

## CALIFORNIA COASTAL COMMISSION

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June 25, 1999

TO: Coastal Commissioners and Interested Persons

FROM: Peter M. Douglas, Executive Director  
Steve Scholl, Deputy Director

SUBJECT: Coastal Commission Strategic Plan

## Background

The Department of Finance issued Strategic Planning Guidelines on September 23, 1996 (Budget Letter #96-16) that required all state agencies to develop a strategic plan by July 1, 1997. These guidelines implemented the provisions of Government Code Chapter 779, Statutes of 1994 that required the Department of Finance to assess the status of strategic planning efforts conducted by state departments.

The Strategic Planning Guidelines of 1996 state that each agency's plan must be submitted to the appropriate Agency Secretary by July 1, 1997, after which the plan would be submitted to the Governor's Office for review and approval. The Guidelines stated further that beginning with the preparation of the budget for Fiscal Year 1998-99, strategic plans would be linked to the budget process. For instance, all 1998-99 budget change proposals for augmentations, including those for capital outlay, would only be considered by the Department of Finance for approval if the proposals were consistent with the approved strategic plan.

The Commission's Strategic Plan was drafted in the fall of 1996. The Commission held a series of public workshops to assist in completion of the plan, including a Goal Setting workshop on October 9, 1996, and additional public discussion sessions on March 12 and May 13, 1997. In addition, senior Commission staff conducted a goal-setting session in April, 1997 to identify potential objectives for the Strategic Plan. The completed Plan was adopted by the Commission on June 10, 1997 and transmitted to the Resources Agency on June 27, 1997. Following submittal of the Commission's Strategic Plan, no response was ever received from the Resources Agency or from Governor Wilson's office.

## Strategic Plan update

Attached is a copy of the Commission's Strategic Plan. In brief, the purpose of the Strategic Plan is to focus the efforts of the agency to achieve the policy directions of the California Coastal Act of 1976.

Although Governor Wilson did not act on the Commission's Strategic Plan as submitted, the goals and objectives of the Strategic Plan have been used to guide Budget Change Proposals that have been prepared by the Commission. For instance, Governor Davis's proposed budget for Fiscal Year 1999-2000 reflects a number of the action items contained in the Strategic Plan.

The Strategic Plan is being re-distributed at this time to Commissioners and members of the public for discussion purposes. On June 9, 1999 during the Commissioner workshop, the Commission expressed interest in reviewing the 1997 Strategic Plan and in undertaking an effort to bring the Plan up to date. Staff will provide a briefing at the Commission meeting in July 1999 on the agency's Strategic Plan and will schedule a Commission workshop for the fall of 1999 to consider possible revisions and updates to the Plan.

*attachment*

# **California Coastal Commission**

## **Strategic Plan**

June, 1997



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*<http://ceres.ca.gov/coastalcomm/index.html>*

## Executive Summary

This Plan results from an intensive inquiry into the future direction of the coastal management program in California, conducted by Coastal Commissioners, staff, and members of the public. The Strategic Plan is intended to focus the efforts of the agency to achieve the policy directions of the California Coastal Act of 1976. In an environment of limited fiscal resources and with moderate augmentation as proposed by this Plan, the Commission articulates the following Goals:

1. **Improve the protection of coastal and ocean resources;**
2. **Improve assessment and management of impacts of development in the coastal zone;**
3. **Improve shoreline access opportunities for the public;**
4. **Enhance staff capabilities and expertise on technical and other subjects;**
5. **Enhance the Coastal Commission's leadership role in coastal zone management and in the provision of information regarding coastal and ocean resources;**
6. **Strive to make the Commission's regulatory and planning processes more effective, efficient, and user-friendly; and**
7. **Develop innovative approaches to carrying out the Commission's programs, including inter-agency, inter-disciplinary, and volunteer approaches.**

Each Goal is accompanied by Objectives which cut across agency functions and programs. Thus, the Goals and Objectives are intended to improve the agency's performance in various work units and in a variety of ways. For instance, Objectives intended to enhance the effectiveness of the staff include the replacement of the Commission's antiquated computer system with a modern networked system. Objectives intended to improve agency efficiency include the encouragement of team efforts, both within the agency and in coordination with other resource and planning agencies. In order to put the Strategic Goals and Objectives in perspective, the Plan also contains an Agency Description which summarizes the "on-going goals" which the Commission pursues.

In addition to the Goals and Objectives, the key elements of the Strategic Plan include the Mission and Vision Statements which together articulate a future in which both environmental and human-based resources of the California coast and ocean are protected, conserved, restored, and enhanced, for environmentally sustainable and prudent use by current and future generations. The Plan will be revised annually to reflect achievement of Objectives and completion of Performance Targets. Furthermore, a renewed Strategic Planning effort will be undertaken periodically, in order to identify Goals and Objectives for future years beyond the 3 to 4 years on which this Strategic Plan focuses.

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## I. MISSION STATEMENT

The **Mission** of the California Coastal Management Program administered by the Coastal Commission is based on the mandates of the California Coastal Act of 1976. This **Mission** is to:

*Protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations.*

## II. VISION STATEMENT

The Coastal Management Program's vision of the future for the California coast and ocean is one in which:

### A. CULTURAL AND ENVIRONMENTAL RESOURCES

1. Ecologically viable tidepools, kelp beds, streams, wetlands, riparian corridors, and marine and terrestrial environmentally sensitive habitat areas, including the habitats of rare or endangered organisms, are protected and restored, in order to maximize biological values.
2. Water in coastal streams, lagoons, bays, and the sea supports a diversity of biological, educational, and recreation-oriented uses including fishing and water sports, as well as healthy and diverse populations of marine organisms.
3. Wherever possible, wastewater is reclaimed for beneficial use and polluted runoff is prevented or minimized.
4. The coastal zone has clean air and clean water.
5. Archaeological and paleontological resources are protected against adverse impacts of development and human activities.

## **B. COASTAL ECONOMY/PORTS AND INDUSTRY**

6. Coastal tourism is robust and growing, while maintaining the quality of the visitor's experience and environmental protection of the coast and ocean.
7. A vigorous and environmentally sound aquaculture industry provides food for the country and for export while protecting natural habitat and recreational values.
8. Productive farmlands are preserved and the agricultural economy in the coastal zone is strong and sustainable.
9. Commercial and sport fisheries are restored to a healthy and sustainable state.
10. Existing ports and port facilities are efficient, adapted to modern needs, and competitive with those in other states.
11. Coastal-dependent activities and industries, including commercial fishing, are not precluded by other land uses on waterfront sites.
12. Oil and gas developments, refineries, and other energy facilities are consolidated and are designed to minimize the risk of spillage and adverse impacts to coastal and ocean resources.
13. Petrochemical products are transported by pipeline rather than by marine vessels.
14. Coastal and ocean natural resources are effectively protected in a way that promotes and maintains a strong coastal zone economy.

## **C. COASTAL ACCESS AND RECREATION**

15. Accessways for the public to get to the shoreline and state waters are attractive, inexpensive, well-signed, readily accessible to visitors, and plentiful.
16. A continuous coastal trail extends from Oregon to Mexico and connects to inland public lands and recreational open space.
17. Hotels, restaurants, campgrounds, and other private commercial and public recreational facilities which serve coastal visitors are attractive,

located near points of visitation if environmentally appropriate, and accessible to those of all income levels.

#### **D. HAZARDS**

18. The potential for catastrophic damage and loss of life and property resulting from natural hazards in the coastal zone is minimized.
19. Shoreline protective works such as seawalls are avoided on the open coast or on beaches, and non-structural alternatives are utilized.

#### **E. COMMUNITY CHARACTER**

20. The natural beauty of the coastal zone and the special character of historic, scenic, and unique coastal communities and places are preserved for the benefit of future generations.
21. Significant public views of the ocean and scenic coastal resources are preserved.
22. In rural areas, coastal communities are adequately buffered against incompatible nearby development.
23. New urban growth is accommodated within existing urban areas and stable urban-rural boundaries are maintained.
24. Residential, commercial and other urban developments minimize energy use and facilitate alternative modes of transportation.

#### **F. ORGANIZATIONAL FACTORS**

*Note: The following organizational factors apply to all aspects of the Vision Statement and should not be viewed in isolation from the others.*

25. The Coastal Commission works effectively and efficiently in partnership with other local, state, and federal agencies to carry out the coastal management program.
26. All cities and counties in the coastal zone have fully certified Local Coastal Programs in place.



27. A stable source of funding exists to fully carry out the mission of the coastal management program.
28. Public support and participation remains a fundamental part of California's coastal management program.

#### **G. PUBLIC EDUCATION AND SCIENTIFIC RESEARCH**

29. People of all backgrounds consider protection of the coast and ocean to be important.
30. Schoolchildren throughout California grow up learning about the values of marine life and the resources of the coast and ocean, and persons of all ages have opportunities to learn about, participate in the conservation of, and explore and benefit from the resources of the coastal zone.
31. Additional coastal and marine science research institutions and educational facilities are appropriately located along the coast and inland to expand understanding and knowledge of coastal and ocean resources, dynamics, and systems.

### III. AGENCY DESCRIPTION

The California Coastal Management Program is comprised of two segments: one for the bulk of California's coast, administered by the California Coastal Commission, and the other for San Francisco Bay, administered by the San Francisco Bay Conservation and Development Commission. The basic goals for coastal management for the Pacific Coast segment are expressed in Chapter 1 of the California Coastal Act (see Public Resources Code Section 30001.5). These goals are to:

1. Protect, maintain, and where feasible enhance and restore the overall quality of the coastal environment and its natural and manmade resources.
2. Assure orderly, balanced use, and conservation of coastal resources taking into account the social and economic needs of the people of the State.
3. Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.
4. Assure priority for coastal-dependent development over other development on the coast.
5. Encourage State-local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The Coastal Act also contains specific policies pertaining to public access, recreation, marine resources, land resources, residential and industrial development, and port development (see Public Resources Code Section 30200). These policies are implemented primarily through the coastal development permit process; the development, certification, implementation, and amendment of Local Coastal Programs which the Coastal Act requires all coastal cities and counties to prepare; and the federal consistency review process.

When a Local Coastal Program (LCP) is certified by the Coastal Commission as being consistent with the goals and policies of the Coastal Act, coastal permit authority for that area is delegated to the local government. After LCP certification, however, development in state tidelands, submerged lands, and public trust lands continues to require a permit from the Coastal Commission.

Furthermore, certain types of local government decisions on coastal permits made under certified LCPs may be appealed to the Coastal Commission. In addition to Local Coastal Programs prepared by cities and counties, Port Master Plans have been prepared by four ports in the coastal zone.

The third partner agency which implements California's Coastal Management Program is the State Coastal Conservancy. The Coastal Conservancy carries out a variety of programs in the coastal zone directed at preservation of coastal agriculture, resolution of coastal land use issues, natural resource restoration and enhancement, urban water front development, acquisition of significant coastal sites, public access to and along the shoreline, and assistance to local governments and nonprofit organizations. The Coastal Conservancy is responsible with the Coastal Commission for the Joint Access Program which includes measures to identify, acquire, develop, and manage public accessways to the coast.

In addition to the coastal permit, LCP, and public access programs described above, the Commission has the following on-going responsibilities:

- Reviews the consistency of federal activities with the California Coastal Management Program;
- Maintains a Coastal Resources Information Center as a central clearinghouse for information relating to the coast;
- Reviews and certifies Long Range Development Plans for colleges and universities and Public Works Plans prepared by public agencies, utilities, special districts, and community colleges;
- Monitors local government implementation of certified LCPs and periodically reviews such implementation.

## IV. PRINCIPLES AND VALUES OF CALIFORNIA'S COASTAL MANAGEMENT PROGRAM

The members and staff of the California Coastal Commission espouse the following principles and values:

We recognize and respect the humanity and individuality in each of us.

We strive to be responsible, honest, and cooperative in interactions with others.

We are always sensitive to and aware of the mission of the Coastal Commission.

Our primary obligation as coastal managers is to carry out the Coastal Act in a manner that best serves the public interest.

We treat members of the public and permit applicants courteously and with respect, mindful of the time and costs and expectations they have invested in their work.

We recognize that public service is a privilege, and not a right; we value excellence, efficiency, creativity, accountability, and integrity in all we do, and we take pride in our work.

Personal and professional growth of all participants in the coastal program is of high importance.

We base our regulatory and planning decisions on information which is as objective, complete, and accurate as possible.

Personal preferences or bias cannot be a basis for our work-related recommendations and decisions.

We recognize the diversity of perspectives applicable to coastal management issues, and we are respectful of the views of others.

We strive for equitable and meaningful access to the planning process for all interested parties; helping the general public to understand and participate in the coastal management program is of high importance.

We respect the legal and Constitutional rights of all persons including the rights of private property owners and the rights of the public to reach and use public trust lands and waters.

We are especially sensitive to and respectful of private property rights while recognizing that the public also has important rights and interests in the protection of human and natural community values, and that it is against those public rights and interests that private rights must, at times and under appropriate circumstances, be measured.

## V. INTERNAL/EXTERNAL ASSESSMENT (SUMMARY)

In preparing this Strategic Plan, the Commission and staff conducted an assessment of factors both internal and external to the agency which together influence the success of the Coastal Commission in carrying out its mission. The factors include management policies, resource constraints, organizational structure, automation, personnel, and operational procedures. This assessment resulted in a statement of "strengths" and "weaknesses" of the coastal management program which formed the background for the development of goals and objectives. The Internal/External Assessment reflects comments made by members of the public, Commissioners, and staff at workshops on October 9, 1996, March 12, 1997, and May 13, 1997, as well as on other occasions.

The Internal/External Assessment is contained in Appendix C.

## VI. GOALS, OBJECTIVES, PERFORMANCE TARGETS

<b>Goal 1</b>	<b>Improve protection of coastal and ocean resources.</b>
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### Objective 1.1 Reduce polluted run-off (FY 1997-2002)

- Action a) *Develop jointly with the State Water Resources Control Board by October 1998 a strategy to implement the State Coastal Nonpoint Pollution Control Program throughout the coast.*
- Action b) *Develop or update technical assistance tools for planners to use to address nonpoint source pollution issues during permit review and LCP planning activities (e.g., revised CEQA checklists, standard conditions, "model" LCP policies and ordinances, lists of Best Management Practices, summaries of water quality concerns/watershed management efforts in critical coastal areas) and incorporate into the Commission's Polluted Runoff Procedural Guidance Manual on a regular basis over next 5 years.*
- Action c) *Identify and assign Water Quality Coordinator in each office.*
- Action d) *Conduct annual meetings over the next 5 years between district Water Quality Coordinators and headquarters staff to disseminate new polluted runoff information.*
- Action e) *Conduct in each district, in coordination with headquarters staff, periodic meetings over the next 5 years with Regional Water Quality Control Board (RWQCB) staff for the purpose of developing stronger, long-term ties with the RWQCBs.*
- Action f) *Continue on an annual basis over the next 5 years the identification of potential additional grant and funding sources to support and expand the Commission's polluted runoff control activities.*

### Objective 1.2 Strengthen oil spill program (FY 1997-98)

- Action a) *Continue to develop strategies with other agencies to improve detection, prevention, and clean-up of underground (e.g.,*

*pipeline, storage tanks) spills, similar to Guadalupe spill in Central California (ongoing).*

*Action b) Continue development of strategy to improve prevention of oil spills from tankers/barges transiting the North and Central Coast Districts by June 1998.*

**Objective 1.3    Ensure follow-up and compliance on all major permit conditions (FY1997-2000)**

*Action a) Compile data on permits and identify lessons learned regarding what worked and what did not. Continue to improve future permit requirements to prevent impacts to marine and coastal resources by December 1998.*

*Action b) Develop strategy to ensure independent, science-based monitoring for all major projects by December 1997.*

*Action c) Develop strategy to enhance involvement of university scientists in mitigation or restoration design and monitoring by December 1997.*

*Action d) Explore additional grant and funding alternatives to support enhanced monitoring efforts and determine need for improved efficiency and additional staffing (on-going).*

<b>Performance Targets:</b> 1.1 Polluted runoff strategy 1.2 Permit compliance strategy
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<b>Goal 2     Improve assessment and management of impacts of development in the coastal zone.</b>
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**Objective 2.1     Reinstate mandate to complete LCPs (FY 1998-99)**

*Action a)     Prepare draft legislation by December 1, 1997.*

**Objective 2.2     Target staff assistance to complete uncertified LCPs (FY 1997-98)**

- Action a)     Each district office to develop priority list of LCPs where assistance is likely to be most productive by November 1997.*
- Action b)     Explore and identify needs by December 1997 for additional staff to assist targeted local governments in completing LCPs.*
- Action c)     Prepare budget proposal/justification for additional staff by December, 1998.*
- Action d)     Develop or update guidance mechanisms to assist local governments in LCP planning by June, 1998.*

**Objective 2.3     Conduct at least one Regional Cumulative Assessment Program (ReCAP) review of development impacts each year (FY 1997-2000)**

- Action a)     Select site for review during FY 1997-98 by April, 1997.*
- Action b)     Initiate issue identification, public outreach, and resource assessment by September 1997.*
- Action c)     Complete review and develop recommendations by May 1998.*

**Objective 2.4     Improve information systems to facilitate future ReCAP reviews (FY 1997-98)**

- Action a)     Conduct training sessions with district staff concerning post-certification data collection, by August, 1997.*
- Action b)     Monitor use of existing Permit Tracking System.*
- Action c)     Written recommendations to improve information systems.*
- Action d)     Implement alternative data collection/data sharing methods.*
- Action e)     Work with Resources Agency to develop/expand Permit Tracking System.*

<b>Performance Targets:     2.1   Local government LCP assistance program    2.2   ReCAP reviews</b>
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<b>Goal 3</b>	<b>Improve shoreline access opportunities for the public.</b>
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**Objective 3.1** Prepare and implement a Public Access Action Plan that includes (1) mapping and field checking of all Offers-to-Dedicate (OTDs), deed restrictions, and other legal documents that secure public access; (2) prioritization of all OTDs; (3) methods to achieve opening of the accessways by the year 2000; (4) priority links in the Coastal Trail (FYs 1997-2000)

*Action a) Prepare draft action plan by July 1998.*

**Objective 3.2** Develop improved Commission findings, for use in conjunction with seawalls, supporting public access requirements and long-term needs for mitigation of impacts (FY 1998-99)

*Action a) Prepare draft model findings by September 1998.*

**Objective 3.3** Seek innovative ways to reduce costs for the public to get to the shoreline (FY 1997-98)

*Action a) Pursue legislation by January 1998 to provide funding to open and operate accessways.*

*Action b) Pursue legislation by January 1998 to reduce litigation costs for non-profit organizations accepting accessways.*

*Action c) Investigate options for funding alternative transit/public parking to support shoreline access by June 1998.*

<b>Performance Targets:</b>	<b>3.1 Public Access Action Plan</b>
	<b>3.2 Model public access findings</b>

<b>Goal 4</b>	<b>Enhance staff capabilities and expertise on technical and other subjects.</b>
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**Objective 4.1** Provide a training budget for Commission staff of approximately \$300/person (\$30,000) (FY 1998-99)\*

- Action a)* Prepare budget proposal/justification by August 1, 1997.
- Action b)* Investigate alternative methods of training, including use of video tapes and other cost-effective methods, by January 1998.

**Objective 4.2** Conduct an all-staff conference once each year (FY 1997-98)

- Action a)* Prepare tentative agenda by September 1, 1997 for first conference to be held during 1997-98 to include training on critical challenges facing the Commission, past lessons learned, etc.
- Action b)* Arrange for speakers, conference location, transportation, and accommodations by October 1997.
- Action c)* Conduct staff conference no later than July 1, 1998.

**Objective 4.3** Expand the technical expertise available to the Commission for its regulatory and planning work (FY 1997-1999)\*

- Action a)* Seek funding for additional biologist by August, 1997.
- Action b)* Hire water quality planner, geologist by September, 1997.
- Action c)* Explore contract with Division of Mines and Geology and prepare a report by December 1, 1997.
- Action d)* Convert limited-term staff positions to permanent status during FY 1997-98.

**Objective 4.4** Ensure each district office has access to GIS information, aerial photography, and land parcel information at usable scales (FY 1997-98)\*

- Action a)* Purchase needed computers and software for district offices by January 1, 1998.

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\* Funding not yet included in approved budget

- Action b) Acquire and install datasets on computers in each office, or install network in order to share such information, by February 1, 1998.*
- Action c) Train district staff during first quarter of 1998.*
- Action d) Cartographic staff to perform data manipulation/integration tasks on on-going basis during FY 1997-98.*

**Objective 4.5 Expand resources of the Administration Division (FY 1998-99)\***

- Action a) Determine specific staff needs and prepare budget proposal/justification for up to 3.5 additional PYs for Personnel, Accounting, and Business Services by August 1997.*

**Objective 4.6 Enhance the enforcement program in each office (FY 1997-98)\***

- Action a) Prepare budget proposal/justification by August 1997 to fund three new enforcement staff positions.*

**Objective 4.7 Enhance legal services (FY 1999-2000)\***

- Action a) Prepare budget proposal/justification by July 1, 1998 to fund two additional staff counsel positions so that the Commission has a staff counsel in each district/area office.*

<b>Performance Targets:</b>	<b>4.1 Training opportunities for staff</b>
	<b>4.2 All-staff conference</b>
	<b>4.3 Additional staff technical positions</b>
	<b>4.4 Additional staff counsel positions</b>

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\* Funding not yet included in approved budget

<b>Goal 5</b>	<b>Enhance the Coastal Commission's leadership role in coastal zone management and in the provision of information regarding coastal and ocean resources.</b>
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**Objective 5.1**    **Improve public information provision (FY 1998-99)\***

*Action a)*    *Prepare budget proposal/justification by July 1, 1997 to fund an information officer position.*

**Objective 5.2**    **Educate young people about coastal management and marine sciences through creation of a National Sea Camp (FY 1997-98)**

*Action a)*    *Conduct workshop regarding Sea Camp in fall, 1997.*

*Action b)*    *Prepare work program for implementation of Sea Camp Program by January 1, 1998.*

**Objective 5.3**    **Develop education program that addresses water quality programs (FY 1997-1999)\***

*Action a)*    *Develop a work program and budget by December 1997.*

*Action b)*    *Explore sources of funding to carry out the program.*

*Action c)*    *Implement the work program during 1998-99 and 1999-2000.*

**Objective 5.4**    **Complete and update series of Coastal and Marine Educational Resource Directories (FY 1997-2000)\***

*Action a)*    *Seek funding for Southern California directory by January 1998.*

*Action b)*    *Prepare directory for Southern California by July 1999.*

*Action c)*    *Seek funding for a North Coast directory by January 1999.*

*Action d)*    *Prepare directory for North Coast by July 2000.*

*Action e)*    *Update San Francisco and Monterey Bay directory and South Central Coast directory by July 2000.*

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\* Funding not yet included in approved budget

- Objective 5.5**    **Maximize benefit to Commission programs from "Whale-Tail" license plate program (FY 1997-2000)**
- Action a)    *Prepare plan by July 1, 1997 to utilize funds generated by license plate sales for appropriate Commission, State Coastal Conservancy, and Monterey Bay National Marine Sanctuary programs.*
- Action b)    *Sell 25,000 license plates by 2000.*
- Objective 5.6**    **Develop agency newsletter for local governments (like "Local Assistance Notes") and/or others interested in the Commission's programs (FY 1997-98)**
- Action a)    *Prepare new newsletter by June 1, 1998.*
- Objective 5.7**    **Prepare "25-year report" on the Commission's work and what has been accomplished (FY 1997-2000)**
- Action a)    *Seek funding for publication of report by January 1, 1998.*
- Action b)    *Prepare draft report by July 1, 1998.*
- Action c)    *Distribute report to the public by June, 2000.*
- Objective 5.8**    **Establish agency speaker's bureau (FY 1997-1999)**
- Action a)    *Recruit staff from each office and/or unit by October 1997.*
- Action b)    *Develop handouts, speaker's topics, and slide show by July 1998.*
- Action c)    *Compile bureau listing and coordinate assignments through Public Education Network by July 1998.*
- Objective 5.9**    **Provide information to staff of the Commission and of local governments on property rights law (FY 1997-98)**
- Action a)    *Conduct training workshops for Commission staff by December, 1997.*
- Action b)    *Conduct workshops for local government staff by April 1998.*
- Objective 5.10**    **Create Coastal Atlas of mapped information for the use of the public and of staff (FY 1998-2000)\***
- Action a)    *Develop detailed project design/work plan for Coastal Atlas for entire California coast by December 31, 1997 (the project to be done in regional components as funding becomes available).*

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\* Funding not yet included in approved budget

- Action b) *Complete preliminary prototype by July 1, 1998.*
- Action c) *Prepare budget proposal/justification for additional cartographic staff by August 1998.*
- Action d) *Add pilot sections of Coastal Atlas to Commission's Website as they are completed.*

**Objective 5.11 Expand information about the Commission's programs and coastal management available on the Commission's Website on the Internet (CRIC) (FY 1997-2000)**

- Action a) *Develop work plan for ways to maximize use of the Website including identification of materials to be published on Website; schedule; and staff training, by December 1997.*
- Action b) *Add the federal consistency database and "Federal Consistency in a Nutshell" to the Commission's Website by July 1, 1998.*
- Action c) *Expand mapped and other geographic information available on Website on a continuing basis as funding and staffing allow.*
- Action d) *Add pilot sections of Coastal Atlas to Website as they are completed.*
- Action e) *Explore expanded use of Commission's Website for news items, announcements, and newsletter for public and local government by December 1997.*

<b>Performance Targets:</b>	<b>5.1 Sea Camp in operation</b>
	<b>5.2 Water quality education program</b>
	<b>5.3 Coastal/Marine Educational Resource directories</b>
	<b>5.4 Agency newsletter</b>
	<b>5.5 25-year report</b>
	<b>5.6 Speaker's bureau</b>
	<b>5.7 Coastal Atlas</b>
	<b>5.8 Expanded and continually updated Website</b>

<b>Goal 6</b>	<b>Strive to make the Commission's regulatory and planning processes more effective, efficient, and user-friendly.</b>
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**Objective 6.1 Streamline the Commission's coastal permit and Local Coastal Program procedures (FY 1997-98)**

- Action a) Staff Streamlining Task Force prepare recommendations regarding LCPs and permits, including improvements in the provision of information to the Commission, by December 1997.*
- Action b) Implement recommendations during 1997-98.*

**Objective 6.2 Pursue information system strategy that: puts computer on every staff person's desk; results in an effective, networked system; implements a statewide coastal permit tracking system; provides staff training, e-mail, usable databases; puts in place necessary technical computer service staff; includes GIS spatial information components (FY 1997-98)\***

- Action a) Implement strategy in FY 1997-98.*

**Objective 6.3 Undertake an audit of the Commission's performance (FY 1997-98)\***

- Action a) Prepare draft work program for audit by July 1, 1997.*
- Action b) Commission review and adopt criteria by July 1, 1997.*
- Action c) Select auditor by August 1, 1997.*

**Objective 6.4 Enhance staff communications with the public and with other Commission offices. (FY 1997-98)**

- Action a) Prepare report on options such as new phone systems to allow voice mail in all offices, video conferencing, improved speaker phones, relationship to potential new computers to be acquired; report to be prepared by July 1, 1998.*

**Objective 6.5 Revise and improve the Commission's administrative regulations (FY 1997-98)**

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\* Funding not yet included in approved budget

- Action a) *Initiate rulemaking procedures by July 1, 1997.*  
Action b) *Complete rulemaking procedures by July 1, 1998.*

**Objective 6.6 Evaluate public, applicant, and "customer" comments regarding the Commission's services (FY 1998-99)**

- Action a) *Develop a customer service survey to be distributed to applicants and others by July 1, 1998.*  
Action b) *Implement appropriate improvements based on the customer service survey by December 31, 1998.*

**Objective 6.7 Improve efficiency in management of the Commission's files (FY 1997-99)\***

- Action a) *Establish Task Force on files management by January 1, 1998.*  
Action b) *Undertake pilot project to analyze the costs and benefits of converting paper records to microfiche or electronic form by April 1, 1998.*  
Action c) *Task Force to propose criteria for what to keep, what to throw, what to archive, etc. by June 1, 1998.*  
Action d) *Prepare budget proposal/justification to fund improved management of files by July 1, 1998.*

**Objective 6.8 Open North Coast Commission Office (FY 1998-99)\***

- Action a) *Prepare budget proposal/justification by July 1, 1997 to fund the re-opening of a North Coast office during FY 1998-99.*

**Objective 6.9 Convert certified LCPs into digital format (FY 1998-99)**

- Action a) *District managers to make priority list of LCPs for conversion by July 1, 1998.*  
Action b) *Assemble LCPs and send to Resources Agency (CERES) for conversion by August 1, 1998.*

<b>Performance Targets:</b>	<b>6.1 Performance audit report</b>
	<b>6.2 Revised Commission regulations</b>
	<b>6.3 North Coast Office in operation</b>
	<b>6.4 LCPs converted to digital format</b>

\* Funding not yet included in approved budget



<b>Goal 7</b>	<b>Develop innovative approaches to carrying out the Commission's programs, including inter-agency, inter-disciplinary, and volunteer approaches.</b>
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**Objective 7.1**    **Create multi-agency Enforcement Task Forces in additional regions of the coastal zone, modelled on the Santa Monica Mountains Task Force (FY 1997-2000) (see Objective 3.6)\***

- Action a)*    *Create Task Force in Monterey Bay Area during FY 1997-98.*
- Action b)*    *Create Task Force in North Coast during FY 1998-99.*
- Action c)*    *Create Task Force in San Diego County during FY 1999-2000.*

**Objective 7.2**    **Enhance staff teamwork on various issues, modelled on the BEAR task force (FY 1997-99)**

- Action a)*    *Draft strategy regarding teamwork by January 1, 1998.*
- Action b)*    *Re-activate Wetlands Task Force by June 1998.*
- Action c)*    *Create Non-Point Source Task Force by ???*
- Action d)*    *Implement strategy during 1998-99.*

**Objective 7.3**    **Target local government assistance efforts where they will do the most good (FY 1997-98)**

- Action a)*    *Review past requests from local governments concerning what assistance would be most useful to them, during 1997-98.*
- Action b)*    *Consider survey of local governments to ask what they need most, during FY 1997-98.*

**Objective 7.4**    **Develop intern program with focus on cultural diversity (FY 1998-99)\***

- Action a)*    *Prepare budget proposal/justification for necessary funding by August 1997.*

**Objective 7.5**    **Actively participate on special task forces such as Seismic Survey, Energy Facility Abandonment, Pipeline**

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\* Funding not yet included in approved budget

**Transportation, and Wetlands Mitigation Banking task  
forces (FY 1997-2000)\***

- Action a) Prepare budget proposal/justification by July 1, 1998 to expand staff resources.*
- Action b) Make staff available to participate in important long-range interagency planning efforts.*

<b>Performance Targets:</b>	<b>7.1 Additional Enforcement Task Forces</b>
	<b>7.2 Student internship program</b>
	<b>7.3 Oil spill outreach program</b>

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\* Funding not yet included in approved budget

## VII. PERFORMANCE DATA

<b>PERMIT ITEMS</b>	<b>FISCAL YEAR</b>	<b>94/5</b>	<b>95/6</b>	<b>96/7</b>
Administrative		100	60	60
Consent		229	194	194
Regular Calendar		214	167	167
Amendments		79	83	83
Appeals		39	54	54
Others		346	325	325
Waivers		327	297	297
Federal Consistency Certification		10	20	20
Federal Consistency Determination		91	99	99
<b>SUBTOTALS</b>		<b>1435</b>	<b>1299</b>	<b>1299</b>
<b>LCP ITEMS</b>	<b>FISCAL YEAR</b>	<b>94/5</b>	<b>95/6</b>	<b>96/7</b>
LUP Submittals/Resubmittals		3	0	0
Zoning Submittals/Resubmittals		2	2	2
Amendments		66	94	94
Findings		13	4	4
Maps		0	3	3
Catgorical Exclusions		3	1	1
Port Master Plan Amendments		1	5	5
Grants		1	0	0
Other		49	98	98
LCP Periodic Reviews/Regional Periodic Reviews		0	1	0
Procedural Guidance/Special Study Products		3	4	3
<b>SUBTOTALS</b>		<b>141</b>	<b>212</b>	<b>210</b>
<b>GRAND TOTALS</b>		<b>1576</b>	<b>1511</b>	<b>1509</b>

## VIII. RESOURCE ASSUMPTIONS

### **Background: Budget History FY 1981/82 through FY 1996/97.**

In FY 1981/82, prior to George Deukmejian becoming governor, the Commission had a state budget of \$6.668 million (equivalent to \$11.134 million in 1996/97 dollars) and a staff level of 186.9 budgeted positions. During his two terms as governor, George Deukmejian reduced the Commission's state budget by 27 percent and reduced the staff level by 42 percent, to 108.1 budgeted positions. He also forced closure of the Commission's North Coast District Office in Eureka (1985). These actions were not related to the Commission's workload and permanent responsibilities, but were based on the governor's desire to eliminate the Coastal Commission.

In his first state budget in FY 1991/92, Governor Pete Wilson proposed a 12 percent increase in state funding for the Commission to: (1) reestablish a North Coast area office and increase the North Coast staff by two positions; (2) increase the enforcement staff by three positions; and (3) add a position for the Adopt-A-Beach/Conservation Education program. Unfortunately, his proposed FY 1991/92 budget increase was wiped out by an across-the-board cut which was necessary to balance the state budget during the recession which fell upon the state and nation.

Three enforcement positions for the Commission were included in Governor Wilson's FY 1993/94 state budget and these positions were authorized by the Budget Act of 1993; however, an unallocated General Fund reduction triggered after the budget passed forced the agency to eliminate 4.5 positions, including the three new enforcement positions.

No other significant budget changes were proposed specifically for the Commission in the other budget years prior to FY 1997-98. By FY 1996/97, the state budget for the Commission's core program was 38 percent lower than in FY 1981/82 and staff had been cut by 43 percent, to 106.5 budgeted positions.

These reductions in budget and staff have forced the Commission to operate for over fourteen years at levels well below that necessary to carry out all of its statutory responsibilities. During this period, the Commission's work has been driven primarily by statutory requirements and deadlines set by the state Coastal Act, federal Coastal Zone Management Act, and state Permit Streamlining Act. Many critical activities that should have had priority were terminated or deferred. For example, the periodic evaluation of certified LCPs has been deferred (periodic reviews for 50 jurisdictions are currently overdue, some by as many as 11 years); local assistance grants to coastal jurisdictions for LCP development

and completion were terminated (37 LCPs are currently not effectively certified); the agency has been unable to provide coastal jurisdictions with the technical and legal assistance needed to develop, certify, and implement their LCPs; the Commission has a backlog of enforcement cases and has problems preparing the administrative records necessary to bring legal challenges to trial in a timely manner; few new accessways have been opened for public use (1,014 offers to dedicate access easements have not been accepted); the agency has deferred long range coastal planning and only recently became involved in nonpoint source pollution control as a result of a federal mandate.

In addition, the impacts on staff have also been substantial. Staff training is almost nonexistent; staff members have had to pay for their own travel and registration fees at conferences; layoffs and hiring freezes have been imposed that have increased the workload for the remaining staff; staff has been equipped with antiquated computers (Wang) and when new PCs have been provided, training and technical support have been insufficient. Most of the staff hired over the past five years have necessarily been hired as limited-term appointments (i.e., the terms of their employment are limited to the duration of the federal grants that support their positions). Agency managers have had to place strict controls on operating expenditures to keep within the agency's budget. For example, staff travel to proposed development sites, to meetings with local officials, government agencies and permit applicants, and to Commission meetings has been reduced significantly.

#### **FY 1997/98 Budget.**

In his FY 1997/98 budget, Governor Wilson proposed a coastal initiative which included components previously identified by the Coastal Commission as essential to the successful achievement of its mission. The Governor's Budget proposed: (1) \$500,000 to the Resources Agency to purchase data processing/computer equipment and to provide technical services to the Commission in order to install modern computers and a permit tracking system; (2) \$100,000 to the Commission to develop, in cooperation with the Coastal Conservancy, a comprehensive coastal access implementation plan; and (3) \$500,000 to the Commission to provide grants to local governments for completing and implementing their local coastal programs.

Although the Governor's Budget proposed additional funding for the coastal program, the budget was still insufficient to carry out the Commission's most urgent, ongoing needs. Therefore, the Commission requested the Resources Agency, governor, and legislature to amend and augment the governor's coastal initiative by: (1) adding \$86,000 for a water quality planner to work on the completion and implementation of the federally-mandated Coastal Nonpoint Source Pollution Control Program; (2) amending the local coastal program (LCP) completion and implementation budget to include \$160,000 for two coastal

program analysts to manage the local assistance grant program and to help local governments complete and implement their LCPs; (3) adding \$192,000 for three coastal program analysts to reduce the backlog of enforcement cases and to work with other state, federal, and local agencies to create enforcement task forces in the central and north coast districts; and (4) adding \$67,000 for a geologist to provide technical assistance to the Commission's regulatory, planning, and energy programs.

On May 6, 1997, Assembly Budget Subcommittee #3 on Resources approved the appropriation of \$500,000 to the Resources Agency to develop the Commission's computer system, and also approved the following appropriations to the Coastal Commission: \$100,000 for one limited-term position to develop an access implementation plan, \$340,000 for local assistance grants and \$160,000 for two limited-term positions to work on LCP completion, \$186,000 for two limited-term positions to work on water quality planning, \$87,000 for a limited-term geologist, and \$192,000 for three limited-term enforcement positions.

On May 8, 1997, the Senate Budget and Fiscal Review Subcommittee #2 on Resources Environmental Protection, Judiciary and Transportation approved the appropriation of \$500,000 to the Resources Agency to develop the Commission's computer system and also approved the following appropriations to the Coastal Commission: \$100,000 for one limited-term position to develop an access implementation plan, \$86,000 for a permanent water quality planner, \$87,000 for a permanent geologist, and \$192,000 for three permanent enforcement positions. The Subcommittee did not approve any funding or positions for LCP completion.

Because the Assembly and Senate actions on the Commission's budget are not identical, the Commission's budget has gone to the Conference Committee for final resolution. Differences include the designation of positions as limited-term or permanent, the number of water quality planner positions approved, and the approval or denial of funding for LCP completion.

Even if the FY 1997/98 budget for the Commission is approved with the maximum funding and the permanent positions proposed, there will still be a continuing deficiency in state funding for the Commission's operations. The budget does not include any cost of living adjustments to pay for increased office rents, staff merit salary increases, etc. The Commission will still be dependent upon federal funds to support a significant portion of its core program. Federal funds will continue to make up about 80 percent of the core program's Operating Expenses and Equipment (OE&E) budget in FY 1997/98. Although the Coastal Commission will receive \$1.9 million in federal Coastal Zone Management Act (CZMA) section 306 funds for its core program in FY 1997/98, the agency will receive considerably less in other federal grants (CZMA section 308, 309 and 6217 grants; Clean Water Act grants; etc.). In the past the Commission has

been able to use portions of these other grants to support baseline program costs as well as the costs for completing grant-specific tasks that require additional staff, additional travel, etc. Some of the federal money in the FY 1997/98 budget will come from FY 1996/97 grants that are carried over to the end of the federal fiscal year, September 30, 1997.

### **Resource Assumptions.**

The Strategic Plan includes both objectives which can be achieved within a budget comparable to that of FY 1997-98 and other objectives which will require a budget augmentation in FY 1998-99. Those objectives requiring a budget augmentation are footnoted in the text and are discussed separately.

**FY 1996-97** Funds include state general funds, environmental license plate funds, federal funds, and reimbursements.

**FY1997-98** Funds are anticipated to include state general funds, federal funds, and reimbursements. To accomplish Objective 6.2 (upgrading the Commission's information systems) would require an augmentation during FY 1997-98; this augmentation (\$500,000 to the Resources Agency to design and implement the information systems upgrade) is already in the Governor's proposed budget now under consideration in the Legislature. Funding to achieve Objective 4.6 (enhance the Enforcement Program) is contained in the pending budget. Objective 6.3 (performance audit) is intended to be accomplished with funding from outside the agency's budget (e.g., from Resource Agency funds).

**FY 1998-99** Funds are anticipated to include state general funds, environmental license plate funds (funds from the Whale-Tail license plate), federal funds, and reimbursements. To accomplish Objectives 6.7, 6.8, 5.1, 5.3, 5.4, 4.1, 4.3, 4.4, 4.5, and 7.4 would require future budget augmentations. Funds for these objectives will be sought from the general fund (e.g., Objectives 5.3, 5.4, and 7.4).

**FY 1999-2000** Funds are anticipated to include state general funds, environmental license plate funds, federal funds, and reimbursements. To accomplish Objectives 5.4, 4.7, and 7.1 would require future budget augmentations. Funds for certain of these objectives may be sought from non-general fund sources.

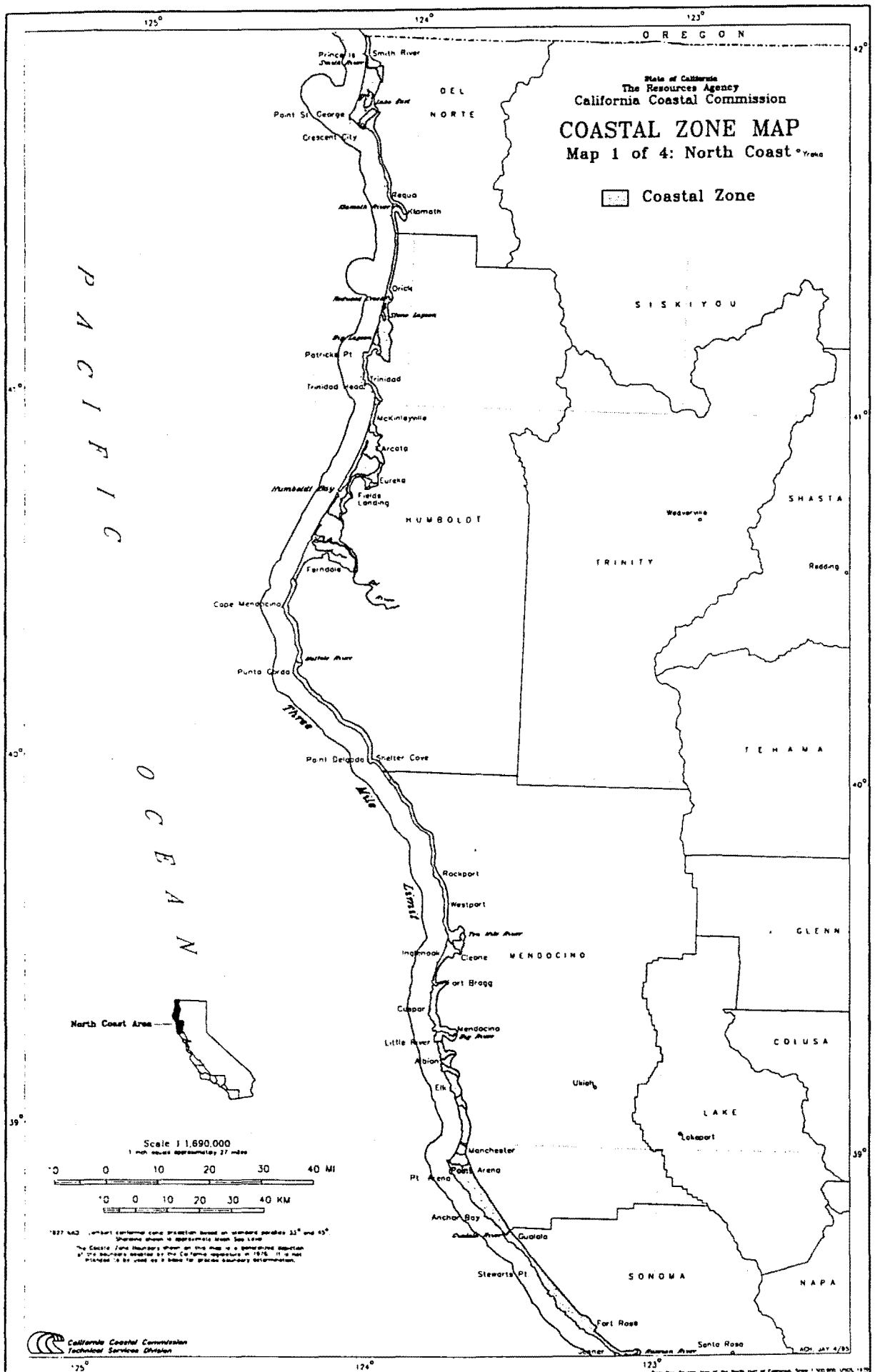
## IX. FINANCIAL AND FULL-TIME EQUIVALENT POSITION (FTE) INFORMATION

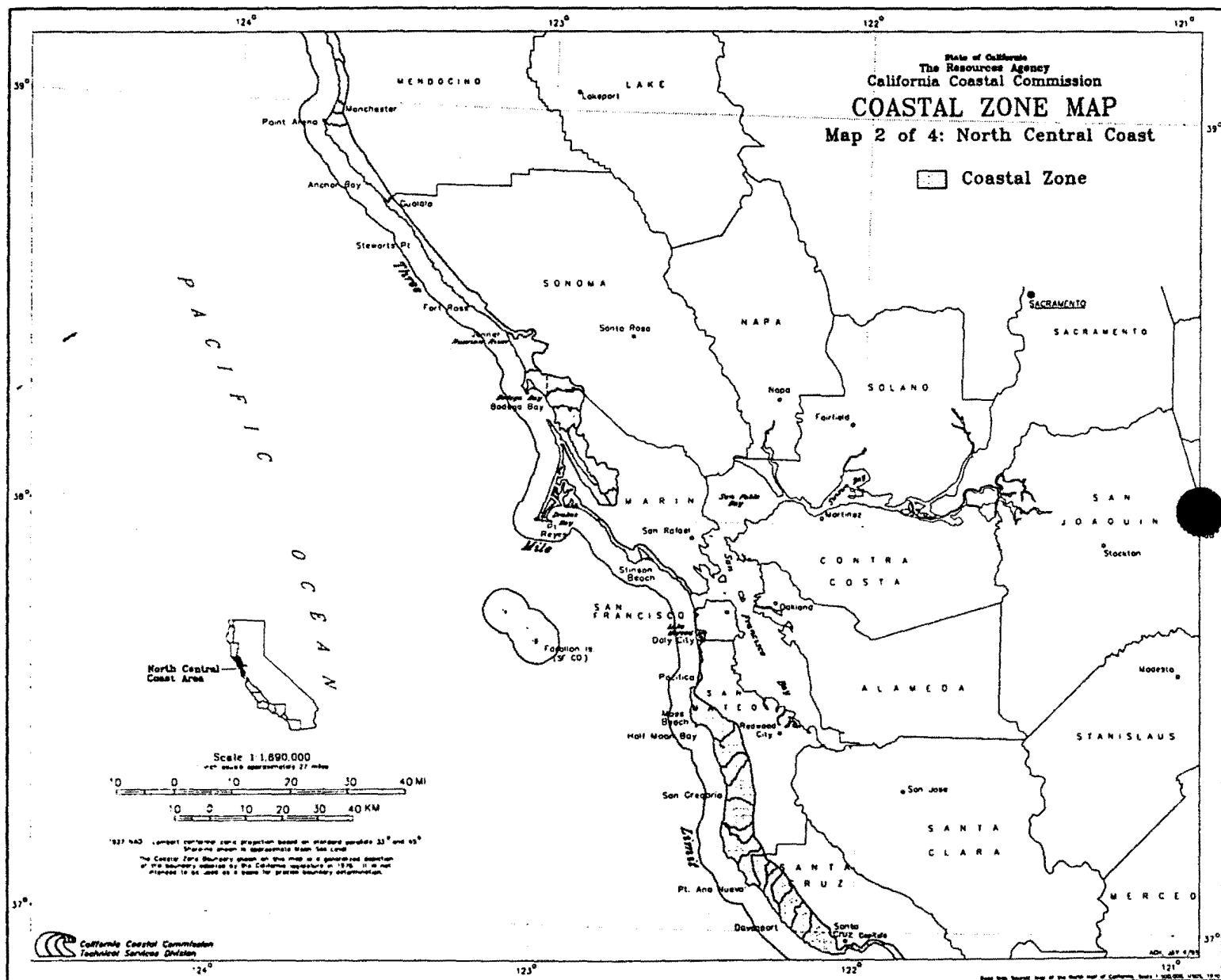
<b>FY 1995-96 Actual:</b>	<b>Expenditures</b>	<b>FTEs</b>
General Fund	\$5,741,000	
Environ. License Plate Fund	<u>1,223,000</u>	
<b>SUBTOTAL</b>	6,964,000	106.5
Reimbursements	496,000	6.9
Federal funds	<u>3,556,000</u>	<u>24.3</u>
<b>TOTAL</b>	11,016,000	137.7
<b>FY 1996-97 Estimated:</b>	<b>Expenditures</b>	<b>FTEs</b>
General Fund	\$5,650,000	
Environ. License Plate Fund	<u>1,298,000</u>	
<b>SUBTOTAL</b>	6,948,000	106.5
Reimbursements	437,000	6.9
Federal funds	<u>3,238,000</u>	<u>12.0</u>
<b>TOTAL</b>	10,623,000	125.4
<b>FY 1997-98 Budget Req.:</b>	<b>Expenditures</b>	<b>FTEs</b>
General Fund	\$7,818,000	
Environ. License Plate Fund	<u>- 0 -</u>	
<b>SUBTOTAL</b>	7,818,000	113.1
Reimbursements	437,000	6.9
Federal funds	<u>2,393,000</u>	<u>5.6</u>
<b>TOTAL</b>	10,648,000	125.6

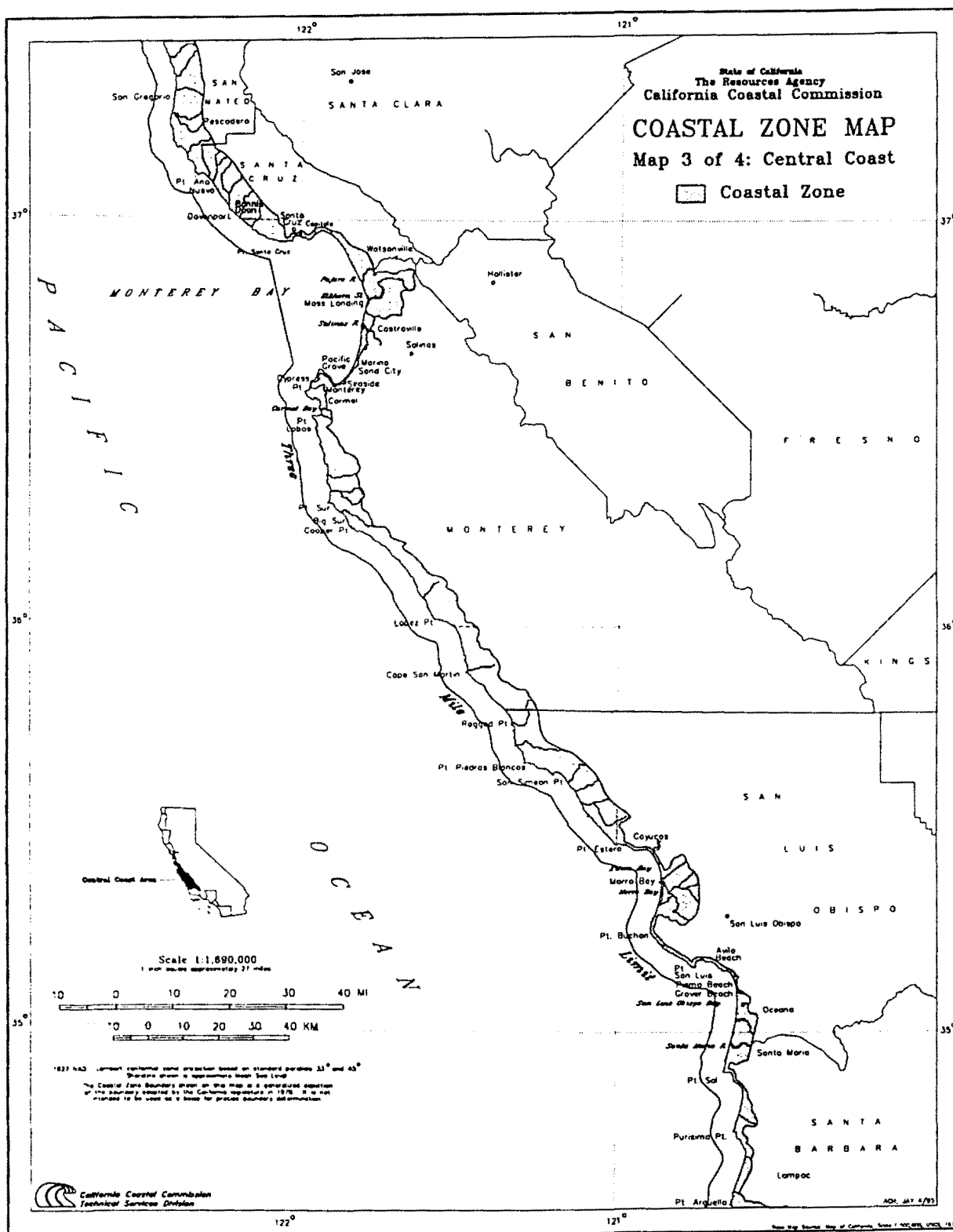
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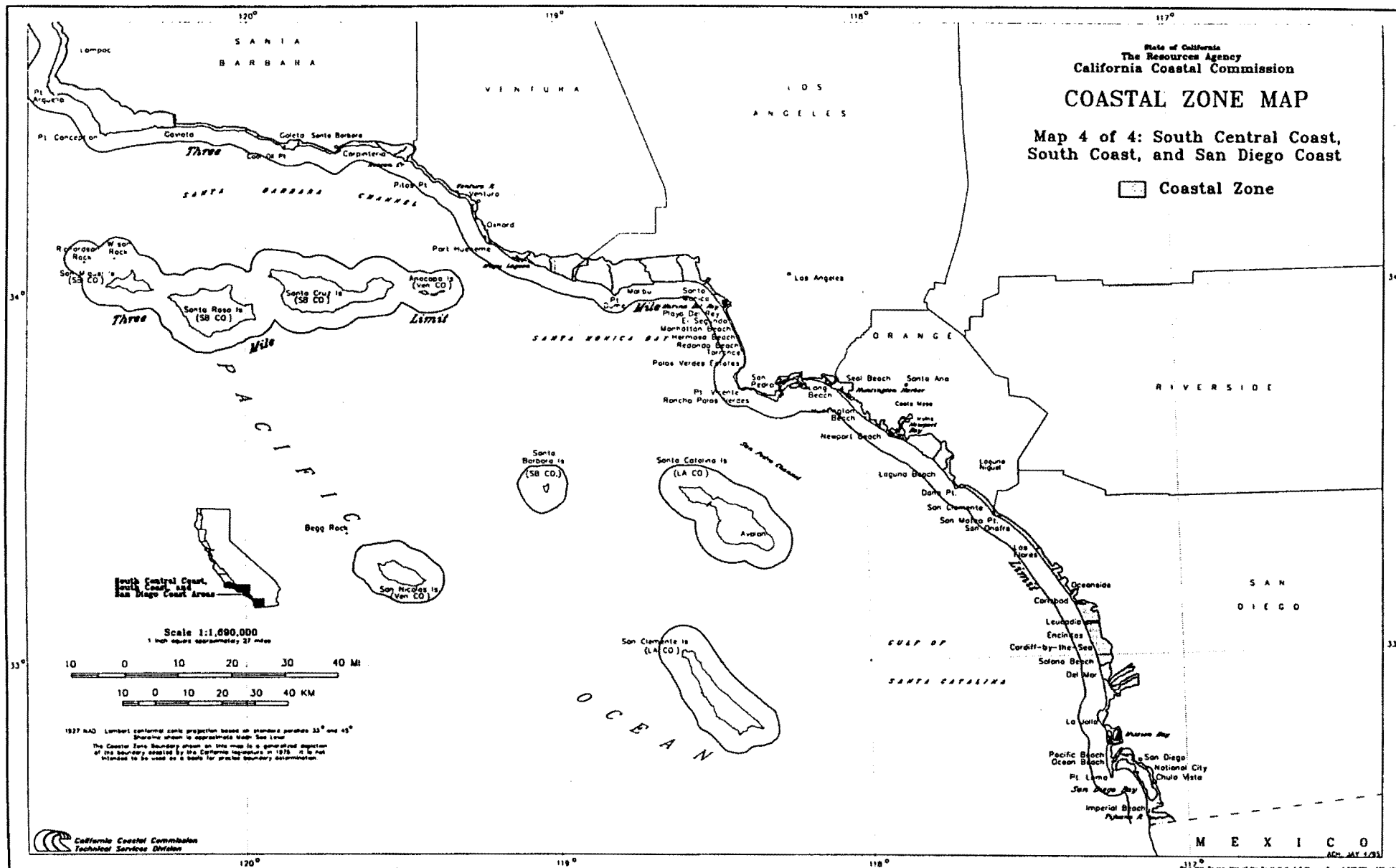


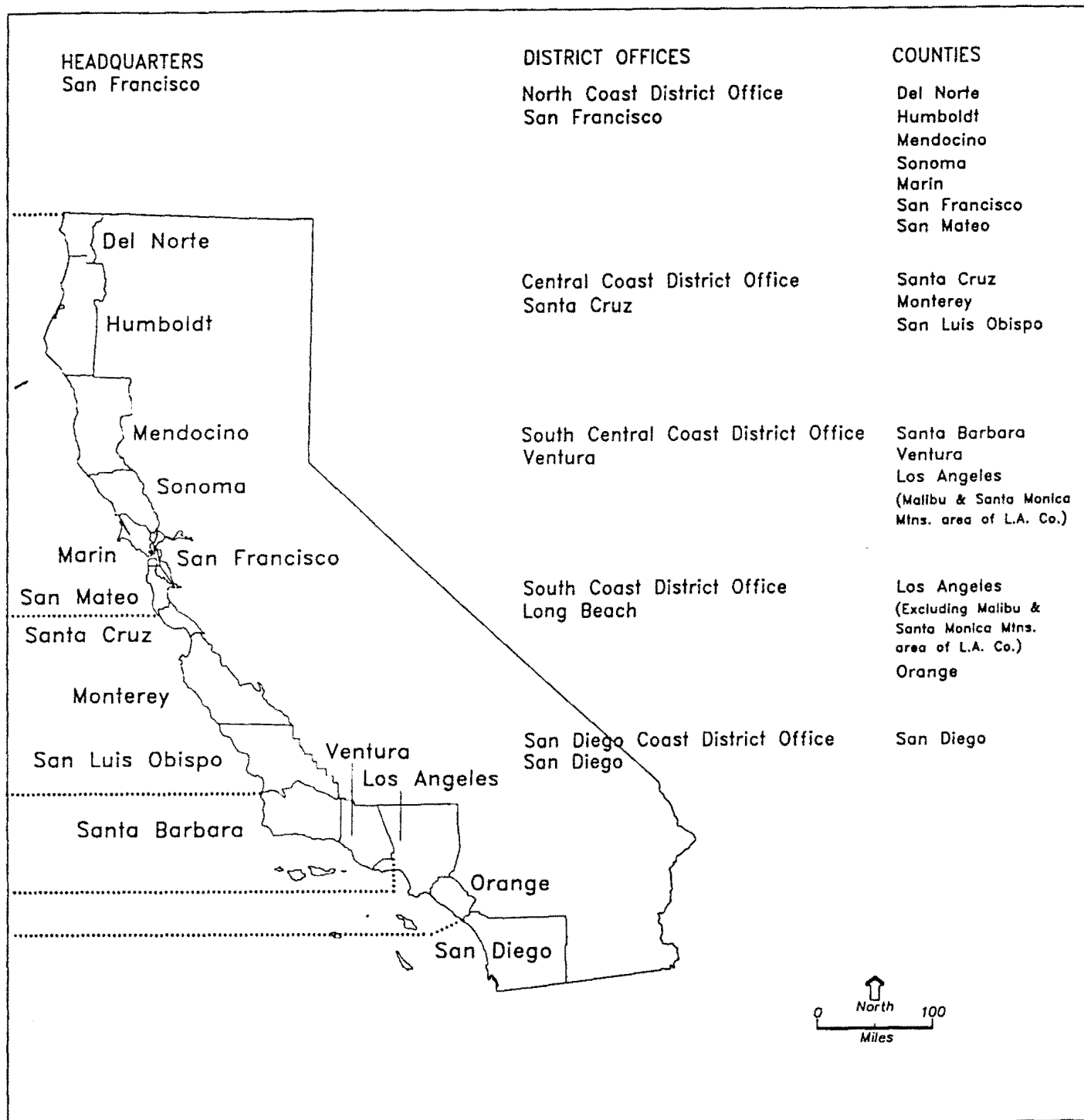














## APPENDIX C: INTERNAL/EXTERNAL ASSESSMENT

This assessment includes a discussion of management policies, resource constraints, organizational structure, automation, personnel, and operational procedures, which together influence the success of the Coastal Commission in carrying out its mission. This section may also be thought of as addressing "strengths" and "weaknesses" of the coastal management program. The assessment reflects comments made at public workshops on October 9, 1996 and March 12, 1997, as well as on other occasions. The views expressed here are those of stakeholders both within and outside the agency.

### A. Legislative and Legal Framework

- 1) The Coastal Commission's geographic jurisdiction is a specifically mapped land and water area of the state, known as the **coastal zone**. The Commission also has review authority over federal activities or federally licensed or funded activities outside the coastal zone that may affect resources in the coastal zone. Because the coastal zone boundary is not based on geophysical features, it does not include the entirety of coastal watersheds. This is a deficiency in the Coastal Act.
- 2) The California Coastal Act provides a comprehensive planning approach that integrates regulatory activities, long-range planning (Local Coastal Programs, or LCPs), and educational efforts in order to preserve, protect and enhance coastal zone resources and public access to beaches and the ocean. California's coastal management program provides a unique, multi-disciplinary statewide program, based on strong public participation, partnerships with local governments, strong coastal and ocean resource protection policies, and the goal of balancing sound conservation of coastal and ocean resources with their use for the benefit of current and future generations.
- 3) No other agency has the broad authority to accomplish this mission, and this fact instills pride within the agency's staff.
- 4) The Commission was created by voter initiative and made permanent by state law, the California Coastal Act. The Commission also participates in the federal coastal management program (Coastal Zone Management Act). The Commission has regulatory review authority over federal projects or projects needing federal permits that may affect coastal resources. This "federal consistency review" authority is a **strength** for the coastal management program; it provides the only



state regulatory review of offshore oil and gas activities in federal waters, military projects affecting the coastal zone, and other activities receiving federal licenses or permits.

- 5) There is uncertainty about the direction and consequences of judicial rulings regarding land use planning and regulatory decisions. Some court decisions have substantially eroded the ability of environmental agencies, including local governments implementing local coastal programs, to protect human and natural community values of significance to the public, such as opportunities for public access and protection of environmentally sensitive habitat, and have had a substantial chilling effect on the willingness of public land use management agencies to fully exercise their responsibilities to carry out Coastal Act policies. This situation is viewed by many as a **weakness** or impediment to the realization of many long-term goals of the coastal management program.

#### **B. Composition of the Commission**

- 6) The Commission includes an equal number of locally elected officials and public members who represent a diversity of views and backgrounds and are appointed by a governmental cross-section of key public policy decision-makers. This composition and appointment process is a **strength** for the program.
- 7) Frequent turnover of members on the Commission can impede long-range planning, continuity, and consistency in decision-making.

#### **C. Staffing and Organization**

- 8) The Commission staff is highly skilled, motivated, creative, professional, competent, and dedicated. Team work, critical thinking, and innovative problem-solving approaches are highly valued.
- 9) While the Commission makes decisions for the entire Coastal Zone, the staff is located in five district offices and a headquarters office. The district office structure is a program **strength**, because the offices are staffed by knowledgeable individuals who live in and are part of the local communities and are better able to be sensitive to and take into account the special needs of each particular coastal region in carrying out statewide Coastal Act policies.

- 10) The absence of a Commission office in the northern part of the state's coastal zone has hampered service to the public and local governments in that area; this is a **weakness** for the program.
- 11) The Commission has been unable, for budgetary reasons, to provide adequate professional training for staff. As a result, staff members have been forced either to undertake their own personal efforts to stay current with the latest developments in the field or else to fall behind in maintaining the skills and expertise that are essential to the Commission's work. This is a **weakness** for the program.
- 12) The Commission lacks sufficient permanent staff with expertise in specific areas such as geology, water quality, transportation, and marine and wetlands biology. The increasing technical complexity of many environmental management issues, as well as new legal requirements that certain regulatory decisions be science-based, makes such expertise increasingly important; this fact and the resulting reliance by the Commission on applicants' consultants or other outside experts is a **weakness**.

#### D. Budgetary Factors

- 13) The Commission relies on a mix of state and federal funds to carry out its program.
- 14) Because some coastal cities and counties have not completed their Local Coastal Programs, as required by the Coastal Act, the Coastal Commission devotes significant time and resources to the review of coastal development permit applications which ought to be reviewed by local governments, thus increasing the Commission's costs.
- 15) There is inadequate and unstable funding to support the coastal program at the level necessary to carry out Coastal Act requirements. This key factor has been compounded by past budget cuts. In the last 15 years, the Commission staff has been reduced by approximately 40% and the individual workload for remaining staff has increased substantially. This is a serious program **weakness**.
- 16) The Commission has been very successful in identifying innovative funding approaches to address important coastal resource and use issues with support from state, federal, and private grants (such as grants addressing wetlands, cumulative impacts, non-point source water pollution, geographic information systems, shoreline erosion, public shoreline access, and public education). This resourcefulness

is a program **strength** but comes at the cost of diverting staff from core program responsibilities.

- 17) Competition for scarce fiscal resources among public agencies and public programs at all levels is intense.
- 18) Uncertainties in coastal program budgeting have often made it difficult to attract and retain highly skilled and qualified staff. At the same time, Commission staff is adept at doing "more with less and doing it better" through staff task forces, special projects, and volunteers. Examples include the Coastal Access Program, Adopt-A-Beach program, Santa Monica Mountains Enforcement Task Force, and Beach Erosion and Response Task Force.
- 19) Governor Wilson has proposed a Coastal Initiative for 1997-98, and there currently is strong support in the Legislature for the coastal program.
- 20) The economy of California is strong, a fact which is a **strength** for the coastal management program in the long-run.

#### **E. Public Participation**

- 21) There is strong public support, involvement, and activism in California's coastal management program, and the Commission has a long history of encouraging broad public participation. These factors are **strengths** in the coastal management program, although opportunities may exist for increasing public participation even more.
- 22) The Commission's workforce and its most active constituency do not adequately represent the cultural diversity of California; in the long-run, this fact is a **weakness**.
- 23) Society seems less willing to find common ground in solving complex problems. There is considerable cynicism about the role of government in resource management.
- 24) Partisan politics can introduce negative, counter-productive and divisive elements into environmental resource planning and management programs.

## F. Public Education

- 25) The Commission has successfully promoted public stewardship of the coast through the Adopt-A-Beach program, the Save Our Seas school curriculum, Coastal Clean-up Days, *California Coastal Resource Guide* and *California Coastal Access Guide*, worldwide-web site on the internet, and other public education and outreach programs.
- 26) The new "whale-tail" license plate program will enhance the Commission's resources for coastal and ocean public education and conservation efforts.

## G. Regulatory Program

- 27) The Commission successfully brokers solutions to complex development problems which frequently involve numerous federal, state, and local reviews and/or permits, and which often include a wide range of public opinions.
- 28) The Coastal Act includes strong law enforcement provisions, including penalties and the ability of the Commission to issue cease and desist and restoration orders; this is a program **strength**. Due to staff limitations, review and monitoring capabilities have been inadequate to ensure that Commission-approved coastal development permits are carried out as intended. This is a program **weakness**.
- 29) Instances where the Commission has worked cooperatively with local governments to enforce the requirements of the Coastal Act, such as in regional task forces, are a program **strength**. The Commission's lack of resources to initiate additional regional enforcement task forces is a **weakness**.

## H. Local Coastal Programs

- 30) The process of preparation of Local Coastal Programs by cities and counties has suffered without adequate funding and technical assistance by Commission staff.
- 31) There are no strong incentives or sanctions to encourage LCP completion, resulting in the Commission's continuing involvement in routine matters and "neighborhood" permit decisions in certain local jurisdictions. The mandate to prepare and implement LCPs has been suspended; this is a program **weakness**.

- 32) Review and monitoring capabilities have been inadequate to ensure that certified Local Coastal Programs have been implemented as intended, or modified to address changed circumstances. There is no Coastal Act mandate to require local governments to review their LCPs or to make changes, when new information and changing circumstances warrant it. This a program **weakness**.

#### I. Coastal Access Program

- 33) With limited resources, the Coastal Commission (in cooperation with other agencies), has been relatively successful in securing and protecting opportunities for creation of new public accessways to the coast. Many such opportunities have been created in the form of "offers-to-dedicate" easements for public accessways.
- 34) There has been a slow rate of acceptance of offers-to-dedicate for accessways and of opening such accessways to the public. This is a program **weakness**.
- 35) The *California Coastal Access Guide* and *California Coastal Resources Guide* have sold over 100,000 copies and are key tools in increasing the public's enjoyment and knowledge of the coast.

#### J. Long-Range Issues

- 36) Long-range planning efforts are typically deferred, due to time pressures and demands to meet short-term needs. This is a program **weakness**.
- 37) Continued population growth in California will increase the need for long-range planning. Furthermore, the natural resource base of the coastal zone continues to be depleted, agricultural lands continue to be converted to non-agricultural use, and commercial fisheries continue in decline.
- 38) California is recognized among coastal states as a leader in coastal management and education. This is a **strength** of the program.

## K. Information Technology

- 39) The Commission's information technology equipment is outdated and clearly deficient. The lack of staff training also contributes to inefficient service to Commissioners, local governments, applicants, and the general public, as well as creating unnecessary and/or unproductive work for staff. Approximately 70% of the Commission's work is performed on antiquated Wang computer systems, due to a lack of modern networked personal computers. This is a significant program weakness.
- 40) With very limited resources, the Commission has developed a Web page that provides information quickly and efficiently about the Commission's work to the public. The Commission has also taken initial steps in developing a basic geographic information system which is compatible with those of other state agencies and which provides critical information for the work of the Commission and for the public.



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# TH3c

June 24, 1999

TO: Coastal Commissioners and Interested Public

FROM: Peter M. Douglas, Executive Director  
Jeffrey Stump, Legislative Coordinator

SUBJECT: LEGISLATIVE REPORT FOR JULY 1999

### CONTENTS:

This report contains three sections: Section I provides summaries and the status of bills that affect the Coastal Commission and California's Coastal Program as well as bills that staff has identified as coastal related legislation. Section II contains bill analyses for AB 604 and AB 885. Section III contains copies of selected bills.

### Note:

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

Please contact Jeff Stump, Legislative Coordinator, at (415) 904-5266 with any questions on the material contained in this report.



## PRIORITY LEGISLATION

### AB 18 (Keeley) Villaraigosa-Keeley Urban Parks, Clean Water, and Coastal Protection Bond Act of 2000

AB 18 would authorize the issuance of bonds in the amount of \$1,538,500,000 for the acquisition, development, improvement, rehabilitation, restoration, enhancement, and protection of park, recreational, cultural, historical, fish and wildlife, lake, riparian, reservoir, river, and coastal resources. This bill would require the Secretary of State to submit the bond act to the voters at the November 7, 2000 statewide general election.

Introduced	12/07/98
Last Amend	06/21/99
Status	Passed Assembly floor; referred to Senate Rules Committee for assignment
Staff Involvement	None
Comm. Position	<b>SUPPORT</b>

### AB 64 (Ducheny) Public Beach Restoration Act

AB 64 would establish the California Public Beach Restoration Program, to be administered by the Department of Boating and Waterways, for specified public beach enhancement, restoration, and nourishment purposes. The bill would create a Public Beach Restoration Fund to be funded by a transfer of \$35 million from the General Fund for three years.

Introduced	12/07/98
Last Amend	05/28/99
Status	Passed Assembly floor; passed Senate Natural Resources and Wildlife Committee
Staff Involvement	None
Comm. Position	<b>SUPPORT</b>

### AB 75 (Strom-Martin) State Agency Recycling

AB 75 would require each state agency on or before January 1, 2001, to develop, in consultation with the California Integrated Waste Management Board, an integrated waste management program. It would also require each state agency and each large state facility to divert at least 25% of their solid waste generated from landfill or transformation facilities by January 1, 2002, and at least 50% by January 1, 2004.

Introduced	12/07/98
Last Amend	04/27/99
Status	Passed Assembly floor; referred to Senate Environmental Quality Committee
Staff Involvement	None

### AB 399 (Wayne) Coastal Development Permits: Finding

AB 399 would require that every coastal development permit issued for any development within the coastal zone include findings pertaining to public access and public recreation policies.

Introduced	02/12/99
Last Amend	None
Status	This is a two year bill.
Staff Involvement	Working with author to draft legislation and amendments
Comm. Position	<b>SUPPORT</b>

AB 492 (Wayne) Coastal Resources: Public Access

AB 492 would prohibit state land that is located between the first public road and the sea, or that the commission has formally designated as part of the California Coastal Trail, from being transferred or sold to any private entity, unless the state retains a permanent property interest in the land adequate to provide public access to or along the sea. The prohibition would not apply if the private entity is a nonprofit organization that exists for the purposes of preserving lands for public use and enjoyment, or if the Department of Parks and Recreation or the Coastal Conservancy makes specified findings at a noticed public hearing relating to the transfer or sale of the property.

Introduced	02/18/99
Last Amend	06/21/99
Status	Passed Assembly floor; passed Senate Natural Resources and Wildlife Committee
Staff Involvement	Worked with author to draft amendments
Comm. Position	<b>SUPPORT</b>

AB 511 (Wayne) Nonpoint Source Pollution

AB 511 clarifies the Commission's existing authority to address and minimize the adverse impacts of nonpoint source pollution when implementing Coastal Act policies related to coastal public access and recreation, the protection of biological productivity, coastal waters, and sensitive habitat, and new development. The Commission would also be required, not later than January 1, 2001, to prepare and submit to the Governor and the Legislature an annual report on the progress made in implementing the *Polluted Runoff Strategy of the California Coastal Commission*.

Introduced	02/18/99
Last Amend	06/01/99
Status	Passed Assembly floor; referred to Senate Natural Resources and Wildlife Committee
Staff Involvement	Worked with author to draft legislation
Comm. Position	<b>SUPPORT</b>

AB 538 (Wayne) Public beaches: Bacteriological Standards

AB 538 would require the appropriate California regional water quality control board, in cooperation with the local health officer, whenever testing reveals that the waters adjacent to a public beach fail to meet those bacteriological standards on 3 testing dates within a four-week period, to investigate and identify the geographical sources and biological origins of the bacteriological contamination. The bill would require the regional boards to report annually to the State Water Resources Control Board, the department, and the general public on the results of any investigation and subsequent actions performed pursuant to those provisions.

Introduced	02/18/99
Last Amend	05/28/99
Status	Passed Assembly floor; referred to Senate Environmental Quality and Health and Human Services Committees
Staff Involvement	None

AB 604 (Jackson) Nonpoint Source Pollution

AB 604 would require the State Water Resources Control Board, on or before January 1, 2002, in consultation with the Commission and the State Department of Health Services, to establish measurable performance goals for the purpose of carrying out the state's nonpoint source pollution program in accordance with the CZARA Section 6217.

Introduced	02/19/99
Last Amend	05/28/99
Status	Passed Assembly floor; to Senate Rules Committee for assignment
Staff Involvement	None
Staff Recommendation	<b>SUPPORT</b>

AB 642 (Lempert) Coastal Resources: Wetlands Mitigation and Restoration.

AB 642 would establish the California Coastal Wetlands Mitigation Banking and Restoration Act of 2000, which would require the Department of Fish and Game, in cooperation with other responsible federal, state, and local agencies, to adopt regulations that establish standards and criteria for a mitigation bank site qualification process in the coastal zone, the evaluation of wetlands acreage and habitat values created at bank sites, and the operation of bank sites. The bill would permit any person who desires to establish a bank site to apply to the department, and to any other appropriate state department that requires a permit, for a determination that the proposed bank site and the proposed operator qualify under the standards and criteria established by the department. Most importantly, the bill finds that no net loss of wetlands acreage, wetlands functions, or recreational uses should occur in the coastal zone and it is the goal of this state to increase the total wetlands acreage and wetlands functions within the coastal zone.

Introduced	02/23/99
Last Amend	05/28/99
Status	Passed Assembly floor; referred to Senate Natural Resources and Wildlife Committee
Staff Involvement	Reviewing bill, working with author on technical amendments

AB 703 (Lempert) Ballast Water Discharges

AB 703 would require, on and after April 1, 2000, the master of a vessel that enters the waters of the state, upon entering those waters, to submit to the water board a fully completed ballast water report form. Between September 1, 2000, and December 31, 2002, a vessel would be prohibited from discharging ballast water that was initially loaded from coastal waters outside the Pacific Coast Region into the waters of the state without a permit issued by the board. This bill would also require the board to include in the permit a requirement that the master of the vessel, with a certain exception, carry out an adequate exchange of ballast water in open ocean waters or use an alternative environmentally sound method of ballast water treatment that has been approved by the board. Moreover, AB 703 would provide that any person discharging ballast water in violation of specified provisions is subject to civil and criminal penalties, and is guilty of a misdemeanor

Introduced	02/24/99
Last Amend	05/28/99
Status	Passed Assembly floor; referred to Senate Environmental Quality Committee
Staff Involvement	None

AB 809 (Strom-Martin) Special Environmental Design License Plates: Fund

AB 809 would require one-half of the fees that are currently deposited in the California Environmental License Plate Fund to instead be deposited in the License Plate Coastal Access Account, which the bill would create, in the State Coastal Conservancy Fund of 1984. The bill would require the money in this new account to be available, upon appropriation, to the State Coastal Conservancy for grants to public agencies and nonprofit entities or organizations for specified purposes.

Introduced	02/24/99
Last Amend	05/28/99
Status	Passed Assembly floor; referred to Senate Transportation Committee
Staff Involvement	Worked with author to draft legislation
Comm. Position	SUPPORT

AB 848 (Kuehl) Coastal Development Permits: Temporary, Nonrecurring Movie and Television Sets

AB 848 would authorize the executive director of the Commission, in order to expedite the processing of a coastal development permit for a motion picture production project, to schedule for a public hearing and possible action, an appeal of a coastal development permit issued by a local government for a temporary motion picture production project that does not initially comply with all applicable coastal development permit procedural requirements, but that is anticipated to comply fully with those procedural requirements by the time the matter is before the commission on appeal.

Introduced	02/24/99
Last Amend	04/14/99
Status	Passed Assembly floor; referred to Senate Natural Resources and Wildlife Committee
Staff Involvement	Working with the author on amendments

AB 885 (Jackson) Coastal Onsite Sewage Treatment Systems

AB 885 would require the State Department of Health Services, on or before January 1, 2001, in consultation with the State Water Resources Control Board, the California Coastal Commission, and the California Conference of Directors of Environmental Health, to adopt, by regulation, statewide performance standards for all onsite sewage treatment systems within the coastal zone. The bill would require all affected onsite sewage treatment systems to comply with the standards no later than January 1, 2003, or 3 years from the date of the adoption of the standards, whichever is earlier.

Introduced	02/25/99
Last Amend	05/13/99
Status	Passed Assembly floor; referred to Senate Environmental Quality Committee
Staff Involvement	None
<b>Staff Recommendation</b>	<b>SUPPORT</b>

AB 989 (Lowenthal) Coastal Development: Notice of Violation

AB 989 would permit the executive director of the commission to file notice of a violation of the Coastal Act if the executive director has determined that real property has been developed in violation of the act. The bill would require a public hearing to be held if the owner submits a timely objection to the filing of the notice of violation, and would require the issuance of a clearance letter if the Commission finds that no violation has occurred. If the Commission determines that a violation has occurred, the bill would require the recordation of the notice of violation with the county recorder in which the real property is located. AB 989 would require the executive director, within 30 days after the final resolution of a violation, to record a notice of rescission with the county recorder indicating that the notice of violation is no longer valid.

Introduced	02/25/99
Last Amend	04/12/99
Status	Passed Assembly floor; referred to Senate Natural Resources and Wildlife Committee
Staff Involvement	Worked with author to draft legislation
<b>Comm. Position</b>	<b>SUPPORT</b>

AB 1000 (House) Eminent Domain: Regulation

AB 1000 would specify that any official act, decision, or regulation of a public entity which restricts the use or impairs the value of private property constitutes an exercise of the power of eminent domain, and shall only be given effect upon the payment to the owner of the private property of just compensation.

Introduced	02/25/99
Last Amend	None
Status	This is a two-year bill.
Staff Involvement	None

AB 1128 (Ackerman) Private Property: Taking

AB 1128 would provide that for the purpose of any law, including any constitutional provision, that requires just compensation for the taking of any private property, that requirement shall apply upon the making of a final decision affecting private property rights. The bill would provide that a final decision, for that purpose, occurs upon the last date that an agency may make or review any agency action prior to the bringing of any action or proceeding in any court to challenge the validity of the agency action. Further, the bill states that upon the existence of any final decision, any person who claims that an agency action entitles the person to just compensation for affected property rights may exercise any administrative or judicial right or remedy to obtain that compensation, separately from any claim relative to the validity of the agency action, and the agency or court shall process the claim for just compensation without regard to the validity of the agency action.

Introduced	02/25/99
Last Amend	None
Status	This is two-year bill.
Staff Involvement	None

AB 1280 (Jackson) Oil and Gas Development: Pipelines

AB 1280 would amend the Coastal Act requiring that all oil extracted from a source located in whole, or in part, under the sea be transported by pipeline to onshore processing and refining facilities, and that all pipelines used to transport this oil utilize the best available technology to ensure maximum protection of public health and safety and of the integrity and productivity of terrestrial and marine ecosystems. The bill would also require the California Coastal Commission, in conjunction with the State Water Resources Control Board, the State Fire Marshall, the Division of Oil and Gas of the Department of Conservation, and the State Department of Health Services, to conduct a specified inventory and assessment of oil and gas pipelines and, not later than June 1, 2000, to report its findings regarding that inventory and assessment to the Legislature.

Introduced	02/26/99
Last Amend	04/08/99
Status	Passed Assembly floor; referred to Senate Natural Resources and Wildlife Committee
Staff Involvement	Worked with the author on amendments.
Comm. Position	<b>SUPPORT</b>

AB 1293 (Mazzoni) Coastal Protection: Public Education Programs

AB 1293 would require that the Commission's public education program also include outreach to special groups such as the boating community, and incorporate information on the prevention and reduction of nonpoint source pollution. The bill would provide that, because the actions of people throughout a watershed impact the coast and the ocean, the geographic extent of the commission's education and outreach program shall not be limited to outreach conducted only in the coastal zone.

Introduced	2/26/99
Last Amend	None
Status	Passed Assembly floor; passed Senate Natural Resources and Wildlife Committee; re-referred to Senate Appropriations Committee
Staff Involvement	Worked with author to draft legislation
Comm. Position	<b>SUPPORT</b>

SJR 2 (Alpert) Offshore Oil Leases

This measure would request that President Clinton extend the moratorium on federal offshore leases to certain leases awarded prior to the moratorium or to terminate those leases.

Introduced	01/07/99
Last Amend	03/17/99
Status	Passed Senate floor; referred to Assembly Natural Resources Committee
Staff Involvement	None

SB 2 (Chesbro) Watershed, Wildlife, and Parks Improvement Bond Act of 2000

SB 2 would authorize the issuance of bonds in the amount of \$854,500,000 for the acquisition, development, improvement, rehabilitation, restoration, enhancement, and protection of park, recreational, cultural, historical, fish and wildlife, lake, riparian, reservoir, river, and coastal resources.

Introduced	12/07/98
Last Amend	03/22/99
Status	Referred to Senate Natural Resources and Wildlife Committee; held in committee
Staff Involvement	None

SB 48 (Sher) Public Records: Disclosure

SB 48 would allow any person who has been denied access by a state or local government to a public record to appeal that denial to the Attorney General within 20 days of the date of denial. The bill would recommend the Attorney General to issue a decision on the appeal within 20 days of the date of the request. If the Attorney General finds that an agency's decision to refuse disclosure was not justified under the California Public Records Act, this bill requires the Superior Court to impose a fine on the agency of not less than \$100 for each day that access to the public record was delayed.

Introduced	12/07/98
Last Amend	04/28/99
Status	Passed Senate floor; referred to Assembly Governmental Organization Committee
Staff Involvement	Working with the author

SB 57 (Hayden) Coastal, Recreational, and Natural Resources Bond Act of 2000

SB 57 would authorize the issuance of bonds in the amount of \$2,000,000,000 for the purpose of financing a program for the maintenance, expansion, development, or rehabilitation of parks and wildlife, for the protection, restoration, or enhancement of natural resource sites, or for science and environmental education centers, museums, and other facilities. The bill would require the Secretary of State to submit the bond act to the voters at the November 7, 2000, statewide general election.

Introduced	12/07/98
Last Amend	04/05/99
Status	Passed Senate Natural Resources and Wildlife Committee; re-refer to Senate Appropriations (suspense file)
Staff Involvement	None

SB 74 (Murray, Sher) Parks, Coastal, Recreational, and Natural Resources Bond Act of 2000

SB 74 would establish the Murray-Hayden Urban Parks, Environmental Cleanup, and Youth Service Act, which would provide funding for various projects and programs to develop parks, recreation, and youth service centers, and establish youth service projects. The bill would require all state agencies to cooperate in carrying out the provisions of the act by providing advice and assistance to those departments that have primary responsibility for implementing a program or project under the act.

Introduced	12/07/98
Last Amend	04/15/99
Status	Passed Senate Natural Resources and Wildlife Committee; re-referred to Senate Appropriations (suspense file)
Staff Involvement	None

SB 110 (Peace) Energy Conservation, Power Facility and Site Certification, Notice of Intention

SB 110 would eliminate the requirement that electric utilities' 5- and 12-year forecasts established by the Energy Commission serve as the basis for the planning and certification of electric transmission and thermal power plant facilities. This bill would also make various changes with respect to the information required in an Application for Certification, and to be contained in the commission's written decision concerning the application. Moreover, SB 110 would eliminate, for purposes of the current exemption for thermal power plants from certification requirements, the requirement that the commission find that generating capacity will not be added that is substantially in excess of the integrated assessment of need.

Introduced	12/15/98
Last Amend	04/05/99
Status	Passed Senate floor; referred to Assembly Committee on Natural Resources
Staff Involvement	Working with the author on amendments

**SB 153 (Haynes) Property Owner Rights Act of 1999**

SB 153 would require public agencies to minimize the number of agency actions that may significantly impair the use of private property. Under this bill, every public agency is required to conduct a private property taking impact analysis prior to taking any agency action that may significantly impair the use of private property. Furthermore, this bill would require an exaction or mitigation measure, imposed by a public agency as a condition to a discretionary act, to have a direct relationship to the public burdens imposed by, and to be roughly proportional in nature and extent to the impact of, the proposed activity.

Introduced	01/07/99
Last Amend	None
Status	Referred to Senate Judiciary Committee; second hearing cancelled at request of author
Staff Involvement	None
Comm. Position	<b>OPPOSE</b>

**SB 221 (Alpert) Oil Spill Prevention**

Existing law, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, prohibits the operation of a nontank vessel of 300 gross registered tons or greater in the marine waters of the state unless the owner or operator prepares and submits an oil spill contingency plan to the administrator for oil spill response and the plan is approved. SB 221 would exempt certain public vessels from those requirements.

Introduced	01/25/99
Last Amend	None
Status	Referred to Senate Environmental Quality and Judiciary Committees; hearing cancelled at request of author
Staff Involvement	None

**SB 227 (Alpert) Water Quality: Nonpoint Source Pollution**

SB 227 would require the state board, on or before January 1, 2001 and in consultation with the regional boards, to prepare, implement and enforce of a detailed program for the purposes of implementing the state's nonpoint source management plan pursuant to Sections 303 and 319 of the Clean Water Act, Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990. The state board would be required, commencing on or before February 1, 2001, and in consultation with the commission, to prepare and submit a nonpoint source pollution control management report with prescribed components.

Introduced	01/25/99
Last Amend	06/23/99
Status	Passed Senate floor; referred to Assembly Water, Parks, and Wildlife Committee
Staff Involvement	Worked with author to draft legislation
Comm. Position	<b>SUPPORT</b>

**SB 241 (Alpert) California Endowment for Marine Preservation**

SB 241 would establish the California Endowment for Marine Preservation, to be governed by a board of directors, in order to create a permanent source of funding for projects that will enhance the quality, use, and enjoyment of the open coastal marine resources of the state. The bill would also require each owner and operator of certain offshore oil platforms or production facilities, who receives government permits that allow the platform or facility to remain in place, to deposit an unspecified amount with the endowment.

Introduced	01/26/99
Last Amend	None
Status	Referred to Senate Natural Resources and Wildlife Committee; hearing postponed
Staff Involvement	Working with author

SB 243 (McPherson) Recreational Property: Development Fees

SB 243 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 as a defendant in a civil action seeking to restrict or prevent public access through the property if the owner or public entity gives permission to the public to enter the property pursuant to a specified agreement. The bill would limit the total sum of the claim for attorney's fees to \$200,000 per fiscal year.

Introduced	01/26/99
Last Amend	05/19/99
Status	Passed Senate floor; referred to Assembly Natural Resources and Judiciary Committees
Staff Involvement	Worked with author on amendments
Comm. Position	<b>SUPPORT</b>

SB 300 (Poochigian) Governmental Liability: Permits

SB 300 would provide that a state agency is liable to a private property owner for a temporary taking of the owner's real property if the agency is responsible for a delay in the issuance of a development permit affecting the use of the real property, and the delay is the result of a final decision of the agency that is later determined by a court to be legally erroneous. The bill would also provide that a delay that occurs as a result of the normal development approval process or as a result of litigation challenging a final decision by a state agency constitutes a temporary taking under those provisions if the final decision of the state agency is later determined by a court to be legally erroneous.

This bill would also declare that it is intended to supersede the holding of the California Supreme Court in *Landgate, Inc. v. California Coastal Com.*, 17 Cal. 4th 1006, with regard to any claim arising on or after its effective date.

Introduced	02/03/99
Last Amend	None
Status	Failed to Pass Senate Judiciary Committee (reconsideration granted)
Staff Involvement	Testified in Committee
Comm. Position	<b>OPPOSE</b>

SB 551 (McPherson) Local Agencies: Building and Zoning Ordinances

SB 551 would add building and zoning ordinances incorporated in any local coastal plan to those ordinances that do not apply under existing law to the location or construction of facilities for the production, generation, storage, or transmission of water, wastewater, or electrical energy or to electrical substations in an electrical transmission system which receives electricity at less than 100,000 volts.

Introduced	02/19/99
Last Amend	None
Status	Author dropped bill.
Staff Involvement	None

SB 1065 (Bowen) Public records: Electronic Format

SB 1065 would require any agency that has information that constitutes an identifiable public record in an electronic format to make that information available in an electronic format, when requested by any person. The bill would require the agency to make the information available in any electronic format in which it holds the information.

Introduced	02/26/99
Last Amend	04/27/99
Status	Passed Senate; referred to Assembly Governmental Organization Committee
Staff Involvement	None



SB 1244 (O'Connell) Coastal Resources: Oil and Gas Development

The California Coastal Act of 1976, requires that oil and gas development be permitted in accordance with specified requirements if specified conditions are met. SB 1244 would authorize oil and gas development to be permitted in accordance with specified requirements if the applicant for a permit for that development can demonstrate that the development can be performed safely and is consistent with the geologic conditions of the well site.

Introduced	02/26/99
Last Amend	None
Status	Referred to Senate Natural Resources and Wildlife
Staff Involvement	None

## COASTAL-RELATED LEGISLATION

### AB 680 (Lempert) Oil Spill Prevention: Nonmarine Waters

Under the existing Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, it is a crime to, among other things, knowingly engage in or cause the spill or discharge of at least one barrel of oil into marine waters, and the intentional or negligent spill or discharge of that quantity of oil into marine waters is also subject to specified civil penalties. AB 680 would make such a spill or discharge of oil into nonmarine waters of the state on or after January 1, 2000, subject to those criminal and civil penalties.

Introduced	02/23/99
Last Amend	06/02/99
Status	Passed Assembly floor; referred to Senate Rules Committee for assignment
Staff Involvement	None

### AB 730 (Dickerson) Watershed Protection

AB 730 would require the Secretary of the Resources Agency to carry out a watershed management and rehabilitation program to restore watersheds in the state. The bill would declare the intent of the Legislature to annually appropriate an unspecified amount of money to the Resources Agency to carry out the program.

Introduced	02/24/99
Last Amend	None
Status	Referred to Assembly Natural Resources Committee
Staff Involvement	None

### AB 928 (Brewer) Upper Newport Bay Ecological Reserve Maintenance and Preservation Fund: Appropriation

Existing law establishes the Upper Newport Bay Ecological Reserve Maintenance and Preservation Fund in the State Treasury and appropriates \$200,000 annually from the General Fund to the fund for expenditure by the Department of Fish and Game for purposes relating to the maintenance and preservation of the Upper Newport Bay Ecological Reserve. AB 928, until January 1, 2005, would appropriate an additional \$200,000 from the General Fund to the maintenance and preservation fund for expenditure by the department for those purposes.

Introduced	02/25/99
Last Amend	05/28/99
Status	Passed Assembly floor; referred to Senate Natural Resources and Wildlife Committee
Staff Involvement	None

### AB 993 (Shelley) Marine Resources: Sea Life Conservation Act

AB 993 would require the Department of Fish and Game to prepare a study report and other relevant analyses and recommendations to guide the siting process and the development of the Sea Life Conservation Program. The bill would require the department, on or before June 1, 2001, to convene in each biogeographical region, siting workshops composed of representatives of stakeholder groups with an interest in marine managed areas (MMAs) that region, to develop options for siting sea life reserve networks.

Introduced	02/25/99
Last Amend	None
Status	Passed Assembly floor; referred to Senate Natural Resources and Wildlife Committee
Staff Involvement	None

### AB 1179 (Frusetta) Wetlands Protection: Legislative Findings and Declarations

AB 1179 would make legislative findings and declarations relating to the importance of protecting and restoring wetlands in the state.

Introduced	02/25/99
Last Amend	None
Status	Introduced
Staff Involvement	None

AB 1210 (Strom-Martin) Marine Resources: Commercial Fishing: Bodega Marine Life Refuge

AB 1210 would authorize the Director of Fish and Game to appoint the Director of the Bodega Marine Life Refuge. It would also specify the authority of the marine life refuge director. The bill would make it unlawful to enter the marine life refuge for specified purposes without authorization, or to anchor or moor a vessel in the refuge without authorization.

Introduced	02/26/99
Last Amend	None
Status	Passed Assembly floor; to Senate Natural Resources and Wildlife Committee; hearing cancelled at request of the author
Staff Involvement	None

AB 1219 (Kuehl) Land Use: Water Supply

AB 1219 would require that the water supply assessment process under the Planning and Zoning Law be linked to the land use planning to enhance coordination between public water systems and land use agencies as development projects proceed from planning to the construction process. It would also require the public water system to prepare a statement containing the most current water supply assessment, to be used by the city or county as a condition for approval of a subdivision map application. The bill would also require a city or county to disapprove a subdivision map application if the public water system concludes that water supplies are insufficient and that it is unreasonable to acquire additional water supplies, unless the city or county makes specified findings based on substantial evidence and imposes specified conditions.

Introduced	02/26/99
Last Amend	04/07/99
Status	Referred to Committee on Local Government; hearing cancelled at request of author
Staff Involvement	None

AB 1239 (Leonard) Safe Drinking Water, Clean Water, Flood Prevention, and Water Supply Act

AB 1239 would authorize, for purposes of financing a safe drinking water, flood protection, and water quality, and water supply program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$2,050,000,000. The bill would require the Secretary of State to submit the bond act to the voters at the March 7, 2000, statewide direct primary election.

Introduced	02/26/99
Last Amend	None
Status	Referred to Assembly Environmental Safety and Toxic Materials Committee; hearing cancelled at request of author
Staff Involvement	None

SB 394 (McPherson) Aquatic nuisance species

Existing law contains provisions designed to prevent the introduction and spread of aquatic nuisance species, as defined, into any river, estuary, bay, or coastal area through the exchange of ballast water of vessels prior to entering those waters. It also requires operators of all vessels that have the capacity to take on or discharge ballast water to complete a ballast water control report form as a condition of using the waters of this state. These provisions are to be repealed on January 1, 2000.

This bill would extend these provisions until January 1, 2004.

Introduced	02/12/99
Last Amend	04/26/99
Status	Passed Senate floor; referred to Assembly Water, Parks, and Wildlife Committee
Staff Involvement	None

SB 413 (Burton) Water Resources Bond Act of 2000

SB 413 would authorize, for purposes of financing a safe drinking water, water quality, water supply, and flood protection program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$ \_\_\_\_\_. The bill would require the Secretary of State to submit the bond act to the voters at the \_\_\_\_\_ 2000 statewide election.

Introduced	02/12/99
Last Amend	None
Status	Referred to Senate Agriculture and Water Resources Committee
Staff Involvement	None

SB 680 (O'Connell) Land and Water Conservation

SB 680 would require the Secretary of the Resources Agency to implement a program under which qualified property may be contributed to the state, any local government, or to any nonprofit organization designated by a local government in order to provide for the protection of wildlife habitat, open space, and agricultural lands.

Introduced	02/24/99
Last Amend	04/27/99
Status	Passed Senate floor; referred to Assembly Natural Resources Committee
Staff Involvement	None

SB 755 (Hayden) California Environmental Quality Act

SB 755 would make various amendments to the California Environmental Quality Act including, but not limited to, the following: require a lead agency to find that a project may have a significant impact on the environment as specified; when making a finding of overriding benefit, a potential increase in the public agency's revenues may not be considered a valid overriding benefit; if a master environmental impact report is prepared, the master environmental project shall be certified prior to a lead agency's approval of any phase of the project and; prohibit a city or county from approving a development agreement without prior or concurrent compliance with the act.

Introduced	02/24/99
Last Amend	06/02/99
Status	Passed Senate floor; referred Assembly Housing and Community Development Committee
Staff Involvement	None

SB 1057 (Johannessen) Environmental Quality: Land Acquisitions

SB 1057 would prohibit the categorical exemption of a project, pursuant to CEQA, that includes the acquisition of land for the purpose of fish and wildlife conservation or habitat establishment, preservation, restoration, or enhancement.

Introduced	02/26/99
Last Amend	None
Status	Failed passage in Senate Environmental Quality Committee; reconsideration granted
Staff Involvement	None

SB 1088 (Poochigian) Watershed Management

SB 1088 would authorize state and local agencies to undertake a watershed management program. The bill would require the state agency or local agency undertaking the watershed management program to provide a general public notice and assemble a stakeholder planning team consisting of specified members. It would prescribe procedures for the adoption of the program and require the agency adopting the program to consider protests to the adoption and implementation of the program. Finally, SB 1088 would require state and local projects to be consistent with a watershed management program adopted pursuant to the act.

Introduced	02/26/99
Last Amend	04/05/99
Status	Passed Senate Agriculture and Water Resources Committee; re-referred to Senate Environmental Quality, hearing cancelled at request of author
Staff Involvement	None

SB 1164 (Mountjoy) Public Lands Protection Act

This bill would enact the Public Lands Protection Act, which, until January 1, 2008, would prohibit steep slopes on undeveloped private property in Los Angeles County from being developed or used for any purpose other than agriculture, grazing, or low-density residential use, or from being rezoned to allow development at a higher level of residential density use, unless the proposed rezoning for alternative development or use is summarized in a proposal that is submitted to the voters in a local ballot measure, and approved by a majority of the voters voting thereon. The bill would prohibit the rezoning of any portion of undeveloped private property that is zoned for low-density residential use as of January 1, 2000, without voter approval

Introduced	02/26/99
Last Amend	05/10/99
Status	Referred to Senate Local Government Committee; testimony taken; further hearing to be set
Staff Involvement	None

SB 1281 (Chesbro) Department of Boating and Waterways: state and local agencies

SB 1281 would appropriate \$69,751,030 from the General Fund to the Director of Boating and Waterways for allocation for the 1999-2000 fiscal year to local port and harbor agencies and state and local agencies for purposes of meeting local matching share requirements for federal navigation projects, as specified. The bill would express legislative intent with respect to the funding of projects of specified local port and harbor agencies and state and local agencies in the period extending from July 1, 2000, to June 30, 2004, inclusive.

Introduced	02/26/99
Last Amend	05/3/99
Status	Referred to Senate Agriculture and Water Resources Committee; from committee with author's amendments. Read second time. Amended. Re-referred to committee.
Staff Involvement	None

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## **Analysis of AB 604 (Jackson)**

### **SUMMARY**

AB 604 would require the State Water Resources Control Board, in consultation with the California Coastal Commission and State Department of Health Services, to establish measurable performance goals and implementation strategies for management measures identified in the state's Nonpoint Source Management Plan.

The bill has passed the Assembly and has been referred to the Senate Natural Resources and Wildlife Committee.

**Staff recommends that the Commission SUPPORT AB 604.**

### **ANALYSIS**

**History and Sponsorship:** This bill is sponsored by the California Association of Environmental Health Administrators.

**Existing Law:** The state Porter-Cologne Water Quality Act governs the coordination and control of water quality in the state, and includes provisions relating to nonpoint source (NPS) pollution. Section 6217 of the Coastal Zone Reauthorization Amendments of 1990 (CZARA) requires California, through a partnership between the Coastal Commission and the State Water Resources Control Board, to prepare a Coastal Nonpoint Pollution Control Program (CNPCP). The California Coastal Act (e.g., Sections 30231, 30233, 30236, 30240) mandates the protection and restoration of coastal waters and other resources.

**Changes Proposed by this Bill:** This bill would require the State Board, on or before January 1, 2002, in consultation with the California Coastal Commission and State Department of Health Services, to establish measurable performance goals and implementation strategies for not less than 12 of prescribed priority management measures identified in the state's upgraded plan for California's Nonpoint Source Pollution Control Program. Measurable performance goals for the remaining priority and other management measures shall be established by the state board in consultation with the same agencies by January 1, 2005.

**Discussion:** According to the bill's sponsors, this bill was primarily motivated by their frustration to prevent beach closures due to violations of water quality standards, and the impacts of polluted runoff on shellfish growing areas. As required by AB 411 (Wayne), passed last session, local environmental health regulators are now required to monitor and close, if necessary, beaches that exceed certain water quality standards.

Currently, the State Board and Coastal Commission are working together, in coordination with the Department of Health Services and other state agencies, to upgrade the state's plan for California's Nonpoint Source Pollution Control Program (Plan) pursuant to the Clean Water Act and CZARA. In order to satisfy the requirements of CZARA Section 6217, and obtain federal approval of the Plan, the state must, among other things, develop a 15-year program strategy and three 5-year implementation plans to show how the state will implement, through enforceable policies or mechanisms, and monitor management measures to control polluted runoff affecting California's coastal zone. This bill would speed up the state's current effort to identify performance measures that gauge the success or failure for California's NPS management measures and their implementation strategies by 3 to 4 years.

The Commission and State Board staffs will release the public drafts of the Plan's 15-year Program Strategy and first 5-year Implementation Plan for public review in July 1999. The draft 5-year Implementation Plan, which will include performance goals and implementation strategies for targeted management measures, specifies implementation actions for more than half of the 61 NPS management measures identified in the State's draft report *California's Management Measures for Polluted Runoff* (CAMMPR) (SWRCB and CCC, draft 1999). The timeframe for the first 5-year Implementation Plan is July 1998 through June 2003. Thus, upon final adoption of the plan, the state will have already met the January 1, 2002 requirement established by the bill.

The Commission and State Board staff intend to develop performance goals and implementation strategies for the balance of the management measures, and for any additional management measures that may be needed to protect water quality, in subsequent five-year intervals (e.g., by July 2003 and July 2008). The development of performance goals and strategies is an iterative process that requires continual refinement based on the results of management measures in practice as well as on new information and research. By allowing flexibility and opportunity for revision, the goals and implementation strategies can better reflect what works in practice. The accelerated schedule required by this bill may not be compatible with this iterative process. However, Commission staff has indicated that the later January 1, 2005 deadline imposed by this bill will not be unduly burdensome and thus can be met.

## **FISCAL IMPACT**

Minimal fiscal impacts due to existing efforts to develop nonpoint source pollution performance goals and implementation strategies.

## **RECOMMENDATION**

Staff recommends that the Commission SUPPORT AB 604.

For more information contact Jeff Stump, Legislative Coordinator, at (415) 904-5266.



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## ~Current Session Legislation~

Bill Info

**AB 604 Nonpoint source pollution.**

Past Sessions

**BILL NUMBER: AB 604 AMENDED 05/28/99**

Codes

AMENDED IN ASSEMBLY MAY 28, 1999

Statutes

AMENDED IN ASSEMBLY APRIL 7, 1999

Constitution

**INTRODUCED BY Assembly Member Jackson**

**FEBRUARY 19, 1999**

An act to add Section 13396.8 to the Water Code, relating to water.

### LEGISLATIVE COUNSEL'S DIGEST

AB 604, as amended, Jackson. Nonpoint source pollution.

The Porter-Cologne Water Quality Control Act grants authority to the State Water Resources Control Board to regulate water quality in the state, including matters relating to nonpoint source pollution.

*This bill, for the purpose of carrying out the state's nonpoint source pollution program in accordance with specified federal law, would require the state board and, in consultation with the California Coastal Commission and the State Department of Health Services, on or before January 1, 2001, in consultation with the State Department of Health Services, 2002, to establish measurable performance goals and implementation strategies for not less than 12 of prescribed priority management measures, and other specified. The bill would require the state board, in consultation with the California Coastal Commission, to establish measurable performance goals for the remaining priority and other management measures, on or before January 1, 2005, for the purpose of carrying out the state's nonpoint source pollution program in accordance with specified federal law.*

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

SECTION 1. Section 13396.8 is added to the Water Code, to read:

13396.8. (a) For the purpose of carrying out the state's coastal nonpoint source pollution program in accordance with Section 6217 of the Coastal Zone Reauthorization Amendments of 1990, the state board and the California Coastal Commission, on or before January 1, 2001, in consultation with the State Department of Health Services, shall establish, in consultation with the California Coastal Commission and the State Department of Health Services, on or before January 1, 2002, shall establish measurable performance goals and implementation strategies for not less than 12 of the priority management measures authorized by Section 6217. The state board and the California Coastal Commission, in consultation with the California



*Coastal Commission*, shall establish measurable performance goals for *the remaining priority management measures and for* management measures other than priority management measures on or before January 1, 2005.

(b) For the purpose of this section, a measurable performance goal shall include, but not be limited to, a measurement used to describe the improvement of the quality of surface water, groundwater, or coastal or ocean waters of the state.

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## **Analysis of AB 885 (Jackson)**

### **SUMMARY**

AB 885 would require the State Department of Health Services, on or before January 1, 2001, in consultation with the State Water Resources Control Board, the California Coastal Commission, and the California Conference of Directors of Environmental Health, to adopt, by regulation, statewide performance standards for all onsite sewage treatment systems within the coastal zone.

This bill has passed the Assembly and will be heard by the Senate Environmental Quality Committee on July 12, 1999.

**Staff recommends that the Commission SUPPORT AB 885.**

### **ANALYSIS**

**History and Sponsorship:** This bill is sponsored by the California Association of Environmental Health Administrators.

**Existing Law:** The state Porter-Cologne Water Quality Act authorizes regional water quality control boards to prohibit, under specified circumstances, the discharge of waste from individual disposal systems or community collection and disposal systems that use subsurface disposal (Water Code Section 13280). Water Code Section 13142.5 declares that it is state policy that wastewater discharges shall be treated to protect present and future beneficial uses, and, where feasible, to restore past beneficial uses of the receiving waters. Health and Safety Code Section 116980 prohibits the discharge from onsite systems in a manner that would contaminate drinking water supplies.

**Changes Proposed by this Bill:** AB 885 would require the State Department of Health Services (DHS), on or before January 1, 2001, in consultation with the State Water Resources Control Board, the California Coastal Commission, and the California Conference of Directors of Environmental Health, to adopt, by regulation, statewide performance standards for all onsite sewage treatment systems within the coastal zone. The bill would require the regulations to include specified provisions, including requirements relating to prescribed inspections and enforcement actions undertaken by local agencies. All affected onsite sewage treatment systems would be required to comply with the standards not later than January 1, 2003, or 3 years from the date of the adoption of the standards, whichever is earlier. The bill would make a statement of legislative intent that encourages the State Water Resources Control Board to make prescribed loans to private property owners who incur costs as a result of the implementation of the adopted statewide performance standards.

**Discussion:** According to the sponsors of this bill, beach closures and the results of beach monitoring programs indicate that contamination of coastal waters by leaking or poorly functioning onsite sewage treatment systems is a serious problem in many coastal communities. In some areas, onsite systems may contribute as much as 30% of the total bacteriological loading to coastal waters. It is estimated that there are over 200,000 onsite systems located in the coastal zone. While construction or building code standards generally apply to new onsite systems, many of the systems have been in place for many years and are in need of maintenance, repair or replacement.

Section 116980 of the Health and Safety Code prohibits the discharge from onsite systems in a manner that would contaminate drinking water supplies. In addition, Section 13280 of the Water Code disallows discharges of wastewater from onsite systems that will "result in violation[s] of water quality objectives, will impair present or future beneficial uses of water, will cause pollution, nuisance, or contamination, or will unreasonably degrade the quality of any waters of the state". However, there are no statewide discharge standards for these systems while minimal enforcement of the above provisions has taken place on a statewide basis.

Currently, proposed onsite systems must generally comply with building or plumbing codes adopted by local governments, in addition to any siting criteria. Regional Water Quality Control Boards, in cooperation with local health departments, may establish additional regulations through individual Basin Plans if the onsite system lies within a "prohibition zone". Nonetheless, the sponsors of this bill maintain that building or plumbing code standards for onsite systems are established at a level that seeks to protect public health, not at a level to maintain the biological productivity of coastal waters or to prevent further degradation of impaired waters. This bill requires DHS to develop, by regulation, performance standards for all onsite sewage treatment systems in the coastal zone. Additional standards would apply to coastal onsite systems that discharge into, or adjacent to, impaired waters (as defined in the Clean Water Act).

AB 885 would authorize, but not require, local governments to inspect onsite systems and enforce the proposed regulations. To fund such an enforcement program, this bill provides that local agencies shall be able to impose fees for inspections.

To assist in cases where onsite system upgrades would exceed one-half of 1% of the appraised property value, this bill encourages the State Water Resources Control Board to facilitate a low interest loan program. The loans could come from the Clean Water State Revolving Fund, composed of state and federal money, that helps states implement programs to address point and nonpoint sources of pollution. According to analysis provided by the Assembly Environmental Safety and Toxic Materials Committee, states such as Delaware and California have previously used these funds to upgrade septic systems.

**Note:** The sponsor has indicated to Commission staff that amendments will be introduced to designate the State Water Resources Control Board, instead of the Department of Health Services, as the lead agency required to adopt statewide performance standards for onsite systems in the coastal zone. To reduce the inspection and enforcement burden on local agencies, amendments will also likely be introduced to limit the onsite systems subject to this bill to those in the coastal zone that are located in "prohibition zones" or in areas adjacent to impaired waters.

#### **FISCAL IMPACT**

No fiscal impacts to the Coastal Commission are anticipated.

#### **RECOMMENDATION**

Staff recommends that the Commission SUPPORT AB 885.

For more information contact Jeff Stump, Legislative Coordinator, at (415) 904-5266.



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## ~Current Session Legislation~

Bill Info

**AB 885 Coastal onsite sewage treatment systems.**

Past Sessions

**BILL NUMBER: AB 885 AMENDED 05/13/99**

Codes

AMENDED IN ASSEMBLY MAY 13, 1999

Statutes

AMENDED IN ASSEMBLY APRIL 8, 1999

Constitution

**INTRODUCED BY Assembly Member Jackson**

**FEBRUARY 25, 1999**

An act to add Article 2.5 (commencing with Section 117502) to Chapter 4 of Part 13 of Division 104 of the Health and Safety Code, relating to sewage ~~and making an appropriation therefor.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 885, as amended, Jackson. Coastal onsite sewage treatment systems.

~~Existing-~~

(1) *Existing law authorizes a California regional water quality control board to prohibit, under specified circumstances, the discharge of waste from individual disposal systems or community collection and disposal systems that use subsurface disposal.*

This bill would require the State Department of Health Services, on or before January 1, 2001, in consultation with the State Water Resources Control Board, the California Coastal Commission, and the California Conference of Directors of Environmental Health, to adopt, by regulation, statewide performance standards for all onsite sewage treatment systems within the coastal zone, as defined. The bill would require the regulations to include specified provisions, *including requirements relating to prescribed inspections and enforcement actions undertaken by local agencies. By imposing requirements on local agencies, the bill would impose a state-mandated local program.* The bill would require all affected onsite sewage treatment systems to comply with the standards not later than January 1, 2003, or 3 years from the date of the adoption of the standards, whichever is earlier. ~~The bill would appropriate \$50,000 from the General Fund to the department to carry out these provisions.~~ The bill would make a statement of legislative intent that encourages the State Water Resources Control Board to make prescribed loans to private property owners who incur costs as a result of the implementation of the statewide performance standards adopted pursuant to the bill.

(2) *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.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: ~~2/3~~ *majority* . Appropriation: ~~yes~~ *no* . Fiscal committee: yes. State-mandated local program: ~~no~~ *yes* .

SECTION 1. Article 2.5 (commencing with Section 117502) is added to Chapter 4 of Part 13 of Division 104 of the Health and Safety Code, to read:

Article 2.5. Coastal Sewage Treatment Systems

117502. (a) On or before January 1, 2001, the department, in consultation with the State Water Resources Control Board, the California Coastal Commission, and the California Conference of Directors of Environmental Health, shall adopt, by regulation, statewide performance standards for all onsite sewage treatment systems within the coastal zone, as defined in subdivision (a) of Section 30103 of the Public Resources Code.

(b) The regulations shall be subject to all of the following requirements:

(1) The standards of maximum contaminant levels shall be less than 240,000 most probable number ~~(m.p.n.)~~ *(mpn)* for total coliform bacteria counts, 2.2 ~~m.p.n.~~ *mpn* for fecal coliform bacteria counts, and 10 ppm or mg/L for nitrates.

(2) The regulations shall establish additional standards for coastal onsite sewage treatment systems that discharge into, or adjacent to, impaired waters, as defined in Section 303(d) of the Clean Water Act (33 U.S.C. Sec. 1313).

(3) (A) The regulations shall prescribe requirements relating to inspections undertaken by local agencies of onsite sewage treatment systems within the coastal zone.

(B) The regulations shall authorize local agencies to impose fees for the inspections described in subparagraph (A).

(4) (A) The regulations shall determine what corrective action shall be taken by the local enforcement agency for systems that fail to meet the performance standards.

(B) Any onsite system that pools or discharges to the surface or fails, more than two times in any six-month period, to meet the performance standards established in the regulations, shall be deemed to have failed to meet the operational requirements.

(5) The regulations shall establish minimum standards for monitoring wells to be used to sample system performance.

(c) All onsite sewage treatment systems subject to subdivision (a) shall comply with the standards adopted pursuant to that subdivision not later than January 1, 2003, or three years from the date of the adoption of the standards, whichever is earlier.

(d) It is the intent of the Legislature to assist private property owners who incur costs as a result of the implementation of the statewide performance standards adopted pursuant to this section by encouraging the State Water Resources Control Board to make loans under Chapter 6.5 (commencing with Section 13475) of Division 7 of the Water Code to private property owners whose costs of compliance with those standards exceeds one-half of 1 percent of the current approved value of the property on which the onsite sewage treatment system is located.

~~SEC. 2. The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the General Fund to the State Department of Health Services to carry out Article 2.5 (commencing with Section 117502) of Chapter 4 of Part 13 of Division 104 of the Health and Safety Code.~~

*SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.*

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June 24, 1999

TO: Coastal Commissioners

FROM: Peter M. Douglas, Executive Director  
Jeffrey Stump, Legislative Coordinator

SUBJECT: **Draft** Local Coastal Program Review Legislation

At the June meeting of the Coastal Commission, Commissioners requested that staff provide a copy of the pre-print LCP review legislation. Although the attached language has not been released by the Legislature in pre-print form as of June 24, 1999, staff expects this to occur in the next few weeks.



An Act to amend sections 30519.5, 30603 and 30604 of the Public Resources Code.

**Section 30519.5.**

(a) (1) The Legislature declares that since the California Coastal Act of 1976 was enacted there have been changed circumstances, including, but not limited to, new scientific information, population growth, development pressures, sea level rise, engineering and technological advances, and new judicial interpretations of legal doctrine relating to governmental land use regulatory practices. These changed circumstances warrant the timely and effective review of previously certified local coastal programs to ensure that appropriate actions are being taken by local governments to continue to implement Coastal Act policies, to address cumulative and secondary impacts to coastal resources, and to effectively manage coastal resources.

(a) (2) The Legislature further declares that effective coastal management through, among other means, local coastal programs requires a regional perspective and periodic evaluation of issues of greater than local concern, including but not limited to public access and recreation, wetlands and other sensitive habitats, agriculture and the quality of coastal and marine waters.

(a)(3) The Legislature further declares that financial assistance to local government is necessary and appropriate to ensure effective local participation in the periodic review and updating of local coastal programs.

(b) The commission shall, from time to time, but at least once every five years after certification, review every certified local coastal program to determine: 1) whether such program is being effectively implemented in conformity with the policies of this division; 2) whether revisions to certified local coastal programs or procedures in the region under review are needed to address issues of greater than local concern; and 3) whether revisions to local coastal programs or procedures are needed to minimize adverse cumulative impacts of development on coastal zone resources. This review may be conducted as a review of the implementation of a single certified LCP or as a regional review of the implementation of several LCPs.

(c) (1) If the commission determines, after a public hearing, that a certified local coastal program is not being carried out in conformity with any policy of this division it shall submit to the affected local government recommendations of corrective actions that should be taken. Such recommendations may include but are not limited to recommended amendments to the affected local government's certified local coastal program which require Commission review and certification or recommended modifications to local procedures or management activities which do not require Commission certification.

(c)(2) The Commission shall make recommendations for local coastal program amendments or modifications available for public review and comment prior to formal adoption.

(c) (3) All recommended changes or modifications adopted by the Commission shall be submitted to the affected local government within 60 days of adoption. The affected local government shall then review the submitted recommendations and shall, within 90 days of their submittal and after public hearing, either adopt the recommended amendments into its local coastal program or forward to the Commission a written explanation of the reasons for not taking the recommended action. Recommended amendments adopted by the local government shall not be effectively certified until approved pursuant to section 30514.

(c) (4) When a local government does not amend its local coastal program as recommended by the Commission, the Commission shall review the local government's written explanation of the reasons for not taking the recommended action and may, after public hearing, vote to review on appeal all coastal development permits issued by the local government in all parts of the coastal zone for which permitting authority has been delegated pursuant to section 30519. Thirty days after the Commission makes the determination authorized by this subdivision and notwithstanding other provisions of this division relating to appeals, all coastal development permits acted upon by the local government may be appealed to the Commission. Notwithstanding any section of this division, the standard of review of any permit on such appeal is Chapter 3 (commencing with section 30200). When the affected local government adopts the amendments certified pursuant to subdivision (c) (4) into its local coastal program and the amendments become effectively certified, the appeal of coastal development permits to the Commission shall be limited to those appeals authorized before the determination, pursuant to this subdivision, was made by the Commission.

(c) (5) Upon the Commission's determination pursuant to subdivision (c) (4) and notwithstanding any time limitations on the processing of local coastal program or land use plan amendments to the contrary, the Commission shall not accept or take action on any proposed amendment to the local coastal program or the land use plan of the affected local government except proposed amendments implementing the recommendations submitted to the local government pursuant to this subdivision.

(d) To the extent grant funds are available, the Commission shall give priority consideration to requests for financial assistance that facilitate local government participation in the periodic review of its local coastal program or to implement Commission recommendations in connection with such review.

(e) The Commission shall, not later than January 1, 2001, after public hearing, adopt guidelines for the implementation of this division, and shall periodically update those guidelines, as the Commission deems necessary. These guidelines should at minimum include measures to address regional and cumulative impact issues, public participation and public agency coordination, data collection, and monitoring requirements, and other procedural concerns relevant to the evaluation of local coastal program implementation and formulation of recommended corrective actions. Any

guidelines adopted pursuant to this section are exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

**Section 30603.**

(a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

(b) (1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access and recreation policies set forth in this division. The grounds for an appeal brought pursuant to section 30519.5 shall be that the development does not conform to Chapter 3 (commencing with section 30200).

(2) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) shall be limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in this division.

(c) Any action described in subdivision (a) shall become final at the close of business on the 10th working day from the date of receipt by the commission of the notice of the local government's final action, unless an appeal is submitted within that time. Regardless of whether an appeal is submitted, the local government's action shall

become final if an appeal fee is imposed pursuant to subdivision (d) of Section 30620 and is not deposited with the commission within the time prescribed.

(d) A local government taking an action on a coastal development permit shall send notification of its final action to the commission by certified mail within seven calendar days from the date of taking the action.

#### **Section 30604.**

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

(b) After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program except for appeals brought pursuant to section 30519.5, in which case, the permit shall be issued if the Commission finds that the proposed development is in conformity with Chapter 3 (commencing with section 30200)..

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

(d) No development or any portion thereof which is outside the coastal zone shall be subject to the coastal development permit requirements of this division, nor shall anything in this division authorize the denial of a coastal development permit by the commission on the grounds the proposed development within the coastal zone will have an adverse environmental effect outside the coastal zone.

(e) No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property on, or property adjacent to the property on, which the proposed development is to be located, unless the public agency has been specifically authorized to acquire the property and there are funds available, or funds which could reasonably be expected to be made available within one year, for the acquisition. If a permit has been denied for that reason and the property has not been acquired by a public agency within a reasonable period of time, a permit may not be denied for the development on grounds that the property, or adjacent property, is to be acquired by a public agency when the application for such a development is resubmitted.



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## ~Current Session Legislation~

Bill Info

**AB 492 Coastal resources: public access.**

Past Sessions

**BILL NUMBER: AB 492 AMENDED 06/21/99**

Codes

Statutes

AMENDED IN SENATE JUNE 21, 1999

AMENDED IN ASSEMBLY MAY 25, 1999

Constitution

AMENDED IN ASSEMBLY MAY 3, 1999

**INTRODUCED BY Assembly Member Wayne**

**FEBRUARY 18, 1999**

An act to add Section 30609.5 to the Public Resources Code, relating to coastal resources.

### LEGISLATIVE COUNSEL'S DIGEST

AB 492, as amended, Wayne. Coastal resources: public access.

Existing law requires the California Coastal Commission and the State Coastal Conservancy to implement and administer various programs related to coastal resources, including programs for coastal access.

This bill would prohibit state land, as defined, ~~with existing or potential public accessways to, or along, that is located between the first public road and the sea, or that the commission has formally designated as part of the California Coastal Trail,~~ from being transferred or sold to any private entity, unless the state retains a permanent property interest in the land adequate to provide public access to or along the sea. *The prohibition would not apply if the private entity is a private, nonprofit organization that exists for the purposes of preserving lands for public use and enjoyment and meets the requirements of specified provisions of existing law, but or if the department or the conservancy makes specified findings at a noticed public hearing relating to the transfer or sale of the property.* The bill would also permit the Department of Parks and Recreation and the conservancy to sell *this* state land, ~~as defined, with existing or potential public accessways to, or along, the sea~~ if a public hearing is conducted and, after the hearing, the private entity buying the land, as a condition of the sale, immediately records ~~an easement for public access on the title document pertaining to the property, or to exchange state lands with existing or potential accessways for other land with potential or existing public accessways only if, after a public hearing, the department or the conservancy makes a~~

~~finding that specified conditions are met~~ a document affecting the title to the property that binds itself and its successors and assigns to manage the property so that existing or potential public access is not diminished .

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

~~SECTION 1. Section 30609.5 is added to the Public~~

*SECTION 1. Section 30609.5 is added to the Public Resources Code, to read:*

*30609.5. (a) Except as provided in subdivisions (b) and (c), no state land that is located between the first public road and the sea, or that the commission has formally designated as part of the California Coastal Trail, shall be transferred or sold to any private entity unless the state retains a permanent property interest in the land adequate to provide public access to or along the sea. Any private entity shall, as a condition of the transaction, immediately record a document affecting the title to the property that binds itself and its successors and assigns to manage the property in such a way as to ensure that existing or potential public access is not diminished in any way.*

*(b) This section shall not apply to the transfer of state land to a nonprofit organization that exists for the purposes of preserving lands for public use and enjoyment and meets the requirements of subdivision (b) of Section 831.5 of the Government Code.*

*(c) Notwithstanding the provisions of subdivision (a), state lands between the first public road and the sea, that are under the possession and control of the Department of Parks and Recreation or the State Coastal Conservancy, may be transferred or sold if the department or the conservancy makes one or more of the following findings at a noticed public hearing relating to the transfer or sale of the property:*

*(1) The state has retained or will retain, as a condition of the transfer or sale, permanent property interests on the land providing public access to or along the sea.*

*(2) The transfer or sale will provide for equivalent or greater public access to the same beach or shoreline area than would be feasible if the land were to remain in state ownership.*

*(3) The land to be transferred or sold is an environmentally sensitive area with natural resources that would be adversely impacted by public use, and the state will retain permanent property interests in the land that may be necessary to protect, or otherwise provide for the permanent protection of, those resources prior to or as a condition of the transfer or sale.*

*(4) The land to be transferred or sold has neither existing nor potential public accessway to the sea.*

*(d) Nothing in this section shall be construed to interfere with the management responsibilities of state resource agencies, including, but not limited to, the responsibilities to ensure public safety and implement the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).*

*(e) As used in this section, "state land" means any real property in which the state or any state agency has an ownership interest including, but not limited to, a fee, title, easement, deed restriction, or other interest in land. It does not include land in which a city, county, city and county, or district has an ownership interest.*

*(f) Any transfer or sale in violation of the provisions of this section is null and void.*

*(g) No provision of this section shall be applied to exclude any development from the permit requirements of this division. Resources Code, to read:-*

~~30609.5. (a) Except as provided in subdivisions (b) and (c), no state land with existing or potential public accessways to, or along, the sea shall be transferred or sold to any private entity unless the private entity is a private, nonprofit organization that exists for the purposes of preserving lands for public use and enjoyment, and meets the requirements of subdivision (b) of Section 831.5 of the Government Code. Any such organization that owns or manages that property shall not diminish the use or potential use of the property for public access.~~

~~(b) Notwithstanding subdivision (a), the Department of Parks and Recreation and the State Coastal Conservancy may do either of the following:-~~

~~(1) Sell state lands with existing or potential public accessways to, or along, the sea if a public hearing is conducted and, after the hearing, the private party buying the land, as a condition of the sale, immediately records an easement for public access on the title document pertaining to the property.~~

~~(2) Exchange state lands with existing or potential accessways for other land with potential or existing public accessways only if, after a public hearing, the department or the conservancy makes a finding that both of the following conditions are met:-~~

~~(A) The land obtained in the exchange results in a net benefit in public access to the sea.~~

~~(B) A public accessway to the sea is located within one mile of the land to be exchanged, unless the Department of Parks and Recreation or the State Coastal Conservancy can demonstrate that a greater distance results in equivalent public access.~~

~~(c) Nothing in this section shall be construed to interfere with the management responsibilities of state agencies, including, but not limited to, the responsibilities to ensure public safety and implement the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).~~

~~(d) As used in this section, "state land" means land in which the state or any state agency~~

~~has an ownership interest. It does not include land in which a city, county, city and county, or district has an ownership interest.~~

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Bill Info

### AB 511 Nonpoint source pollution.

Past Sessions

**BILL NUMBER: AB 511 AMENDED 06/01/99**

Codes

AMENDED IN ASSEMBLY JUNE 1, 1999

Statutes

AMENDED IN ASSEMBLY APRIL 26, 1999

Constitution

**INTRODUCED BY Assembly Member Wayne**

**FEBRUARY 18, 1999**

An act to amend Sections 30001, 30006.5, 30214, 30224, 30231, 30240, and 30253 of, and to add Sections 30002.5, 30109.1, 30109.6, and 30120.5 to, and to add Article 4 (commencing with Section 30540) to Chapter 6 of Division 20 of, the Public Resources Code, relating to coastal resources.

### LEGISLATIVE COUNSEL'S DIGEST

AB 511, as amended, Wayne. Nonpoint source pollution.

The existing California Coastal Act of 1976 provides for the protection of the state's coastal resources. The act requires that specified public access policies be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, among other things, the need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

This bill would define specified terms for purposes of the act relating to nonpoint source pollution, and would require that the specified access policies be implemented to also take into account the need to reduce nonpoint source pollution. The bill would revise specified coastal protection policies contained in the act to encourage various management measures to prevent nonpoint source pollution.

The act requires that specified measures be taken with respect to new development in the coastal zone, as defined, to minimize adverse environmental impacts and, where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational use.

This bill would require that new development in the coastal zone comply with a specified nonpoint source management plan prepared pursuant to federal law. The bill would require the California Coastal Commission to prepare, implement, and amend the plan known as the "Polluted Runoff Plan of the California Coastal Commission," in a manner that ensures coordination among federal, state and local agencies, and the most efficient use of limited fiscal resources by those agencies with the authority to implement management measures that address nonpoint source pollution is fully consistent with the state's nonpoint source program and specified management measures and schedules prescribed by federal law.

The bill would require the commission, not later than January 1, 2001, and by January 1 of each year thereafter, to prepare and submit to the Governor and the Legislature an annual report on the progress made in implementing the plan known as the "Polluted Runoff Plan of the California Coastal Commission."

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

SECTION 1. Section 30001 of the Public Resources Code is amended to read:

30001. The Legislature hereby finds and declares:

- (a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.
- (b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.
- (c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone, including the quality of water upon which coastal and ocean resources directly depend, and prevent its deterioration and destruction.
- (d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.

SEC. 2. Section 30002.5 is added to the Public Resources Code, to read:

30002.5. The Legislature finds and declares all of the following:

- (a) Nonpoint source pollution, also known as polluted runoff, results from multiple water and land use activities in watersheds, impairs more water bodies nationwide than any other pollution source, and is a major threat to the health of California's coastal waters.
- (b) The impacts of nonpoint source pollution on coastal resources include beach closings and advisories, reduced tourism revenues, closed or harvest-limited shellfish beds, declining fisheries, threats to the drinking water of coastal communities, contaminated sediments, and degraded recreational opportunities that depend on clean water such as swimming, surfing, and diving.
- (c) Industries that depend on a healthy coast and ocean contribute at least \$17,300,000,000 to the state's economy, including \$10,000,000,000 from tourism alone, and provide an estimated 370,000 jobs statewide.
- (d) Past water quality protection and enhancement efforts, which focused primarily on the control of point source discharges, have reduced water pollution from point source discharges, however, California must also prevent and reduce nonpoint source pollution statewide in order to preserve the health of the state's coastal and inland waters for current and future generations.
- (e) Land use and resource management that is supported by educational and technical assistance programs, and that is backed with enforcement regulatory authority, is considered to be one of the most effective approaches to ensure the widespread implementation of measures to prevent and reduce nonpoint source pollution.

(f) It is in the best interest of the State of California to pursue policies and actions at the state and local government levels that will, to the maximum extent feasible, substantially reduce or prevent the degradation of water quality from nonpoint sources of pollution, while simultaneously maximizing effective use of limited resources, minimizing conflict, and avoiding program duplication among the agencies in California that manage land use activities that generate nonpoint source pollution.

(g) It is imperative that California, acting through its coastal zone management and water quality control agencies, develop, implement, and enforce a comprehensive nonpoint source pollution control program using management measures to prevent and reduce nonpoint source pollution in the state's coastal and inland waters.

(h) The California Coastal Commission has primary responsibility for continued state coastal planning and management. The State Water Resources Control Board and the regional water quality control boards have primary responsibility for the coordination and control of water quality. The commission and the board have existing authority to develop and submit for final federal approval an upgraded comprehensive and enforceable nonpoint source management program for coastal and inland waters.

(i) The federal agencies that are responsible for overseeing the state's compliance with federal law regarding nonpoint source pollution control have determined that the state must significantly improve its efforts to prevent and reduce nonpoint source pollution.

(j) The Legislature recognizes that adequate support resources for the completion and implementation of an upgraded comprehensive and enforceable nonpoint source management program will need to be approved and dedicated by the Governor and the Legislature through the annual Budget Act.

SEC. 3. Section 30006.5 of the Public Resources Code is amended to read:

30006.5. The Legislature further finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions and that the commission should, in addition to developing its own expertise in significant applicable fields of science, interact with members of the scientific and academic communities in the social, physical, and natural sciences so that the commission may receive technical advice and recommendations with regard to its decisionmaking, especially with regard to issues such as coastal erosion and geology, marine biodiversity, nonpoint source pollution, wetland restoration, the question of sea level rise, desalination plants, and the cumulative impact of coastal zone developments.

SEC. 4. Section 30109.1 is added to the Public Resources Code, to read:

30109.1. "~~Management measure" means a feasible measure to control pollutants from nonpoint sources that reflect the greatest degree of pollutant reduction achievable through the application of the best available measures~~" *means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.*

SEC. 5. Section 30109.6 is added to the Public Resources Code, to read:

30109.6. "Nonpoint source pollution" means pollution that does not come from a discrete source, such as a pipe, but that is spatially diffuse, such as urban runoff or agricultural runoff, and is also referred to as polluted runoff.

SEC. 6. Section 30120.5 is added to the Public Resources Code, to read:

30120.5. "Watershed" means the area of land from which rainfall or snowmelt, or both, and sediments and dissolved materials within the rainfall or snowmelt, drain to a common outlet or point on a larger stream, lake, underlying aquifer, estuary, or ocean, including both surface and groundwater drainage basins. Watersheds are also sometimes referred to as drainage basins or drainage areas. Ridges of higher ground generally form the boundaries between watersheds. At these boundaries, rain falling on one side flows toward the low point of one watershed, while rain falling on the other side of the ridge flows toward the low point of a different watershed.

SEC. 7. Section 30214 of the Public Resources Code is amended to read:

30214. (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on those factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.
- (5) The need to reduce nonpoint source pollution impacts.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

SEC. 8. Section 30224 of the Public Resources Code is amended to read:

30224. Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land. Development supporting recreational boating use of coastal waters shall incorporate management measures to prevent nonpoint source pollution such as that from sewage, fuel, oil, solid waste, and toxic substances from boat cleaning and maintenance.

SEC. 9. Section 30231 of the Public Resources Code is amended to read:

30231. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff by, among other things, implementing management measures designed to prevent and reduce nonpoint source pollution, preventing depletion of groundwater supplies and substantial interference with surface waterflow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

SEC. 10. Section 30240 of the Public Resources Code is amended to read:

30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade those areas, including nonpoint source pollution impacts, and shall be compatible with the continuance of those habitat and recreation areas.

SEC. 11. Section 30253 of the Public Resources Code is amended to read:

30253. New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- (d) Minimize energy consumption and vehicle miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.
- (f) Comply with this state's Nonpoint Source Management Plan prepared pursuant to Section 319 of the federal Clean Water Act (33 U.S.C.A. Sec. 1329 et seq.).

SEC. 12. Article 4 (commencing with Section 30540) is added to Chapter 6 of Division 20 of the Public Resources Code, to read:

#### Article 4. Coastal Nonpoint Pollution Control Program

30540. The commission shall implement a program to prevent and reduce nonpoint source pollution ~~affecting coastal waters in the coastal zone~~ consistent with this article.

30541. (a) The commission shall prepare, implement, and amend the plan known as the "Polluted Runoff Plan of the California Coastal Commission" in a manner ~~to ensure~~

~~coordination among federal, state, and local agencies and the most efficient use of limited fiscal resources by those agencies with the authority to implement management measures that address nonpoint source pollution. The commission shall coordinate land use and water quality programs so as to minimize costly duplication and conflicts and ensure that, to the maximum extent practicable, different programs complement one another and are incorporated within an integrated system affecting the state's coastline.~~ *that is fully consistent with the state's nonpoint source program and the management measures and schedules in the 15-year program strategy and five-year implementation plans completed pursuant to the federal Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. Sec. 1455b).*

*(b) In exercising its authority under this division, the commission shall ensure, to the maximum extent possible, that nonpoint source pollution in the coastal zone is minimized. Toward this end, the commission shall exercise its authority to avoid conflicts with, and to support the efforts of, federal, state, and local agencies to limit nonpoint source pollution in the coastal zone. The commission shall consult with all federal, state, and local agencies with the authority to regulate sources of nonpoint source pollution in the coastal zone to coordinate its regulatory efforts with those agencies to achieve all of the following objectives:*

- (1) Enhance the effectiveness of federal, state, and local nonpoint source regulation.*
- (2) Promote efficient use of limited fiscal resources.*
- (3) Avoid duplication of regulatory activities.*
- (4) Prevent conflicts in the exercise of regulatory authority.*

30542. In addition to funding provided through the annual Budget Act for necessary staffing and technical support, the commission shall seek supplemental funding from public or private sources for ~~program-plan~~ development, implementation, and updating. Any funds so obtained from public or private services may be used to provide technical assistance, grants, and other assistance to local governments, other public entities, nonprofit organizations, private sector businesses, and property owners to help defray the costs, if any, of implementation of management practices and the installation of capital improvements designed ~~to reduce or prevent the degradation of water quality from nonpoint source pollution.~~ *to implement the "Polluted Runoff Plan of the California Coastal Commission." The commission shall coordinate funding decisions with the applicable regional water quality control board and the State Water Resources Control Board to avoid conflict and achieve optimum benefit with their grant programs to promote nonpoint source pollution control.*

SEC. 13. Notwithstanding Section 7550.5 of the Government Code, the commission shall, not later than January 1, 2001, and by January 1 of each year thereafter, prepare and submit to the Governor and the Legislature an annual report on the progress made in implementing the plan known as, the "Polluted Runoff Plan of the California Coastal Commission."

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## ~Current Session Legislation~

Bill Info

### AB 642 Coastal resources: wetlands mitigation and restor

Past Sessions

**BILL NUMBER: AB 642 AMENDED 05/28/99**

Codes

AMENDED IN ASSEMBLY MAY 28, 1999

Statutes

AMENDED IN ASSEMBLY APRIL 5, 1999

Constitution

**INTRODUCED BY Assembly Member Lempert**

**FEBRUARY 23, 1999**

An act to add Division 21.5 (commencing with Section 31425) to the Public Resources Code, relating to coastal resources.

### LEGISLATIVE COUNSEL'S DIGEST

AB 642, as amended, Lempert. Coastal resources: wetlands mitigation and restoration.

Existing law requires the State Coastal Conservancy to implement and administer various programs designed to conserve and protect lands, including wetlands, in the coastal zone, as defined.

This bill would establish the California Coastal Wetlands Mitigation Banking and Restoration Act of 2000, which would require the ~~Resources Agency~~ *Department of Fish and Game*, in cooperation with other responsible federal, state, and local agencies, to adopt regulations that establish standards and criteria for a mitigation bank site qualification process, as prescribed, in the coastal zone, as defined, the evaluation of wetlands acreage and habitat values created at bank sites, and the operation of bank sites.

The bill would permit any person who desires to establish a bank site, as described, to apply to the ~~agency~~ *department*, and to any other appropriate state agency that requires a permit, for a determination that the proposed bank site and the proposed operator, as defined, qualify under the standards and criteria established by the ~~agency~~ *department*. The bill would prescribe procedures and requirements for the approval of a bank site. The bill would require the ~~agency~~ *department*, on or before January 1, 2001, and annually thereafter, to report to the Legislature a description and evaluation of each bank site approved by the ~~agency~~ *department*, including specified information and recommendations.

The bill would require the State Coastal Conservancy, on or before January 1, 2001, in cooperation with acknowledged wetlands scientists, joint ventures, government agencies, and other interested parties, to prepare and complete a study to determine the amount of wetlands restoration potential that exists in the coastal zone, as prescribed.

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

SECTION 1. Division 21.5 (commencing with Section 31425) is added to the Public

Resources Code, to read:

DIVISION 21.5. COASTAL WETLANDS MITIGATION BANKING AND RESTORATION

CHAPTER 1. GENERAL PROVISIONS

31425. This division shall be known, and may be cited, as the California Coastal Wetlands Mitigation Banking and Restoration Act of 2000.

31426. (a) The Legislature hereby finds and declares all of the following:

(1) Wetlands are an important natural resource of the coastal zone because they provide significant habitat for migratory birds of the Pacific flyway, for endangered species, and for many other resident wildlife and fish populations. Coastal wetlands provide additional public benefits, including water quality improvements, flood protection, beach and dune stabilization, recreational uses, and scientific research opportunities. There has been a major loss of coastal wetlands over the past century. The remaining wetlands are a scarce resource that must be protected and restored. The pace of those restoration efforts has been slow to date.

(2) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), the California Environmental Quality Act (Division 13 (commencing with Section 21000)), and the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)) require project proponents to avoid or minimize, as provided in each statute, all significant adverse environmental impacts to coastal wetlands from projects and to conduct onsite mitigation where possible for all unavoidable project impacts.

(3) The practice of mitigation banking in the coastal zone is a nonexclusive means of mitigation for the loss of wetlands pursuant to a fill permit issued under Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344) and shall not be regarded as a wetlands enhancement or restoration program.

*(4) Although small wetlands provide functions and values not associated with large wetlands preserves, under certain circumstances, large wetlands preserves can provide an environmentally preferable alternative to a number of small, isolated individual wetland mitigation projects surrounded by urban development.*

*(5) Active and voluntary involvement by private landowners in wetlands conservation, restoration, and enhancement will contribute to the long-term availability and productivity of wetlands in the state's coastal areas.*

31427. (a) It is the intent of the Legislature to ensure ~~no net loss of existing wetlands~~ *that there is no net loss of existing wetlands or recreational uses and opportunities, including hunting and fishing*, and a long-term gain in the quality and quantity of wetlands acreage along California's coast.

(b) A significant component of wetlands loss in California may be attributed to the failure to provide adequate compensatory mitigation for small wetlands fill projects that are approved under applicable authority and to the failure of required compensatory mitigation to replace functions lost as a result of permitted wetlands alteration. Occasionally, some small wetlands alteration projects are approved without provision of any compensatory mitigation. Taken in their entirety, those wetlands alteration projects have a significant, adverse impact on the health and functioning of coastal wetlands in California.

31428. The Legislature further finds and declares:



(a) It is the purpose of this division to ensure that no net loss of wetlands acreage or wetlands functions occurs in the coastal zone as a result of fill permit activities undertaken pursuant to the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and to regulate mitigation banking.

(b) It is the goal of this state to increase the total wetlands acreage and wetlands functions within the coastal zone pursuant to the goals established for wetlands creation, enhancement, and restoration.

~~(c) (1) It is the intent of the Legislature to ensure an effective means to provide compensatory mitigation for small projects that may otherwise be approved under applicable existing federal or state statutes or local ordinances. Applicable existing statutes include the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), the California Environmental Quality Act (Division 13 (commencing with Section 21000)), the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)), and the McAttee-Petris Act (Title 7.2 (commencing with Section 66600) of the Government Code). It is not the intent of the Legislature to in any way modify those existing regulatory programs or to allow projects that would otherwise not be permitted under those statutes.~~

~~(2)~~

(c) It is the intent of the Legislature that any wetlands mitigation credits that may be sold pursuant to this division are used ~~only for any of~~ for the following projects:

~~(A)~~

(1) Small coastal projects impacting not more than two acres of wetlands that are permitted under applicable law that are water-dependent.

~~(B)~~

(2) Incidental public service projects, as described in subdivision (a) of Section 30233.

~~(C)~~

(3) Water-dependent coastal projects that impact deepwater habitat.

*(4) Water-oriented projects such as minor fills for public access or shoreline appearance, as described in subdivision (a) of Section 66605 of the Government Code, of one-quarter acre or less in size.*

31429. (a) For the purposes of this division, mitigation banking is a nonexclusive means of accomplishing offsite mitigation for the significant adverse environmental impacts of projects affecting coastal wetlands and for the maintenance and increase of wetlands acreage and habitat functions.

(b) This division is not intended, and shall not be construed, to do any of the following:

(1) Condone or encourage the removal, loss, or degradation of wetlands.

(2) Condone or encourage the removal, loss, or degradation of wetlands habitat for any rare, threatened, or endangered species.

(3) Provide a program to mitigate the impacts of any project that could not be currently authorized under applicable law, change the current regulatory requirements for

mitigation for loss of wetlands, or provide compensatory mitigation for any wetlands alteration projects other than those described in subdivision (c) of Section 31428.

(4) Abrogate any local, state, or federal law or policy pertaining to wetlands, or prevent any local agency from prohibiting the removal, filling, or other destruction of particular wetlands under applicable law.

(5) Establish maximum or minimum standards or any other requirement for wetlands fill or mitigation.

(6) Create any legal, administrative, regulatory, or other precedent as to any noncoastal wetlands area or as to any other lands or resources of this state, or as to any situation or circumstance not specifically described in this division.

(7) Constitute the exclusive method of providing compensation by permittees for the loss of coastal wetlands.

(8) Preclude or prohibit mitigation for loss of deepwater habitat through the acquisition, restoration, or enhancement of coastal wetlands.

31429.5. Nothing in this division supersedes any provision of the California Coastal Act (Division 20 (commencing with Section 30000)) pertaining to the fill of wetlands, open coastal waters, estuaries, streams, and lakes.

## CHAPTER 2. DEFINITIONS

31430. Unless otherwise specified, the definitions in this chapter govern the construction of this division.

~~31431. "Agency" means the Resources Agency.~~

31432. "Bank site" means a publicly or privately funded, owned, or operated site in the coastal zone on which wetlands have been or will be created in accordance with this division to compensate for adverse impacts caused by removal or fill permit activities authorized pursuant to the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.).

31432.5. "Coastal zone" is defined in Section 30103, except that, for purposes of this division, the coastal zone also includes all of the area of jurisdiction of the San Francisco Bay Conservation and Development Commission established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, as well as any adjacent uplands, managed wetlands, marshes, and diked lands that significantly affect the environmental quality of the San Francisco Bay.

31433. "Credit" means a numerical value that represents the coastal zone wetlands acreage and wetlands habitat *functions and* values of a bank site.

31434. "*Department*" means the *Department of Fish and Game*.

31434.5. "Operator" means a person who is approved by the agency to administer a bank site.

31435. "Permittee" means a person who meets all of the following conditions:

(a) Has received a permit pursuant to the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) for the removal or filling of coastal zone wetlands, and any development permit that is required by the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, subject to a condition that allows the permittee to

compensate for the wetlands loss through participation in a bank site pursuant to this division.

(b) Proposes to compensate for the loss of coastal zone wetlands through the purchase of credits from a bank site pursuant to this division.

(c) Proposes the discharge, *removal, or fill* at a site within the same watershed or hydrologic unit and in close proximity to a bank site with sufficient acreage of the same wetlands type, as defined in Section 31441, which will provide suitable replacement habitat for the habitat values *and functions* that may be lost because of the conversion of existing coastal zone wetlands.

31436. "Person" is defined in Section 30111.

31437. "Wetlands creation" means the establishment of new coastal zone wetlands in an area where they do not presently exist and ~~have not existed in recent times~~ *did not formerly exist*.

31438. "Wetlands enhancement" means the improvement of conditions of existing degraded coastal zone wetlands so that the functions they provide are of a higher quality.

31439. "Wetlands functions" includes, but is not limited to, flood conveyance, flood storage, groundwater discharge and recharge, barriers to waves and erosion, sediment control, pollution control, fish and shellfish nurseries, habitat for birds and other wildlife, and global biogeochemical cycles and atmospheric processes.

31440. "Wetlands restoration" means reestablishing coastal zone wetlands where they formerly existed before they were drained or otherwise converted.

31441. "Wetlands type" means the classifications of coastal zone wetlands specified in paragraphs (1) to (3), inclusive, of subdivision (b) of Section 31446 and any other types determined by the agency.

### CHAPTER 3. WETLANDS MITIGATION BANKS

31442. (a) The ~~agency~~ *department*, in cooperation with other responsible federal, state, and local agencies, shall adopt regulations that establish standards and criteria for the mitigation bank site qualification process, for the evaluation of wetlands acreage and habitat values created at bank sites, and for the operation and evaluation of bank sites. The ~~agency~~ *department*, in cooperation with those entities, shall also adopt any other regulations that are necessary to implement this division.

(b) The standards and criteria shall require the sale of credits at a ratio that will ensure that lost wetland acreage and habitat functions are fully replaced, *including any temporal losses*.

(c) *The department will develop timelines for the review of mitigation banking enabling instruments that shall not exceed 120 days.*

31443. In order to qualify a mitigation bank, the ~~agency must find both of the following:~~

~~(a) The department shall find that the bank will promote the protection, preservation, restoration, enhancement, and expansion and enhancement of coastal wetlands in cooperation with other federal, state, and local programs and interested parties.~~

~~(b) The bank will promote improved cooperative efforts among private,~~

~~nonprofit, and public entities for the management and protection of coastal wetlands.~~

31444. (a) The standards and criteria governing the use of wetlands projects approved under this division as mitigation banks in accordance ~~with~~ *with* the regulations adopted pursuant to subdivision (a) of Section 31442 shall include all of the following elements:

- (1) A wetlands mitigation bank site shall have a reliable, adequate, and available water supply necessary to provide desired wetlands functions and values.
- (2) A requirement that a newly created wetlands shall provide the hydrological, vegetative, and wildlife characteristics, including the food web components, of a naturally occurring wetlands system. The bank site shall also include transition and upland habitat necessary to ensure the success of all wetlands functions dependent upon associated uplands and transition zones.
- (3) The sustainability of the new habitat shall be ensured through bonds, endowments, or other measures that will pay for maintenance or remediation as required.
- (4) An analysis of the proximity of the bank site to establish preserves or natural features historically associated with abundant wildlife habitat values.
- (5) A requirement that the long-term biological values of the project are not likely to be reduced due to its proximity to populated areas.
- (6) A finding that the designated operator of the mitigation bank site demonstrates an ability to create, administer, manage, and protect the project site in its ~~enhanced~~ *restored and fully functioning* state, including financial, technical, and management ability, in perpetuity.
- (7) An analysis of the relative abundance or scarcity of the wetlands type to be created at the bank site.
- (8) A finding that the ~~project will be constructed after bank site will be constructed after the effective date of the enactment of this division and constitutes the creation of new wetlands or the restoration of an area that was formerly wetlands but does not contain significant wetlands habitat at the time of construction.~~ *and does not impact any existing wetlands on the bank site, and the amount of credits shall be commensurate with the increase in functions and values at the site.*
- (9) A finding that the creation of the project does not entail the destruction of existing environmentally ~~sensitive nonwetlands habitat, including, but not limited to, those areas protected under Section 30240.~~ *sensitive areas protected under Section 30240, and defined under Section 30107.5.*
- (10) A finding that the creation of the project does not entail the destruction of ~~the last remaining~~ *any* unique habitat in the affected watershed.

(b) The standards and criteria required to be considered under subdivision (a) shall do all of the following:

- (1) Limit the projects eligible for purchase of mitigation bank credits to those described in subdivision (c) of Section 31428.
- (2) Require that mitigation credits are sold from a mitigation bank located in the same watershed or hydrological unit and in close proximity to the project applying for the

purchase of the credits.

(3) Establish an appropriate procedure, such as a monitoring program or staged habitat evaluations, that ensures that credits are sold only for habitat values and functions actually gained on the bank site that are of equal or greater quality than those that would be lost on the impacted site.

*(4) Ensure that out-of-kind mitigation is only used for small projects or projects with minor impacts within the context of regional habitat goals.*

31445. (a) (1) Any person who desires to establish a bank site shall apply to the ~~agency~~ department, and to any other appropriate state agency that requires a permit, for a determination by each agency that the bank site and the operator qualify under the standards and criteria established by the ~~agency~~ department pursuant to this division.

(2) The ~~agency~~ department shall publish a notice in the California Regulatory Notice Register of the receipt of an application to establish a bank site. The ~~agency~~ department shall also provide all interested persons notice of receipt of a bank site application if any individual has notified the ~~agency~~ department, in writing, of his or her address and interest in being included on a notification list.

(3) The determination that a bank site qualifies under the standards and criteria of this division is a project for purposes of Section 21065.

(b) No bank site shall be approved by the ~~agency~~ department or any other state or local agency on a wetlands site already in existence, for enhancement of wetlands already in existence, or for any restoration effort previously planned and financed with public funds.

(c) No bank site shall be approved by the ~~agency~~ department or any other state or local agency if its creation would require the destruction of existing, environmentally ~~sensitive nonwetlands habitat, including, but not limited to, those areas protected under Section 30240.~~ sensitive areas protected under Section 30240, and defined under Section 30107.5.

(d) The ~~agency~~ department shall not approve the sale of mitigation credits until the site has been established and functioning in a manner equivalent to a naturally occurring wetlands system, as described in paragraph (2) of subdivision (a) of Section 31444, for a period of at least five years.

31446. (a) Upon successful wetlands creation *or restoration of* in a bank site of at least 10 acres in size, the operator may apply for a determination by the ~~agency~~ department of the number of acres in the bank site and the wetlands habitat functions of that acreage that qualify for credit against prospective wetlands losses in the qualifying area. In determining the amount of credit, no credit shall be provided for wetlands acreage and habitat functions that were in existence at the site prior to the establishment of the bank site. *Additionally, no mitigation credits shall be provided for establishment of transition or buffer areas around the bank site.*

(b) Upon receipt of an application pursuant to subdivision (a), the ~~agency~~ department shall determine the number of acres that are wetlands in the bank site based on the standards and criteria and elements established pursuant to Sections 31442 and 31444, and the ~~agency~~ department shall classify those wetlands in accordance with established biological criteria. ~~The classifications shall include, but are not limited to, the following wetlands types:~~

~~(1) Tidal or estuarine wetlands.~~

~~(2) Perennial brackish marsh.~~

~~(3) Freshwater marsh.~~

~~(4) Seasonal wetlands.~~

31447. (a) The ~~agency-department~~ shall enter into a memorandum of understanding with an operator before any wetlands are created on a bank site that qualifies pursuant to Section 31445. The United States Environmental Protection Agency, the United States Army Corps of Engineers, the Fish and Wildlife Service of the United States Department of the Interior, the National Marine Fisheries Service, the California Coastal Commission, *the San Francisco Bay Conservation and Development Commission*, and the regional water quality control board for the region, and the State Department of Health Services or its designee, or any of those entities, may enter into the memorandum of understanding by indicating to the ~~agency-department~~ their intent to participate within 90 days of being notified by the ~~agency-of-the-intent-of-the-agency-department-of-the-intent-of-the-department~~ to initiate the procedures established in this section. Any county that is located in whole or in part within the coastal zone, by ordinance, may require its entry into the memorandum of understanding before the bank site may be established within the county.

(b) The memorandum of understanding entered into pursuant to subdivision (a) shall include, but need not be limited to, all of the following:

(1) Identification of the bank site, including the legal property description, acreage, types, and location of wetlands in existence at that time within the boundaries of the bank site.

(2) An agreement by each of the governmental entities specified in subdivision (a), that all new, successfully created *or restored* wetlands acreage, shall qualify to be credited against the approved removal or fill of coastal zone wetlands located in the same watershed and within close proximity of the bank site and the agreement is entered into consistent with the procedures prescribed in this chapter.

(3) An agreement by the operator to do both of the following:

(A) Maintain all wetlands habitat within the bank site in optimum condition in perpetuity, barring an unforeseen natural catastrophe that precludes the viability of the wetlands.

(B) Establish a trust or bond in favor of the ~~agency-department~~ that provides sufficient funds to ensure administration, protection, operation, and maintenance in perpetuity of the wetlands habitat acreage and habitat values at the bank site if the operator defaults in performing the duties required pursuant to subparagraph (A).

31448. (a) Before a permittee may purchase credits from an operator, the permittee shall demonstrate to appropriate federal, state, and local agencies that there has been a good faith effort to redesign the project so as to avoid *and then minimize* all wetlands impacts. Additionally, the United States Army Corps of Engineers and any lead agency designated pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) shall find that the permittee cannot avoid all significant impacts to wetlands resources, it is infeasible to minimize all significant project impacts, and it is infeasible to mitigate onsite for unavoidable, significant impacts.

(b) If a bank site is established by a public agency for the mitigation of public projects that impact coastal zone wetlands, the public agency operator may not sell credits for the mitigation of private developments, *nor may a public agency allow mitigation banks or projects on its land unless it meets the same standards as set forth by this division for mitigation banks, including the full reimbursement of the current appraised value of the*

land.

31449. In the interest of ensuring that the minimum price for credit is sufficient to ensure the financial integrity of the bank site, the ~~agency-department~~ may establish a minimum price for each bank site established pursuant to this division. The operator may set a higher price to the extent that the price is consistent with the terms of the memorandum of understanding entered into pursuant to Section 31447. After the ~~agency-department~~ determines the number of wetlands acres in the bank site that qualify for credit against wetlands loss in a qualifying area, the operator shall provide to the ~~agency, and the agency-department, and the department~~ shall verify, an accounting of the average cost for each wetlands acre created, by wetland type, for the purpose of determining credits, using the following factors:

- (a) Land cost, including the reasonable interest cost of holding the land.
- (b) Wetlands creation *or restoration* costs.
- (c) Wetlands administration, maintenance, and protection costs.
- (d) Annual taxes, including any tax increases imposed under applicable state law, and in-lieu payments, if applicable.
- (e) Any costs incurred by the ~~agency-department~~ in establishing the bank site, and the direct cost of necessary ongoing monitoring and oversight ~~that may be undertaken by an independent third party.~~
- (f) Any other information relevant to a determination of the cost of preserving the wetlands in perpetuity.

31450. The ~~agency-department~~ shall be reimbursed for those expenses of the ~~agency department~~ identified in Section 31449 in accordance with a schedule set forth in an agreement with the person establishing the bank site. The agreement shall be approved prior to the commencement of any planning activities.

31451. A permittee shall provide compensation pursuant to the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), as described in subdivision (b) of Section 31435. ~~The appropriate regulatory agency shall classify the wetlands that the permittee will remove according to wetland type, consistent with this division.~~

~~31452. (a) —~~

31452. Compensation provided pursuant to Section 31451 shall be subject to the condition that the operator will establish the trust or bond required by subparagraph (B) of paragraph (3) of subdivision (b) of Section 31447 and, in addition, shall be subject to both of the following conditions:

~~(1) —~~

(a) The full payment shall be used to purchase credits in the mitigation bank site.

~~(2) —~~

(b) Except for impacts to deepwater habitat, the payment shall provide for the purchase of bank site wetlands acreage that has the same hydrologic, vegetative, *recreational*, and other characteristics at the site for which ~~it will serve as mitigation.~~

~~(3) — it will serve as mitigation, except as provided in paragraph (4) of subdivision (b) of~~

*Section 31444.*

(c) A permittee shall not participate in a bank site if a net loss of wetlands habitat acreage or functions would occur.

31453. After payment to the operator pursuant to this division, the permittee shall have no further obligation with respect to the operation of the bank site to which payment was made, unless the permittee has an equitable or legal interest in the bank site.

31454. Notwithstanding Section 7550.5 of the Government Code, on or before January 1, 2001, and annually thereafter, the ~~agency~~*department* shall report to the Legislature a description and evaluation of each mitigation bank site approved pursuant to this division, including, but not limited to, the number of wetlands acres and habitat functions created, the number of credits issued, an assessment of the biological productivity of the created wetlands, a comparison of the wetlands acreage and habitat functions that were created at the bank site and those that were lost as a result of permitted projects for which credits were obtained, and any recommendations for improving the bank site program.

SEC. 2. On or before January 1, 2001, the State Coastal Conservancy, in cooperation with acknowledged wetlands scientists, joint ventures, government agencies, and other interested parties, shall prepare and complete a study to determine the amount of wetlands restoration potential that exists in the coastal zone. The purpose of the study shall be to focus on identifying ways of improving wetlands functions throughout the coastal zone and identifying sites that would be appropriate for wetlands restoration and enhancement. The study shall also prioritize the coastal wetlands restoration or protection programs undertaken by the conservancy or by other state agencies.

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