

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

VOICE AND TDD (415) 904-5200



Wild

November 22, 1996

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 1996

CONTENTS:

This report is divided into three sections. **Section I** provides summaries and the status of bills that staff has identified as priority issues for the 1996 Legislative session. **Section II** provides summaries of bills which staff has identified as coastal related, or possibly affecting the Commission and the coastal program. **Section III** provides copies of AB 1431, AB 2291, AB 2659, SB 39, and the veto message for SB 1803.

Note: Legislative Session will begin on December 2, 1996 when new Legislators are sworn in. The Legislature will then reconvene for next year's regular session on Monday, January 6, 1997.

This information may also be found at the Commission's World Wide Web Homepage at <http://ceres.ca.gov/coastalcomm/leginfo/legindex.html>

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 1332 (Knox and Sweeney) Environmental Quality: State Boards and Commissions: Eligibility

AB 1332 would prohibit any person who as of January 1, 1997, is a member of the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, or any future appointee of those commissions from serving on those commissions if that person has been the subject of an enforcement action for a violation of the provisions of law for which the person would be responsible as commission member, and the enforcement action resulted in certain court imposed actions.

Introduced 02/23/95
Last Amend 07/02/96
Status Passed Senate Natural Resources and Wildlife Committee (7-4)
Passed Senate Rules Committee (3-1)
Senate - Failed to Pass

AB 1431 (Firestone) Ocean Resources: Cities and Counties: Financial Assistance

AB 1431 would require by April 15, 1997 the Secretary for Resources, in conjunction with the Coastal Commission, to develop and implement a competitive application process to award grants to coastal counties and cities with approved LCPs to help them improve the management of the state's coastal resources. Commencing in 1997, 50 percent of the funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) over the amount of funds received in the 1996 calendar year would be made available to the Secretary for such grants. Financial assistance provided pursuant to this legislation may not exceed 90 percent of total project costs.

Introduced 02/24/95
Last Amend 08/23/96
Status Chapter 977, Statutes of 1996.

AB 2130 (McPherson) California State Mussel Watch Program

AB 2130 would require the State Water Resources Control Board, in conjunction with the Department of Fish and Game, to continue to implement a long-term coastal monitoring program known as the California State Mussel Watch Program. This bill would appropriate \$300,000 to the program from the Coastal Conservancy's Access Fund as created by AB 2445 (McPherson).

Introduced 02/5/96
Last Amend 07/01/96
Status Passed Assembly (73-0)
Passed Senate Natural Resources and Wildlife Committee (10-0)
Senate Appropriations Committee - Died on Suspense File

AB 2291 (Knox) Real Property

AB 2291 would require the State Board of Control to allow a claim for reasonable attorney's fees incurred by an owner of any interest in real property or a public entity in a specified civil action in which the owner or public entity gives permission to the public to enter or use the property for purposes of recreational trail use, the owner or public entity was a defendant in this civil action, and the court has dismissed the civil action upon a demurrer or motion for summary judgment made by this owner or public entity or the owner or public entity prevails in the civil action. AB 2291 was amended to limit individual claims to \$25,000 and total claims per year to \$100,000.

Position SUPPORT
Introduced 02/14/96
Last Amend 07/09/96
Status Chapter 932, Statutes of 1996.

AB 2445 (McPherson) Coastal Development Permit Fees: Coastal Access Grants

AB 2445 would require that coastal development permit fees collected by the Commission be deposited in the coastal access account, which would be created in the State Coastal Conservancy Fund, for grants to public agencies and nonprofit entities or organizations for the development, maintenance and operation of new and existing facilities that provide public access to the sea. Any funds not expended for those purposes would revert to this account. This bill would result in approximately \$350,000 being appropriated to public access grants in fiscal year 96-97.

Position	SUPPORT
Introduced	02/20/96
Last Amend	05/13/96
Status	Passed Assembly (73-0) Passed Senate Natural Resources and Wildlife Committee (9-0) Senate Appropriations Committee - Died on Suspense File

AB 2659 (Kaloogian) State Coastal Conservancy: Mitigation Fees: City of Carlsbad

AB 2659 would authorize the State Coastal Conservancy to establish a special account in the State Coastal Conservancy Fund for the deposit of mitigation fees. The bill would specify that any interest accruing on the money in the special account would be retained for use on Conservancy projects.

Introduced	02/21/96
Last Amend	08/20/96
Status	Chapter 513, Statutes of 1996.

AB 2683 (Kaloogian) Mitigation Fees: Local Coastal Program: City of Carlsbad

AB 2683 would specify that mitigation fees collected for development on nonprime agricultural lands in the coastal zone in the City of Carlsbad and deposited in the State Coastal Conservancy Fund may be used for the purposes of enhancing the use of natural resources within the Coastal Zone in the City of Carlsbad. The bill would also designate "open field cultivated agriculture" as an appropriate use of mitigation fees and requires that all mitigation fees collected for the Carlsbad Ranch project be expended for a Carlsbad Flower Fields Foundation program of field cultivated floriculture.

Introduced	02/22/96
Last Amend	06/18/96
Status	Ordered returned from Governor. Action rescinded whereby the Assembly concurred in Senate amendments and whereby the bill was enrolled. Ordered returned to Senate. Died in Senate.

AB 2963 (Firestone) Environmental Quality

AB 2963 would exempt specified highway projects from the California Environmental Quality Act (CEQA) and other environmental permitting requirements when the project pertains to performing emergency work, disaster repairs, and non-scenic highway maintenance. Specifically, the bill would exempt projects undertaken to maintain, repair, or restore an existing highway damaged by natural causes from the requirements of CEQA and from obtaining permit approvals from the Coastal Commission, the San Francisco Bay Conservation and Development Commission, the Department of Fish and Game and Regional Water Quality Control Boards.

Introduced	02/23/96
Last Amend	8/21/96
Status	Chapter 825, Statutes of 1996.

AB 3044 (Olberg) Interagency Natural Resources Coordination Committee

AB 3044 would establish a permit "coordinating" process through which any owner, lessee or operator of a commercial or industrial facility may request that the Office of Permit Assistance designate a consolidated permit agency for the issuance of all permits required for a repair and maintenance project for such facilities. In the case of an oil spill, this bill would designate the administrator for oil spill response as an administering agency for purposes of supervising and coordinating any site investigation or restoration action.

Introduced 02/23/96
Last Amend 08/23/96
Status Chapter 776, Statutes of 1996.

AB 3431 (Bowen) Geographic Information Systems

AB 3431 would establish a geographic information grant program within the Department of Information Technology for the development and maintenance of framework data bases for geographic information systems. It would establish the Geographic Information Grant Fund in the State Treasury for the purpose of funding the grant program, and specify that a portion of the excess moneys in the Energy Resources Surcharge Fund be deposited in this fund.

Introduced 02/23/96
Last Amend 04/25/96
Status Assembly Appropriations Committee - Died on Suspense File

SB 39 (Thompson) South Spit of Humboldt Bay: Acquisition

SB 39 would authorize the Wildlife Conservation Board and the State Coastal Conservancy to use funds available to them for the purposes of acquiring the South Spit of Humboldt Bay. The bill would also allow the Conservancy, in consultation with the Department of Parks and Recreation, the Attorney General, the State Lands Commission and Humboldt County, to prepare a management plan for the South Spit area and to submit the plan to the Legislature on or before June 30, 1997.

Introduced 12/15/94
Last Amend 08/05/96
Status Chapter 1022, Statutes of 1996.

SECTION II. COASTAL RELATED LEGISLATION

AB 771 (Aguilar) Subdivisions: Tentative Maps: Extensions

AB 771 would extend for 24 months the expiration date for all tentative and vesting tentative maps that have not expired on the date the bill becomes effective. The bill would also extend for a similar period all approvals by local and state agencies that pertain to development projects included in such maps. (Urgency)

Introduced 02/22/95
Last Amend 03/07/96
Status Chapter 46, Statutes of 1996

AB 2080 (McPherson) Public Beaches: Contamination: Warning Signs

AB 2080 would require, when a public beach has failed to meet bacteriological standards, that warning signs be visible from all beach access points.

Introduced 01/18/96
Last Amend 06/17/96
Status Passed Assembly (77-0)
Passed Senate Local Government Committee (9-0)
Senate Appropriations Committee - Died on Suspense File.

AB 2503 (Ackerman) State Civil Service: Career Executive Assignment

AB 2503 would remove the requirement that persons eligible to be appointed to career executive assignment positions have permanent status in civil service, and would permit the State Personnel Board, to authorize open examinations for career executive assignment positions.

Introduced	02/21/96
Last Amend	None
Status	Died on Assembly Inactive File

AB 2519 (Kaloogian) State Civil Service: Classification

AB 2519 would provide that allocation of a position to a civil service class shall be based on the principle that all positions meeting the definition of a class shall be included in the same class. The bill would also authorize the State Personnel Board to establish "broadband" classes of employees for which the same general title may be used to designate each position allocated to the class and which may include more than one level or more than one specialty area within the same general field of work, and to determine the minimum qualifications for these classes.

Introduced	02/21/96
Last Amend	None
Status	Failed to pass Assembly

SB 1542 (Peace) San Diego Unified Port District

SB 1542 would make numerous changes to the operations of the San Diego Unified Port District including allowing the modification of the port master plan with a majority vote of the governing body, instead of the 2/3 vote currently required.

Introduced	02/14/96
Last Amend	05/14/96
Status	Chapter 349, Statutes of 1996.

SB 1803 (Ayala and Kopp) Open Meetings

SB 1803 would make various changes to the Bagley-Keene Open Meeting Act, which requires that the meetings of state bodies be conducted openly.

Introduced	02/22/96
Last Amend	08/20/96
Status	Vetoed by Governor

AB 1431 Ocean resources: counties and cities: financial assistance
BILL NUMBER: AB 1431 CHAPTERED 09/27/96
BILL TEXT

CHAPTER 977
FILED WITH SECRETARY OF STATE SEPTEMBER 27, 1996
APPROVED BY GOVERNOR SEPTEMBER 27, 1996
PASSED THE ASSEMBLY AUGUST 30, 1996
PASSED THE SENATE AUGUST 27, 1996
AMENDED IN SENATE AUGUST 23, 1996
AMENDED IN SENATE MAY 7, 1996
AMENDED IN SENATE AUGUST 21, 1995
AMENDED IN SENATE JUNE 12, 1995
AMENDED IN ASSEMBLY MAY 31, 1995

INTRODUCED BY Assembly Member Firestone
(Coauthor: Senator O'Connell)

FEBRUARY 24, 1995

An act to amend Sections 35031, 35032, 35033, and 35034 of
the Public Resources Code, relating to ocean resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1431, Firestone. Ocean resources: counties and cities: financial assistance.

(1) Under existing law, the Coastal Resources and Energy Assistance Act, the Secretary of the Resources Agency, in cooperation with the California Coastal Commission, was required, on or before July 1, 1992, to develop and implement a competitive application process to award coastal counties and cities financial and technical assistance pursuant to specified provisions governing coastal county and city offshore energy assistance.

This bill would revive that requirement by extending to April 15, 1997, the date on or before which the secretary is required to develop and implement that application process, and would require the secretary to review that process by April 15 of each year in which funds are appropriated pursuant to provisions relating to coastal county and city offshore energy assistance.

(2) The act further requires the secretary to award grants to coastal counties and cities, as specified, for activities related to offshore energy development, but prohibits any financial assistance provided to local governments pursuant to those provisions from exceeding 50% of the cost of carrying out the project. Not more than \$100,000 of funds annually appropriated pursuant to the act may be used by the secretary to defray administrative costs.

This bill would instead prohibit any financial assistance provided to local governments pursuant to those provisions from exceeding 90% of the cost of carrying out the project.

The bill would, commencing in 1997, make 50% of the amount of funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act over the amount of funds so received in 1996 available, on an annual basis, for appropriation to the secretary for grants to coastal counties and cities pursuant to those provisions.

The bill would prohibit more than \$50,000 of the \$100,000 for administrative costs from being used to cover costs incurred by the commission in the review of grant applications.

The bill would also make various technical clarifying changes.

SECTION 1. Section 35031 of the Public Resources Code is amended to read:

35031. Any funds appropriated in accordance with this chapter and not expended as described in Section 35030, may be awarded by the secretary for technical and financial assistance to coastal counties and cities

with approved local coastal programs to help them exercise effectively their responsibility for improving the management of the state's coastal resources. Technical and financial assistance shall be made available to coastal counties and cities to do any of the following:

(a) Protect wetlands, flood plains, estuaries, beaches, dunes, and fish and wildlife and their habitat within coastal areas.

(b) Minimize the loss of life and property in coastal flood-prone, storm surge, geologic hazard, and erosion-prone areas.

(c) Provide public access to the coast for recreational purposes, to acquire coastal view sheds, and to preserve, maintain, and restore historic, cultural, and aesthetic coastal sites.

(d) Facilitate the process for siting major facilities along the coast related to fisheries, recreation, and ports and other coastal dependent commercial uses, giving full consideration to environmental concerns as well as the need for economic development.

(e) Promote other coastal management improvements determined by the secretary to be consistent with the state's coastal management program.

SEC. 2. Section 35032 of the Public Resources Code is amended to read:

35032. On or before April 15, 1997, the secretary, in cooperation with the California Coastal Commission, shall develop and implement a competitive application process to award coastal counties and cities financial and technical assistance pursuant to this chapter. Thereafter, the secretary shall review that process by April 15 of each year that funds are appropriated pursuant to this chapter.

SEC. 3. Section 35033 of the Public Resources Code is amended to read:

35033. Any financial assistance provided to local governments under this chapter may not exceed 90 percent of the cost of carrying out the project. Commencing in the 1997 calendar year and in each calendar year thereafter, 50 percent of the amount of funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) over the amount of funds so received in the 1996 calendar year shall be available, on an annual basis, for appropriation to the secretary for grants to coastal counties and cities pursuant to this chapter.

SEC. 4. Section 35034 of the Public Resources Code is amended to read:

35034. On an annual basis, the secretary shall review and assess county and city expenditures under this program. Not more than one hundred thousand dollars (\$100,000) of the funds appropriated annually pursuant to this chapter may be used by the secretary to defray administrative costs and, of that amount, not more than fifty thousand dollars (\$50,000) may be used to cover costs incurred by the California Coastal Commission in the review of grant applications pursuant to this chapter.

AB 2291 Real property.
BILL NUMBER: AB 2291
BILL TEXT

CHAPTERED 09/26/96

CHAPTER 932
FILED WITH SECRETARY OF STATE SEPTEMBER 26, 1996
APPROVED BY GOVERNOR SEPTEMBER 25, 1996
PASSED THE ASSEMBLY AUGUST 31, 1996
PASSED THE SENATE AUGUST 23, 1996
AMENDED IN SENATE JULY 9, 1996
AMENDED IN ASSEMBLY MAY 14, 1996
AMENDED IN ASSEMBLY MARCH 28, 1996

INTRODUCED BY Assembly Member Knox

FEBRUARY 14, 1996

An act to add Section 846.1 to the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2291, Knox. Real property.

Existing law provides that an owner of any estate or any other interest in real property owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose, as defined, or to give any prescribed warning, except as specified.

Existing law provides that a public entity, as defined, is not liable to any person who participates in a hazardous recreational activity, as defined, for any damage or injury to property or persons arising out of that hazardous recreational activity.

This bill would require the State Board of Control to allow a claim for reasonable attorney's fees incurred by an owner of any interest in real property or a public entity in a specified civil action if the owner gives permission to the public to enter or use the property pursuant to a specified agreement or if a public entity gives permission to the public to enter or use the property for recreational purposes, the owner or this public entity was a defendant in this civil action, and a specified act occurs.

SECTION 1. Section 846.1 is added to the Civil Code, to read:

846.1. (a) An owner of any estate or interest in real property, whether possessory or nonpossessory, who gives permission to the public for entry on or use of the real property pursuant to an agreement with a public or nonprofit agency for purposes of recreational trail use, and is a defendant in a civil action brought by, or on behalf of, a person who is allegedly injured or allegedly suffers damages on the real property, may present a claim to the State Board of Control for reasonable attorney's fees incurred in this civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by the owner or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the owner.

(3) The owner prevails in the civil action.

(b) A public entity, as defined in Section 831.5 of the Government Code, that gives permission to the public for entry on or use of real property for a recreational purpose, as defined in Section 846, and is a defendant in a civil action brought by, or on behalf of, a person who is allegedly injured or allegedly suffers damages on the real property, may present a claim to the State Board of Control for reasonable attorney's fees incurred in this civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by this public entity or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the public entity.

(3) The public entity prevails in the civil action.

(c) The State Board of Control shall allow the claim if the requirements of this section are met. The claim shall be paid from an appropriation to be made for that purpose. Reasonable attorneys' fees, for purposes of this section, may not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made, and may not exceed an aggregate amount of twenty-five thousand dollars (\$25,000). This subdivision shall not apply if a public entity has provided for the defense of this civil action pursuant to Section 995 of the Government Code. This subdivision shall also not apply if an owner or public entity has been provided a legal defense by the state pursuant to any contract or other legal obligation.

(d) The total of claims allowed by the board pursuant to this section shall not exceed one hundred thousand dollars (\$100,000) per fiscal year.

AB 2659 State Coastal Conservancy: mitigation fees: City
BILL NUMBER: AB 2659 CHAPTERED 09/16/96
BILL TEXT

CHAPTER 513
FILED WITH SECRETARY OF STATE SEPTEMBER 16, 1996
APPROVED BY GOVERNOR SEPTEMBER 14, 1996
PASSED THE ASSEMBLY AUGUST 30, 1996
PASSED THE SENATE AUGUST 21, 1996
AMENDED IN SENATE AUGUST 19, 1996

INTRODUCED BY Assembly Member Kaloogian

FEBRUARY 21, 1996

An act to amend Section 30171.5 of the Public Resources Code,
relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2659, Kaloogian. State Coastal Conservancy: City of Carlsbad: coastal zone: mitigation fees: floriculture.

Existing law, the California Coastal Act of 1976, requires that all mitigation fees collected to mitigate development on nonprime agricultural lands in the coastal zone, as defined, in the City of Carlsbad, as specified, be deposited in the State Coastal Conservancy Fund, and appropriates that money to the State Coastal Conservancy for expenditure by the conservancy for specified coastal resources purposes in accordance with a specified order of priority including, in the lowest rank, for the purpose of any project or activity benefiting natural resources in the coastal zone in the city that is provided for in the local coastal program of the city.

This bill would authorize the conservancy to establish a special account in the State Coastal Conservancy Fund for the deposit of those mitigation fees. The bill would specify that any interest accruing on the money in the special account is required to be expended in accordance with those specified purposes and priorities.

The bill would also include in that lowest priority rank for the expenditure of money by the conservancy for coastal resources purposes, open field cultivated floriculture, and would make legislative findings and declarations in that regard.

SECTION 1. The Legislature hereby finds and declares all of the following:

- (a) It is the intent of the Legislature in enacting this measure to enhance and preserve natural resources within the City of Carlsbad.
- (b) The open field cultivation of floriculture in the coastal zone within the City of Carlsbad is an activity that contributes to the conservation and protection of natural resources in the zone.
- (c) The City of Carlsbad City Council Resolutions 96-231, 96-232, and 96-233 are consistent with efforts to preserve natural resources within the city.

SEC. 2. Section 30171.5 of the Public Resources Code is amended to read:

30171.5. (a) The amount of the mitigation fee for development on nonprime agricultural lands in the coastal zone in the City of Carlsbad that lie outside of the areas described in subdivision (f) of Section 30170 and subdivision (b) of Section 30171 shall be determined in the applicable segment of the local coastal program of the City of Carlsbad, but shall not be less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000), per acre. All mitigation fees collected under this section shall be deposited in the State Coastal Conservancy Fund.

(b) All mitigation fees collected pursuant to this section are hereby appropriated to, and shall be expended by, the State Coastal Conservancy in the following order of priority:

- (1) Restoration of natural resources and wildlife habitat in Batiquitos Lagoon.

(2) Development of an interpretive center at Buena Vista Lagoon.

(3) Provision of access to public beaches in the City of Carlsbad.

(4) Any other project or activity benefiting or enhancing the use of natural resources, including open field cultivated floriculture, in the coastal zone in the City of Carlsbad that is provided for in the local coastal program of the City of Carlsbad.

(c) The State Coastal Conservancy may establish a special account in the State Coastal Conservancy Fund and deposit mitigation fees collected pursuant to this section in the special account. Any interest accruing on that money in the special account shall be expended pursuant to subdivision (b).

(d) Not less than 50 percent of collected and bonded mitigation fees shall be expended for the purpose specified in paragraph (1) of subdivision (b).

(e) Other than to mitigate the agricultural conversion impacts for which they are collected, none of the mitigation fees collected pursuant to this section shall be used for elements of a project which cause that project to be in compliance with this division or to mitigate a project which would otherwise be inconsistent with this division. When reviewing a potential project for consistency with this subdivision, the State Coastal Conservancy shall consult with the commission.

SB 39 South Spit of Humboldt Bay: acquisition.

BILL NUMBER: SB 39

CHAPTERED 09/29/96

BILL TEXT

CHAPTER 1022

FILED WITH SECRETARY OF STATE SEPTEMBER 29, 1996

APPROVED BY GOVERNOR SEPTEMBER 27, 1996

PASSED THE SENATE AUGUST 28, 1996

PASSED THE ASSEMBLY AUGUST 22, 1996

AMENDED IN ASSEMBLY AUGUST 5, 1996

AMENDED IN ASSEMBLY JUNE 4, 1996

AMENDED IN ASSEMBLY APRIL 8, 1996

AMENDED IN ASSEMBLY JULY 7, 1995

AMENDED IN ASSEMBLY JUNE 22, 1995

AMENDED IN ASSEMBLY JUNE 19, 1995

INTRODUCED BY Senator Thompson

DECEMBER 15, 1994

An act relating to fish and wildlife, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, M. Thompson. South Spit of Humboldt Bay: acquisition.

Under existing law, the Wildlife Conservation Board is required to authorize the acquisition of land, rights in land, water, and water rights necessary to carry out that law and may authorize that acquisition by the Department of Fish and Game. Existing law provides that the State Coastal Conservancy is the repository of lands pursuant to the California Coastal Act of 1976 and authorizes the conservancy to acquire real property or interests in real property for purposes of that act.

This bill would authorize the board and the conservancy to acquire the South Spit of Humboldt Bay, as described in the bill, after an illegal encampment, debris, and other environmental hazards are removed by the current property owners. The bill would permit the conservancy, in consultation with the Department of Parks and Recreation, the Attorney General, the State Lands Commission, and Humboldt County to prepare a management plan for that area and to submit the plan to the Legislature on or before June 30, 1997.

The bill would appropriate \$100,000 from the Public Resources Account in the Cigarette and Tobacco Products Surtax Fund to the conservancy for the acquisition of, and planning for, the South Spit of Humboldt Bay.

Appropriation: yes.

SECTION 1. The Legislature finds and declares all of the following:

(a) The property known as the South Spit of Humboldt Bay, including five miles from Table Bluff County Park to the south jetty separating south Humboldt Bay from the Pacific Ocean, contains several species of rare or endangered plants and animals.

(b) Lack of proper management of the South Spit of Humboldt Bay has negatively affected the wetland and dune resources of Humboldt Bay, including essential habitat for migratory water birds and the brant and snowy plover, and has placed at risk valuable cultural resources of the Wiyot people.

(c) Current illegal camping on the South Spit of Humboldt Bay negatively affects natural or cultural activities, such as hiking, sportfishing, hunting, appropriate off-highway vehicle use, Native American gatherings and cultural protection.

(d) Public ownership of the South Spit of Humboldt Bay is desirable to ensure that it is properly managed and its natural and cultural resources can be restored and protected.

(e) Expansion of existing publicly owned wildlife habitat and refuge will enhance wildlife habitat protection, is desirable, and can be most effectively accomplished by engaging in cooperative management with various state and federal agencies.

SEC. 2. Due to the impact of unmanaged public use of the South Spit of Humboldt Bay on its natural and cultural resources, after the removal of any illegal encampment, debris, and other environmental hazards by the current property owners, the State Coastal Conservancy and the Wildlife Conservation Board may acquire the south spit area. The State Coastal Conservancy, in consultation with the Department of Parks and Recreation, the Attorney General, the State Lands Commission, and Humboldt County, may prepare a management plan for the south spit area. It is the intent of the Legislature that the management plan be based on a site that has been cleared of illegal encampments, debris, and other environmental hazards. It is the intent of the Legislature that the management plan be completed and submitted to the Legislature on or before June 30, 1997, and that it include, but not be limited to, the following minimum standards:

- (a) The property shall have controlled access.
- (b) Rare species of plants and animals shall be protected, and their habitats, including dunes and wetlands, shall be restored where appropriate and feasible.
- (c) Access corridors shall be specified.
- (d) Cultural resources shall be protected through a cooperative arrangement with the representative of the Wiyot people.
- (e) Uses shall be strictly limited and controlled, consistent with habitat requirements, public safety, and maintenance of public facilities, including the public jetty.
- (f) Off-highway vehicle use shall be limited to the waveslope on the west side of the South Jetty Road, bounded by Table Bluff County Park to the south and the South Jetty to the north.
- (g) Vehicular access on the east side of South Jetty Road shall be limited by special permission only as required for access for hunting, gathering, wildlife management, or traditional uses of the Wiyot people.
- (h) Vehicle turnouts and pedestrian access shall be allowed only at designated corridors.
- (i) Identification of potential state, local, and federal funding sources necessary to implement the plan.

SEC. 3. There is hereby appropriated from the Public Resources Account in the Cigarette and Tobacco Products Surtax Fund to the State Coastal Conservancy the sum of one hundred thousand dollars (\$100,000) for the acquisition of, and planning for, the South Spit of Humboldt Bay pursuant to Section 2 of this act.

BILL NUMBER: SB 1803
VETOED DATE: 09/29/96

To the Members of the California Senate:

I am returning Senate Bill No. 1803 without my signature.

This bill would seek to amend the Bagley-Keene Open Meeting Act, which governs meetings held by state bodies. A number of the bill's provisions would improve the operation of the Act and would conform the Act's provisions with those of the Ralph M. Brown Act, which governs meetings of legislative bodies of local agencies.

However, a number of provisions of this bill would undermine the effectiveness of meetings and the responsiveness of state governmental bodies already subject to the Open Meeting Act. Moreover, it is neither necessary nor desirable to conform the Open Meeting Act with the Brown Act because the nature of the matters handled by state bodies, such as licensing, differ from those addressed by local agencies. A number of the proposed amendments could create uncertainty or confusion in the law. Among the bill's defects are the following:

1. The primary purpose of the Act is to open to the public the meetings of state bodies. Unfortunately, this bill would undermine the effectiveness of the meetings already subject to the open-meeting requirements of the Act. For instance, the bill would raise questions about the legitimacy of a number of actions taken in preparation of a meeting, such as an exchange of written materials, which helps focus the debate. It is unfortunate that a good idea - open meetings - has been taken to its illogical extreme. The public wants open meetings; they don't want the meetings to be unfocused or worse, a waste of time.
2. Present law permits a state body to close sessions to the public for purposes of discussing confidential issues. This bill does not question the need for closed sessions, but would require the state body to report publicly the vote taken by each member in the closed session. However, disclosing the vote of each board member could subject board members to harassment. That would particularly be the case in connection with disciplinary actions taken by a licensing board, which might be subjected to harassment by disgruntled, disciplined licensees.
3. The bill would require the disclosure of many of the actions taken at closed sessions. This would undermine, in part, the very purpose for making the session a closed one. For instance, the bill would require that a closed session's decision to ask legal counsel to take or refrain from taking various legal actions be reported in open session, although prompt disclosure could undermine negotiations or other legal efforts. It would also require a board to make public a decision to accept a settlement offer, even though a final settlement agreement had not been signed, and even though the board wished to attempt to improve the terms of a proposed settlement. Such a disclosure would undermine negotiating efforts.

While these particular provisions parallel those in the Brown Act, they are of questionable value and should not be added to the Open Meeting Act.

Although a number of the proposed amendments are positive, reform of the Bagley-Keene Open Meeting Act must be done in a balanced fashion that promotes good governmental decisionmaking, not in a fashion that impedes it. I look forward to working with the Legislature during the next session to properly reform this law.

Cordially,

PETE WILSON