking any proposed action regulating private property use for the protection of public health or safety, the state or local department or agency involved shall, in internal deliberative documents and in any submissions to a legislative body, board, commission, or other decisionmaking entity that are required, do all of the following:

(A) Identify clearly, with as much specificity as possible, the public health or safety risk created by the private property use that is the subject of the proposed action.

(B) Establish that the proposed action substantially advances the purpose of protecting public health and safety against the specifically identified risk.

(C) Establish, to the extent possible, that the restrictions imposed on the private property are not disproportionate to the extent to which the use contributes to the overall risk.

(D) Estimate, to the extent possible, the potential cost to the government in the event that a court later determines that the action constituted a taking.

(2) In instances in which there is an immediate threat to health and safety that constitutes an emergency requiring immediate response, the analysis required by this subdivision may be done upon completion of the emergency action.

(e) (1) The head of each state or local department and agency shall designate an official to be responsible for ensuring compliance with this section with respect to the actions of that department or agency.

(2) State and local departments and agencies shall, to the extent permitted by law, identify the takings implications of proposed regulatory actions and address the merits of those actions in light of the identified takings implications, if any, in all required submissions made to the decisionmaking body of the department or agency. Significant takings implications shall also be identified and discussed in notices of proposed rulemaking and messages transmitting proposals to the Legislature, stating the conclusions of the department or agency on the takings issues.

(3) (A) State and local departments and agencies shall identify each existing state rule and regulation against which a takings award has been made or against which a takings claim is pending, including the amount of each claim or award.

(B) For the purposes of this section, a "takings" award has been made or a "takings" claim is pending if the award was made, or the pending claim brought, pursuant to either, or both, of the Just Compensation clauses of the United States and California Constitutions. An itemized compilation of any and all awards of this type made during the 1995-96 fiscal year and any pending takings claims shall be submitted to the Attorney General on or before December 31, 1996.

(4) Each state and local department and agency shall submit annually to the Attorney General an itemized compilation of all awards of just compensation entered against the state for takings.

(5) (A) The Attorney General shall, to the extent permitted by law, take action to ensure that the policies of the state and local departments and agencies are consistent with the principles, criteria, and requirements stated in Section 66044 and this section, and the Director of Finance shall take action to ensure that all takings awards levied against agencies are properly accounted for in agency budget submissions.

(B) In addition to the guidelines required by subparagraph (A), the Attorney General shall, in consultation with each state department and agency to which this section applies, promulgate supplemental guidelines appropriate to the specific obligations of that department or agency.

(f) This section is intended only to improve the internal management of the state and local government and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the state, its agencies, its officers, or any person.

66046. Notwithstanding any other provision of law:

(a) A public agency may regulate land use only to the extent that it is necessary to do either of the following:

(1) Plan and provide for public services, including police, fire, schools, water, sewer, and streets, for the residents of the entity regulating the use.

(2) Prevent nuisances or uses obnoxious to existing landowners as those are defined in the common law.

(b) Environmental protection shall be accomplished within the system of goals established by the local agency. Housing, job, and community services goals shall balance environmental concerns with housing needs, the needs of the community for goods and services, and the job needs of the community. A public agency may not deprive a landowner of the use of his or her property to accomplish environmental goals without compensation to that landowner for the value lost as a result of the regulation.

66047. Notwithstanding any other provision of law:

(a) Whenever implementation of any regulatory program by the state or any of its political subdivisions denies a permitted use, without adequate compensation therefor, by a landowner of his or her land, or modifies or conditions an entitlement approval for a permitted use on providing a public benefit without adequate compensation, the property shall be deemed to have been taken for public use, and the landowner may file an action for compensation in a court of competent jurisdiction.

(b) The owner or user shall have the right to require condemnation by, and just compensation from, the governmental unit, or units, when more than one governmental unit is involved, imposing the regulation resulting in decreased value, or to receive compensation for the reduction in value caused by governmental action, and in either case to have the amount of this compensation determined by a jury. When more than one governmental unit is involved, the court shall determine the proportion each unit shall be required to contribute to the compensation.

(c) The compensation ordered pursuant to this chapter shall be for the full value of the interest taken, or for the full amount of the decrease in fair market value, and shall not be limited to the amount by which the decrease in fair market value exceeds 50 percent.

(d) Governmental units subject to this chapter shall not make waiver of the provisions of this chapter a condition for approval of the use of real property or the issuance of any permit or other entitlement. Plaintiffs may accept an approval of use, permit, or other entitlement granted by the public agency without compromising their rights under this chapter if either or both of the following occur:

(1) A written reservation of rights is made at the time of acceptance of the authorization, permit, or other entitlement.

(2) An oral statement reserving those rights is made before the public agency granting the authorization, permit, or other entitlement at a public meeting at which the governmental unit renders its decision.

66048. No compensation shall be required by virtue of this chapter if the regulatory program is an exercise of the police power to prevent uses noxious in fact, constitute a nuisance under the law, or pose a demonstrable threat to the public health, welfare or safety. Determination by the governmental unit or units involved that a use is a noxious use constitutes a nuisance under the law, or poses a demonstrable threat to the public health, welfare, and safety shall not be binding upon the court. The court's review of the determination of the public agency or agencies shall be de novo.

66049. (a) The statute of limitations for actions brought pursuant to this section shall be the statute of limitations for ordinary actions brought for injuries to real property. The statute of limitations shall begin to run upon the final administrative decision implementing the regulatory program affecting plaintiffs' property. This statute of limitations applies to any claim that may be brought pursuant to any other provision of law.

(b) A program is implemented with respect to an owner's or user's property when actually applied to that property unless the enactment of the program by itself operates to reduce the fair market value of real property, or any legally recognized interest therein, to less than 50 percent of its fair market value for the uses permitted at the time the owner acquired title, without further governmental action, and the program contains no provision allowing for relief from the program's operation.

(c) This chapter shall apply not only to new regulatory programs, but also to the application of regulatory programs in effect at the time of the enactment of the act that adds this chapter, including, but not limited to, land use law or zoning laws and regulations applied to the owner's property.

66050. (a) Notwithstanding any other provision of law, if a court determines that an action by the state or by any of its political subdivisions constitutes a taking of the property of the person pursuant to this chapter, the court shall order the state or its subdivision to do one or more of the following:

(1) Compensate the property owner for full amount of the lost value.

(2) Purchase the property, in the public interest, at its fair market value, as determined by jury, before its value was affected by any regulatory program on inaction. This property shall be compensated at its highest and best use, based on full value at fair market price.

(3) Modify its action or inaction with respect to the property so as to minimize any detrimental effect to the property's value and restore full market value.

(b) This section shall not be construed to affect any remedy which is constitutionally required.

(c) Notwithstanding any other provision of law, the public agency or agencies subject to an award of compensation under this chapter may elect to relax the land use planning, zoning, or other regulatory program without further public hearings, proceedings, or environmental review required. If the public agency or agencies elect to so relax the affected regulatory program, the previously effective program shall automatically be in effect.

(d) Any permit, conditional use permit, authorization, or other entitlement granted under a program rolled back pursuant to subdivision (c) shall continue to be valid, notwithstanding any provision of law in the program reinstated by the rollback.

66051. Notwithstanding any other provision of law, nothing in this chapter shall be construed to preclude property owners from bringing legal challenges to regulatory programs affected by this chapter in instances where regulation causes diminution in value of the property or the use thereof does not exceed 50 percent of fair market value for the uses permitted at the time the owner acquired title, nor shall this chapter be construed to preclude property owners from bringing legal challenges to regulatory programs affected by this chapter based on other provisions of law.

66052. Notwithstanding any other provision of law, whenever, on or after the effective date of the act that adds this chapter, a public agency or any of its political subdivisions imposes, changes, or implements any land use planning, zoning, or other regulatory program in such a way as to reduce the previous fair market value of a taxpayer's property, the county assessor shall, on or before the ensuing April 1, adjust the assessed valuation of the taxpayer's property downward by an amount equal to the difference between the fair market value of the property under the new regulatory program and the previous fair market value.

SEC. 5. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.