

CALIFORNIA COASTAL COMMISSION

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March 14, 2000

TO: Coastal Commissioners and Interested Public

FROM: Peter M. Douglas, Executive Director
Sarah Christie, Legislative Coordinator

SUBJECT: LEGISLATIVE REPORT FOR MARCH 2000

CONTENTS:

This report provides summaries and 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.

Note:

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

Please contact Sarah Christie, Legislative Coordinator, at (916) 455-6067 with any questions on the material contained in this report.

UPDATE ON COMMISSION-PROPOSED LEGISLATION

RA 2000-52R, Indemnification for the Coastal Commission

The Governor's office has denied the Commission's proposed legislation to indemnify the Commission from attorneys fees resulting from court decisions overturning permit approvals and project-specific LCP amendments.

RA 2000-16, Coastal Resources; Certified Local Coastal Programs

The Department of Finance and the Governor's office are still reviewing the Commission's proposed legislation to amend Section 30519.4 and 30519.5 of the Coastal Act, relating to periodic reviews. Staff has amended the proposed legislation to address the Administration's and the Department's concerns.

NEWLY INTRODUCED LEGISLATION

AB 2310 (Ducheny)

This bill would amend Sections 30233, 30240 and 30411 of the Public Resources Code (California Coastal Act) to include recreational, residential and commercial development as allowable uses in degraded coastal wetlands; allow transportation projects in wetlands and other development in areas designated as Environmentally Sensitive Habitat Areas (ESHAs); and change the current 'balancing provision' of the Act to allow the Commission to permit more intensive, non coastal-dependent uses in wetlands and ESHAs by balancing the broad programmatic goals in Chapter 1 of the Act, against the specific resource protection policies contained in Chapter 3 of the Act. Under this proposed bill, the Commission could allow development not otherwise permitted in wetlands found to be 'degraded' by the Department of Fish and Game, if, in conjunction with such development, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. Development in ESHAs could be allowed if the Commission finds habitat values to be degraded and that higher habitat values of the same type could potentially be achieved at another location through protection, maintenance, enhancement, creation or restoration of those values.

The bill also prohibits the Commission from taking actions in conflict with Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCPs) approved by the Department of Fish and Game.

Introduced	February 25, 2000
Status	May be heard in Committee March 26
Staff Involvement	Analysis attached
Comm. Position	Staff recommends an Oppose position

AB 2343 (Ducheny) California Environmental Quality Act; Exemption

This bill would create a CEQA exemption for development projects of up to 200 units in urbanized areas that, among other things, are located within a community or neighborhood revitalization area, as defined in the bill, and are otherwise subject to an environmental assessment (environmental impact report or a negative declaration of impacts.) The development project must be consistent with the jurisdiction's general plan or any applicable specific plan or local coastal program as it existed on the date that the application was deemed complete.

Introduced	February 25, 2000
Status	May be heard in Committee March 26
Staff Involvement	Analysis attached

AB 1781 (Pacheco) Relating to State Beaches

This proposed legislation would remove the \$250,000 cap on non-commercial projects on 8 beaches owned by the County of Los Angeles, allowing for the construction of restrooms, wheelchair ramps, pedestrian accessways, storm drains, lifeguard facilities, parking lots, sand walls, rock revetments and coastal slope erosion protection.

Introduced	February 25, 2000
Status	May be heard in Committee March 26
Staff Involvement	Analysis attached, working with Sponsor
Comm. Position	Staff recommends Neutral if Amended

SB 1562 (Burton) Mitigation of Projects Through Wetlands Restoration

This bill would provide that if a public agency proposes to mitigate the impact of a proposed project by providing funding for a wetlands restoration project sponsored by a state or federal agency, the analysis of the wetlands restoration in the environmental impact report shall be limited to a brief discussion of the relationship between the impact of the proposed project and the benefits of the wetlands restoration. Any agency carrying out the wetlands restoration project would be subject to all applicable laws otherwise governing wetlands restoration.

Introduced	February 18, 2000
Status	Referred to Committee on Environmental Quality
Staff Involvement	Working with author

AB 1865 (Strickland) Water Quality, Septic Tank Systems

This bill would create the Septic Tank System Replacement Fund and would authorize the State Water Resources Control Board to make grants to homeowners who are required by a regional board to replace their septic tank systems. The grants would offset costs incurred in connection with hooking up to a conventional sewer system.

Introduced	February 10, 2000
Status	Referred to Asm. E.S. & T.M.
Staff Involvement	None

AB 2148 (Nakano) Highways: Storm Water Abatement

AB 541 has been reintroduced as AB 2148. This bill would annually appropriate \$10,000,000 from state-administered federal Transportation Equity Act for the 21st Century (T-21) funds, into the Storm Water Abatement Account created by the bill in the State Transportation Fund. These funds would be made available to local, state, and nonprofit entities to undertake transportation-related projects for pollution abatement and environmental restoration. The allocation would be made after T-21 funds have been allocated and distributed to local governments using established formulas and guidelines, thus providing an additional source of dedicated funding. May be heard in Committee March 25.

Introduced	02/24/99
Last Amend	01/03/00
Status	Reintroduced, looking for co-authors
Staff Involvement	Working with author
Comm. Position	SUPPORT

PRIORITY LEGISLATION, 2-YEAR BILLS

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

AB 553 has been amended to replace AB 809. This bill would require the fees that are currently deposited in the California Environmental License Plate Fund (ELPF) 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 operating and maintaining coastal accessways. The Governor's proposed budget estimates the FY 2000/2001 revenues from the Whale Tail plate at \$1,472,000, of which \$736,000 will go into the ELPF.

Introduced 02/24/99
Last Amend 03/08/00
Status Substituted, to be reintroduced
Comm. Position **SUPPORT**

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; passed Senate Natural Resources and Wildlife Committee; passed Senate Appropriations, on Senate floor
Staff Involvement Working with author on possible alternative language
Comm. Position **SUPPORT**

AB 1280 (Jackson) Oil and Gas Development: Pipelines

AB 1280 would amend Section 30262 of the Coastal Act to require that any new or expanded oil production extracted off the coast of California be transported by pipeline, rather than tanker or barge, to onshore processing and refining facilities, and that all pipelines used to transport this oil utilize the best achievable technology to ensure maximum protection of public health and safety and productivity of terrestrial and marine ecosystems. In cases where overland transport by pipeline is infeasible, shipment of crude oil may be permitted by other modes of environmentally sound onshore transportation such as trains and trucks, which meet all applicable rules and regulations, excluding any waterborne mode of transport.

This bill would not apply to Thums Island facilities within Long Beach Harbor.

Introduced 02/26/99
Last Amend 09/03/99
Status Passed Assembly floor; passed Senate Natural Resources and Wildlife Committee; passed Appropriations; Passed Senate floor; failed to pass Assembly concurrence. Reconsideration granted.
Staff Involvement Worked with author on amendments.
Comm. Position **SUPPORT**

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; passed Assembly Committee on Environmental Safety and Toxic Materials; referred to Senate Environmental Quality Com.,
Staff Involvement	None
Comm. Position	SUPPORT

AB 1219 (Kuehl) Land Use: Water Supplies

AB 1219 would require that prior to the final approval of any residential subdivision of property of over 200 residential lots, a city, a county, or city and county will require that water utility service that meets the reasonable needs of the project be provided by a water service provider, as specified, and that the water service provider verify this in writing.

Introduced	02/26/99
Last Amend	01/13/00
Status	Passed Assembly. Referred to Local Government and Agriculture and Water Resources Committees
Staff Involvement	None

SB 1277 (Hayden), State property: roads: construction and improvements.

This bill would prohibit a state or local agency from constructing or approving the construction of any public road, or from making any improvement to an existing road, that substantially increases vehicular traffic capacity in or through any unit of the state park system. The bill would authorize the construction of a road through a unit of the state park system if the department determines, among other things, that the road project includes all feasible planning to minimize harm to the property, or if the Secretary of Business, Transportation, and Housing and the Secretary of Resources jointly make specified findings related to cost, mitigation, feasible alternatives and impact on existing uses.

Introduced	02/26/99
Last Amend	07/15/00
Status	Passed Senate Natural Resources and Wildlife Committee; passed Senate Appropriations, Passed Senate floor; Assembly first reading, held at desk.
Staff Involvement	None

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 authorize the administrator to establish a lower standard of financial responsibility for nontank barges that is not less than the expected costs from a reasonable worst-case oil spill into marine waters.

Introduced	01/25/99
Last Amend	07/08/99
Status	Passed Senate Environmental Quality and Senate Judiciary Committees, Passed Senate Floor, Referred to Assembly Natural Resources
Staff Involvement	Reviewing

SB 241 (Alpert) California Endowment for Marine Preservation

SB 241 would establish the California Endowment for Marine Preservation, to be governed by a 9-member board of directors, in order to create a permanent source of funding for marine- and fisheries-related research and enhancement projects. The bill would require that owners and operators of offshore oil platforms or production facilities, who receive government approval and permits to allow offshore oil platforms or facilities to remain in place, deposit a percentage of the cost savings into the endowment.

If the offshore oil platform or production facility is located in waters less than 200 feet in depth, 35 percent of the cost savings would be deposited into the fund.

If the offshore oil platform or production facility were located in water between 200-400 feet in depth, 50 percent of the cost savings would be deposited into the fund.

If the offshore oil platform or production facility is located in water greater than 400 feet, 65 percent of the cost savings.

A 50% savings bonus would apply for early decommissioning.

Introduced	01/26/99
Last Amend	01/27/00
Status	Passed Senate Natural Resources Committee, Passed Senate Appropriations, Passed Senate Floor, Referred to Assembly Natural Resources
Staff Involvement	Working with author on amendment
Comm. Position	No Position

BILL ANALYSIS

DEPARTMENT Coastal Commission	AUTHOR Duchenev	BILL NUMBER AB 2310
SUBJECT Public Resources Code: Resource Planning and Management		DATE LAST AMENDED 2/25/00

I. SUMMARY:

A. Bill Summary:

This bill would amend Sections 30233, 30240 and 30411 of the Public Resources Code (California Coastal Act) to include recreational, residential and commercial development as allowable uses in degraded coastal wetlands; allow transportation projects in wetlands and other development in areas designated as Environmentally Sensitive Habitat Areas (ESHAs); and change the current 'balancing provision' of the Act to allow the Commission to permit more intensive, non coastal-dependent uses in wetlands and ESHAs by balancing the broad programmatic goals in Chapter 1 of the Act, against the specific resource protection policies contained in Chapter 3 of the Act. Under this proposed bill, the Commission could allow development not otherwise permitted in wetlands found to be 'degraded' by the Department of Fish and Game, if, in conjunction with such development, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. Development in ESHAs could be allowed if the Commission finds habitat values to be degraded and that higher habitat values of the same type could potentially be achieved at another location through protection, maintenance, enhancement, creation or restoration of those values.

The bill also prohibits the Commission from taking actions in conflict with Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCPs) approved by the Department of Fish and Game.

B. Summary of Issues/Concerns:

The revisions to these sections would allow the Commission to approve significantly more development, and more types of development, in wetlands and ESHAs. By allowing the Commission to balance broad Chapter 1 goals and objectives against specific Chapter 3 policies, the Commission would be able to make findings and approve projects that directly conflict with the Coastal Act, as written. It also seeks to exempt HCPs and NCCPs within the Coastal Zone from Coastal Commission review. AB 2310 would allow offsite mitigation for filling of wetlands less than one acre in size, potentially resulting in a net loss of coastal wetlands. Collectively, this proposal would significantly weaken the environmental protection policies of Coastal Act, and allow for substantial loss of coastal resources historically protected by the Act.

C. Fiscal Summary:

The Coastal Commission could incur costs due to an increase in permit applications, litigation and LCP amendments as the result of increasing the number and type of allowable uses in wetlands and ESHAs. The potential for de-certification of the state's coastal program puts current and future federal funding at risk.

D. Sponsorship:

California Building Industry Association

E. Related Legislation:

SB 2086 (Bowen)

F. Support and Opposition:

Support: Unknown at this time
Opposition: Unknown at this time

For information contact: Sarah Christie, Legislative Coordinator

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Prepared by: Sarah Christie Date: 2/29/00

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II. ANALYSIS:

A. Existing Law:

Wetlands

The Coastal Act provides the highest degree of protection for coastal wetlands, due to their important function in coastal ecosystems, their scarcity (California has lost over 95% of its coastal wetlands in southern California) their critical habitat value for rare and endangered species, and their important role in marine fisheries.

Current law (PRC Section 30233) permits wetland fills only for the following uses:

- New or expanded port, energy and coastal-dependent industrial facilities
- Maintaining existing navigation channels, mooring areas and boat ramps,
- Incidental public services (utility lines, cables, etc)
- Mineral extraction, including sand excavation
- Restoration, and
- Nature study and aquaculture

No other uses in wetlands may be approved in accordance with the Coastal Act unless the Commission makes the necessary findings that denial of a project would create a conflict with another specific Coastal Act policy (such as protecting coastal-dependant agriculture, water quality, biological productivity of coastal waters, etc.) In such cases, the Commission may approve wetland fill or dredging using the balancing provision contained in section 30075.5, but only if the project approval is the environmentally superior alternative. For instance, if a project requiring a wetland fill incorporates practices which improve water quality overall, the Commission has the discretion to approve it.

ESHA

Environmentally Sensitive Habitat Areas are defined in Section 30107.5 as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." While wetlands are a type of ESHA, other examples of ESHAs include riparian corridors, endangered species habitat, native grasslands, oak woodlands, Monterey pine forests, dune habitat, etc.

Environmentally Sensitive Habitat Areas are protected under Section 30240, which states that they "...shall be protected against any significant disruption of habitat values, and only uses dependant on those resources shall be allowed in those areas."

Uses dependent on the ESHA may include research facilities, trails, nature studies, recreation, public education, etc.

Again, specific findings using the balancing provision must be made in order to allow development which is more intensive than what is allowable under Section 30240.

B. This Bill Would:

- Add residential, commercial and recreational development to the list of allowable uses in degraded wetlands if accompanied by restoration of a substantial portion of the remaining wetland.
- Allow destruction of a degraded wetland (as defined by the Department of Fish and Game) less than 1 acre in size if a "biologically productive wetland" is provided elsewhere.
- Broaden the balancing provision in section 30007.5 to allow the Commission to override Chapter 3 wetland and ESHA protection policies by applying the general goals and objectives contained in Chapter 1 .
- Allow wetland fill or ESHA destruction for transportation projects (e.g., highways and freeways, toll roads, parking lots and garages, rail and transit projects).
- Allow any non-resource dependent use in ESHA if the Commission determines that higher habitat values of the same type can be achieved at another location through the protection, maintenance, enhancement, creation or restoration of those values.
- Exempt HCPs and NCCPs from Coastal Commission review.

C. Issues/Concerns

- Wetlands are essential to the health of coastal ecosystems, and are thus afforded a high degree of protection under the Coastal Act. Over 95% of southern California wetlands have been lost to development or other human impacts. Because so few wetlands remain and areas suitable for restoration are limited, preservation of California's wetland protection policies should remain as strong as possible. In addition, industrial uses currently allowed under the Coastal Act, such as commercial ports, must find areas that can be restored as mitigation for their projects. Adding recreational, residential and commercial uses in degraded wetlands as allowable uses in conjunction with restoration will cause a further loss of coastal wetlands and increases the competition for (and cost of) remaining mitigation sites for projects currently consistent with the Act.
- Allowing destruction of degraded wetlands less than one acre in size so long as "biologically productive" wetlands are provided elsewhere could lead to a net loss of coastal wetlands, if the mitigation site is outside the Coastal Zone, or if the mitigation simply restores or maintains, but does not expand, an existing site.

- AB 2310 would change existing Commission practice when applying the balancing provision in section 3007.5. It would allow the Commission to use the broad goals and objectives contained in Chapter 1 of the Act to override the specific resource protection provisions contained in Chapter 3. Under existing law, the Commission may approve development not otherwise allowable if, a) denial of the project creates a conflict between two or more specific Chapter 3 policies, and b) the project results in a net environmental benefit. If AB 2310 is enacted, the Commission could approve destruction of wetlands and ESHA (whether degraded or not), agricultural lands, public access, landforms, scenic views and commercial fisheries facilities if it found that the proposed development "...balanced utilization ... of coastal zone resources taking into account the social and economic needs of the people of the state." (section 30001.5 PRC)
- The bill also allows wetland destruction for transportation projects that further public access to or along the coast, based on current or future needs. Since any transportation project in the Coastal Zone could arguably enhance public access, either now or in the future, this provision would allow virtually any highway, freeway, toll road, parking lots, parking garages, or rail construction or expansion to be approved in wetlands or ESHA. The Commission currently has the ability to approve some transportation development in ESHAs, provided section 30007.5 is properly applied. AB 2310 would remove the Commission's current authority to require environmentally superior conditions on transportation projects.
- The provisions of AB 2310 relating to ESHAs would allow destruction of any ESHA if the Commission chooses to use the new, expansive reading of section 30007.5 if it finds that, "on balance," impacted habitat values can be provided in other locations with the "potential" of maintaining long-term habitat values. This will result in a net loss of ESHAs, in two ways. First, it only requires the protection and/or enhancement of existing habitat values elsewhere. Second, it requires only that the mitigation site have the *potential* to provide such values.
- AB 2310 exempts Habitat Conservation Plans and Natural Community Conservation Plans from Coastal Commission review. In some cases, the Commission has recognized such plans as meeting Coastal Act policies and has approved coastal development permits pointing to the application of such plans as meeting habitat protection policies of chapter 3. But in many cases their preparation was undertaken without Coastal Commission participation and may not be consistent with Chapter 3. If this provision in AB 2310 becomes law, the Commission could do nothing to prevent the loss of ESHA within the coastal zone even though the protected habitat used to justify such loss may not be coastal specific and is located well outside the coastal zone. This provision would in effect repeal Coastal Act policies to protect habitat values in the coastal zone in areas with HCPs or NCCPs that protect public and private lands inland of the coastal zone.
- California's coastal management program (CCMP) was approved by the federal government in 1977 and includes the strong coastal wetland and ESHA protection policies of chapter 3. As a result of federal approval of California's coastal management program, California gained regulatory review authority over any federal action, including permits and licenses for any activity that could affect coastal resources. This includes Commission authority over offshore oil and gas development, military projects (i.e., the Navy's homeporting of nuclear carriers in San Diego Bay), Corps of Engineers permits and dredging projects (i.e. the Border Fence), national park projects and nation wide permits by EPA and the Corps of Engineers. Any major amendment of the CCMP requires approval from the federal Office of Ocean and Coastal Resources Management in the National Oceanic and Atmospheric Administration in the Department of Commerce. The proposed amendments in AB 2310 could result in the decertification of California's program with a resulting loss of federal consistency review authority and federal funding.

III. BACKGROUND

This bill was conceived in response to a 1999 Fourth Appellate District Court of Appeals decision on *Bolsa Chica Land Trust et al v. the Trial Court of San Diego County*. In that case, the Commission approved an amendment to the Orange County certified Local Coastal Program, allowing the construction of 900 homes in wetlands, and 2,500 homes on Huntington Mesa in a 1,588 acre undeveloped area known as Bolsa Chica. The project required substantial wetland fills in the lowlands, and destruction of a grove of eucalyptus trees on the mesa, designated as an ESHA in the LCP because of its habitat value for raptors. A road expansion to accommodate additional traffic would also require some wetland fill. Although the Coastal Act permits ESHA destruction only for those activities dependent on those resources, and contemplates very few allowable uses in wetlands (not including residential development), the Commission found that because the developer intended to restore a portion of the wetlands with proceeds from home sales, and replace the eucalyptus grove with newly planted native trees and nesting boxes, that the project was approvable. Several environmental groups sued the Commission and the developer on March 6, 1996.

The trial court upheld the Commission's approval of the 2,500 homes on the mesa, but found that the approval of 900 homes in a wetland was inconsistent with the Coastal Act. The project proponents appealed the decision, which the appellate court upheld. Additionally, the appellate court found that the development on the mesa was inconsistent with the Coastal Act, which states ESHAs "...shall be protected against any significant disruption of habitat values, and only resources dependant on those resources shall be allowed within those areas." It also found the Commission had not made the necessary findings that the filling of a wetland on the mesa to accommodate the widening of an existing road to serve the new development was consistent under the Coastal Act.

In short, the appellate court found that residential development is not one of the specific enumerated and narrowly defined allowable uses in wetlands, nor does it supercede the Coastal Act policy to protect environmentally sensitive habitat areas.

After the *Bolsa Chica* court decision, the Commission determined not to take issue with that ruling and instead concluded that it could carry out Coastal Act requirements consistent with the decision by being careful to allow adverse impacts on ESHAs and wetlands only where a conflict between specific chapter 3 policies can be resolved in a manner that is, on balance, most protective of significant coastal resources.

The language in AB 2310 goes beyond the *Bolsa Chica* decision by specifically allowing residential, recreational and commercial development in wetlands. It makes it possible to justify the destruction of ESHA by trading off any Coastal Act provisions shown to be in conflict. The Commission has already found a way to operate within the parameters of the *Bolsa Chica* decision to allow appropriate new development projects to proceed, using the existing balancing provision.

IV. RECOMMENDATION:

A. Position:

Oppose

B. Reason for Recommendation:

AB 2310 would significantly weaken the Coastal Act, putting coastal resources and the state's federal consistency review authority at risk. The Coastal Commission currently has the discretion and the tools to approve reasonable development in the Coastal Zone using the existing balancing provision. This legislation attempts to solve a problem that has not been demonstrated to exist by allowing the Commission more discretion to approve types of development not contemplated by the voters when they passed the Coastal Initiative in 1972, nor the Legislature when it approved the Coastal Act in 1976.

ASSEMBLY BILL

No. 2310

**Introduced by Assembly Member Ducheny
(Coauthors: Assembly Members Bates and Calderon)**

February 24, 2000

An act to amend Sections 30233, 30240, and 30411 of the Public Resources Code, relating to resource planning and management.

LEGISLATIVE COUNSEL'S DIGEST

AB 2310, as introduced, Ducheny. Resource planning and management.

(1) Existing law permits the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes if there is no feasible less environmentally damaging alternative and if feasible mitigation measures have been provided to minimize adverse environmental effects. Existing law limits diking, filling, or dredging to certain situations, including entrance channels for new or expanded boating facilities in wetlands areas, and in a degraded wetland for boating facilities.

This bill would expand the activities permissible in a degraded wetland, as defined, to include recreation, residential, and commercial projects.

(2) Existing law requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values and requires that only uses dependent on those resources be allowed within those areas.

This bill would allow uses not dependent on the habitat values under certain conditions.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 30233 of the Public Resources
2 Code is amended to read:
3 30233. (a) The diking, filling, or dredging of open
4 coastal waters, wetlands, estuaries, and lakes shall be
5 permitted in accordance with other applicable provisions
6 of this division, ~~where if~~ there is no feasible less
7 environmentally damaging alternative, ~~and where and if~~
8 feasible mitigation measures have been provided to
9 minimize adverse environmental effects, and shall be
10 limited to the following:

11 (1) New or expanded port, energy, and
12 coastal-dependent industrial facilities, including
13 commercial fishing facilities.

14 (2) Maintaining existing, or restoring previously
15 dredged, depths in existing navigational channels,
16 turning basins, vessel berthing and mooring areas, and
17 boat launching ramps.

18 (3) In wetland areas only, entrance channels for new
19 or expanded boating facilities; and in a degraded wetland,
20 identified by the Department of Fish and Game pursuant
21 to subdivision (b) of Section 30411, for *recreation,*
22 *residential, or commercial projects, or* boating facilities if,
23 in conjunction with ~~such boating those projects or~~
24 facilities, a substantial portion of the degraded wetland is
25 restored and maintained as a biologically productive
26 wetland. The size of the wetland area used for ~~boating~~
27 *those projects and* facilities, including berthing space,
28 turning basins, necessary navigation channels, and any
29 necessary support service facilities shall not exceed 25
30 percent of the degraded wetland. *However, if the*
31 *degraded wetland is less than one acre in size, mitigation*
32 *may be provided through restoration and maintenance of*
33 *a biologically productive wetland at an offsite location.*

34 (4) In open coastal waters, other than wetlands,
35 including streams, estuaries, and lakes, new or expanded

1 boating facilities and the placement of structural pilings
2 for public recreational piers that provide public access
3 and recreational opportunities.

4 (5) Incidental public service purposes, including, but
5 not limited to, burying cables and pipes or inspection of
6 piers and maintenance of existing intake and outfall lines.

7 (6) Mineral extraction, including sand for restoring
8 beaches, except in environmentally sensitive areas.

9 (7) Restoration purposes.

10 (8) Nature study, aquaculture, or similar
11 resource-dependent activities.

12 (9) *The expansion of existing transportation facilities*
13 *or construction of new transportation facilities that*
14 *further public access to, or along, the coast based on*
15 *current or future needs. Projects that reduce, or*
16 *otherwise address present or future demands on, coastal*
17 *zone transportation facilities are consistent with this*
18 *paragraph.*

19 (b) Dredging and spoils disposal shall be planned and
20 carried out to avoid significant disruption to marine and
21 wildlife habitats and water circulation. Dredge spoils
22 suitable for beach replenishment should be transported
23 for ~~such~~ those purposes to appropriate beaches or into
24 suitable longshore current systems.

25 (c) In addition to the other provisions of this section,
26 diking, filling, or dredging in existing estuaries and
27 wetlands shall maintain or enhance the functional
28 capacity of the wetland or estuary. Any alteration of
29 coastal wetlands identified by the Department of Fish
30 and Game, including, but not limited to, the 19 coastal
31 wetlands identified in its report entitled, "Acquisition
32 Priorities for the Coastal Wetlands of ~~California~~,"
33 *California*," shall be limited to very minor incidental
34 public facilities, restorative measures, nature study,
35 commercial fishing facilities in Bodega Bay, and
36 development in already developed parts of south San
37 Diego Bay, if otherwise in accordance with this division.

38 For the purposes of this section, "commercial fishing
39 facilities in Bodega Bay" means that not less than 80
40 percent of all boating facilities proposed to be developed

1 or improved, where ~~such~~ *that* improvement would create
2 additional berths in Bodega Bay, shall be designed and
3 used for commercial fishing activities.

4 (d) Erosion control and flood control facilities
5 constructed on watercourses can impede the movement
6 of sediment and nutrients ~~which~~ *that* would otherwise be
7 carried by storm runoff into coastal waters. To facilitate
8 the continued delivery of these sediments to the littoral
9 zone, whenever feasible, the material removed from
10 these facilities may be placed at appropriate points on the
11 shoreline in accordance with other applicable provisions
12 of this division, where feasible mitigation measures have
13 been provided to minimize adverse environmental
14 effects. Aspects that shall be considered before issuing a
15 coastal development permit for ~~such~~ *those* purposes are
16 the method of placement, time of year of placement, and
17 sensitivity of the placement area.

18 (e) *The commission may apply Section 30007.5 when*
19 *addressing any conflict between this section and any*
20 *other section of this division.*

21 SEC. 2. Section 30240 of the Public Resources Code is
22 amended to read:

23 30240. (a) Environmentally sensitive habitat areas
24 shall be protected against any significant disruption of
25 habitat values; and only uses dependent on those
26 resources shall be allowed within those areas. *Uses not*
27 *dependent on the habitat values of these areas are*
28 *allowed if either of the following applies:*

29 (1) *The commission determines that the habitat*
30 *values of the area are degraded and that higher habitat*
31 *values of the same type can be achieved at another*
32 *location through protection, maintenance,*
33 *enhancement, creation, or restoration of those value.*

34 (2) *The commission applies Section 30007.5 to any*
35 *conflict between this section and other sections, such as*
36 *Section 30250, and determines that, on balance, the*
37 *habitat values to be impacted can be provided for at*
38 *another location with greater potential for maintaining*
39 *long-term habitat values through any combination of*
40 *protection, maintenance, enhancement, creation, or*

1 restoration to achieve a net increase in long-term habitat
2 value.

3 (b) Development in areas adjacent to
4 environmentally sensitive habitat areas and parks and
5 recreation areas shall be sited and designed to prevent
6 impacts ~~which~~ *that* would significantly degrade those
7 areas, and shall be compatible with the continuance of
8 those habitat and recreation areas.

9 SEC. 3. Section 30411 of the Public Resources Code is
10 amended to read:

11 30411. (a) The Department of Fish and Game and
12 the Fish and Game Commission are the principal state
13 agencies responsible for the establishment and control of
14 wildlife and fishery management programs and the
15 commission shall not establish or impose any controls with
16 respect thereto that duplicate or exceed regulatory
17 controls established by these agencies pursuant to specific
18 statutory requirements or authorization, *including*
19 *conservation plans adopted consistent with Sections 2080,*
20 *2080.1, 2081, 2081.5, 2830, and 2835 of the Fish and Game*
21 *Code.*

22 (b) The Department of Fish and Game, in
23 consultation with the commission and the Department of
24 Boating and Waterways, may study degraded wetlands
25 and identify those ~~which~~ *that* can most feasibly be
26 restored in conjunction with development of a
27 *recreational, residential, or commercial project, or*
28 boating facility as provided in subdivision (a) of Section
29 30233. Any such study shall include consideration of all of
30 the following:

31 (1) Whether the wetland is so severely degraded and
32 its natural processes so substantially impaired that it is not
33 capable of recovering and maintaining a high level of
34 biological productivity without major restoration
35 activities.

36 (2) Whether a substantial portion of the degraded
37 wetland, but in no event less than 75 percent, can be
38 restored and maintained as a highly productive wetland
39 in conjunction with a *recreational, residential, or*
40 *commercial project or boating facilities project facility.*

1 (3) Whether restoration of the wetland's natural
2 values, including its biological productivity and wildlife
3 habitat features, can most feasibly be achieved and
4 maintained in conjunction with a *recreational,*
5 *residential, or commercial project or* boating facility or
6 whether there are other feasible ways to achieve ~~such~~
7 *those* values.

8 (c) The Legislature finds and declares that salt water
9 or brackish water aquaculture is a coastal-dependent use
10 ~~which that~~ should be encouraged to augment food
11 supplies and to further the policies set forth in Chapter 4
12 (commencing with Section 825) of Division 1. The
13 Department of Fish and Game may identify coastal sites
14 it determines to be appropriate for aquaculture facilities.
15 If the department identifies these sites, it shall transmit
16 information identifying the sites to the commission and
17 the relevant local government agency. The commission,
18 and where appropriate, local governments, ~~shall,~~
19 consistent with the coastal planning requirements of this
20 division, *shall* provide for as many coastal sites identified
21 by the Department of Fish and Game for any uses that are
22 consistent with the policies of Chapter 3 (commencing
23 with Section 30200) ~~of this division.~~

24 (d) Any agency of the state owning or managing land
25 in the coastal zone for public purposes shall be an active
26 participant in the selection of suitable sites for
27 aquaculture facilities and shall make the land available for
28 use in aquaculture when feasible and consistent with
29 other policies of this division and other provisions of law.

30 (e) The Department of Fish and Game ~~shall,~~ in
31 consultation with the Aquaculture Development
32 Committee, *shall* prepare programmatic environmental
33 impact reports for existing and potential commercial
34 aquaculture operations in both coastal and inland areas of
35 the state if both of the following conditions are met:

36 (1) Funds are appropriated to the department for this
37 purpose.

1 (2) Matching funds are provided by the aquaculture
2 industry.

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BILL ANALYSIS

DEPARTMENT Coastal Commission	AUTHOR Ducheny	BILL NUMBER AB 2343
SUBJECT C.E.Q.A.		DATE INTRODUCED 02/24/00

I. SUMMARY:

A. Bill Summary:

AB 2343 would create a CEQA exemption for development projects of up to 200 units in urbanized areas that, among other things, are located within a community or neighborhood revitalization area, as defined in the bill, and are otherwise subject to an environmental assessment (environmental impact report or a negative declaration of impacts.) The development project must be consistent with the jurisdiction's general plan or any applicable specific plan or local coastal program as it existed on the date that the application was deemed complete.

B. Summary of Issues/Concerns:

AB 2343 would reduce the amount of environmental review required for specified residential developments by exempting them from CEQA. Exemption from CEQA also reduces the opportunity for public review and input. In coastal jurisdictions with no LCP, this would exempt specified projects from environmental review under CEQA if they were deemed to be consistent with the general plan.

C. Fiscal Summary:

Cost savings to developers who will not have to pay for EIRs. Cost savings to local governments, as less staff time will be expended on environmental review and processing of related documents.

D. Sponsor:

California Building Industry Association

E. Support and Opposition:

None registered at this time

F. Other Departments Likely to be Affected:

Department of Fish and Game

II. ANALYSIS:

A. Existing Law:

The California Environmental Quality Act (CEQA) requires a lead agency to prepare and certify an environmental impact report (EIR) addressing significant environmental impacts for development projects that it proposes to carry out or approve, and also mandates agency and public review and comment. If the lead agency finds that the project will not have any significant environmental impact, it must prepare a negative declaration stating the absence of negative impacts to the environment. Findings of LCP or general plan consistency do not exempt a project from the provisions of CEQA.

B. This Bill Would:

AB 2343 would substantially reduce the amount of environmental review required for urban residential development if the development project contains not more than 200 housing units, and the development project is consistent with the jurisdiction's general plan or any applicable specific plan or local coastal program as it existed on the date that the application was deemed complete. In addition to general plan/ LCP consistency, the development project must be located within one-half mile of a major employment center or within one-quarter mile of a major public transportation node. The proposed development must include, or be located within one-quarter mile of a neighborhood convenience store. If hazardous contaminants on the site are found by a registered environmental assessor, the contaminants will be removed or any significant effects of those contaminants shall be mitigated to a level of insignificance.

C. Issues/Concerns:

General plan or LCP consistency does not guarantee that a project will have no adverse environmental impacts. While redevelopment in some already developed urban areas may have no significant environmental impacts, in instances where new development is proposed there may be environmental impacts to natural resources, community character, traffic, viewsheds, water quality, etc. Exemption from CEQA also means projects may be exempt from providing mitigation.

This bill would also have the effect of substantially reducing the level of public review and participation for specified projects. CEQA requires public notification regarding the preparation of EIRs, as well as circulation and comment periods for draft and final documents. This is the process by which the public participates in project development and mitigation. By exempting specified projects from the requirement to conduct an environmental impact report if city or county staff consider them to be consistent with the general plan of LCP, agencies and the public will have less opportunity for review and comment.

In the Coastal Zone, this bill would effectively codify findings contained in outdated LCPs as they relate to specified projects, regardless of whether changed circumstances exist on the ground even if a periodic review or comprehensive update has been conducted since the time the application has been deemed complete. It may take many years from the time an application is filed for a project to begin construction. This bill would essentially freeze the applicable policies and standards in place at the time of application, regardless of changed circumstances and the length of time that has transpired since the application was deemed complete, and how those policies relate to the project and the rest of the community at the time of construction.

Reviewing and updating older LCPs is a priority for the Commission. Currently, 57 of the state's 89 certified LCPs are overdue for their statutorily required Periodic Review, some by as much as 14 years. These outdated LCPs do not reflect changed circumstances such as new listings of endangered species and their habitat, changes in land law, or new understandings of the condition of natural resources such as water quality and availability. In cases where LCPs were prepared and certified during a drought period, historic wetlands which have since re-emerged are not mapped in the certified LCP. These areas are frequently identified through the CEQA/EIR process. This bill could allow project approvals and CEQA exemption based on consistency with outdated LCPs, exempting the project proponent from acknowledging or responding to changed circumstances on the site or surrounding areas. This could result in a net loss of significant coastal resources with no mitigation.

ASSEMBLY BILL

No. 2343

Introduced by Assembly Member Ducheny

February 24, 2000

An act to add Section 21080.6 to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2343, as introduced, Ducheny. California Environmental Quality Act: exemption.

The existing California Environmental Quality Act (CEQA) generally requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would exempt from the act a development project in an urbanized area that, among other things, consists of the construction, conversion, or use of residential housing that contains not more than 200 housing units, is located within a community or neighborhood revitalization area, as defined in the bill, and is subject to an assessment prepared by a California registered environmental assessor.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 21080.6 is added to the Public
2 Resources Code, to read:

3 21080.6. (a) This division does not apply to any
4 development project in an urbanized area that consists of
5 the construction, conversion, or use of residential housing
6 if the development project meets all of the following
7 requirements:

8 (1) The development project contains not more than
9 200 housing units.

10 (2) The development project is consistent with the
11 jurisdiction's general plan or any applicable specific plan
12 or local coastal program as it existed on the date that the
13 application was deemed complete.

14 (3) The development project is located in a
15 community or neighborhood revitalization area.

16 (4) The development project is located within
17 one-half mile of a major employment center or within
18 one-quarter mile of a major public transportation node.

19 (5) The development project proposes to include, or
20 is located within one-quarter mile of, a neighborhood
21 convenience store, or is zoned to accommodate a
22 neighborhood convenience store.

23 (6) The project site is subject to an assessment
24 prepared by a California registered environmental
25 assessor to determine the presence of hazardous
26 contaminants on the site and the potential for exposure
27 of site occupants to significant health hazards from
28 nearby properties and activities. If hazardous
29 contaminants on the site are found, the contaminants
30 shall be removed or any significant effects of those
31 contaminants shall be mitigated to a level of
32 insignificance. If the potential for exposure to significant
33 health hazards from surrounding properties or activities
34 is found to exist, the effects of the potential exposure shall
35 be mitigated to a level of insignificance.

36 (b) For purposes of this section, the following
37 definitions apply:

1 (1) "Urbanized area" means an area that has a
2 population density of at least 1,000 persons per square
3 mile.

4 (2) "Community or neighborhood revitalization area"
5 means an area officially designated by a local agency to
6 be the focus of revitalization or similar redevelopment
7 efforts.

8 (3) "Major employment center" means a commercial
9 facility that employs at least 1,000 workers or has a floor
10 area of at least 15,000 square feet.

11 (4) "Major transportation node" means a site where
12 two or more mass transit services, or one mass transit
13 service with three or more mass transit lines are
14 accessible to the public.





BILL ANALYSIS

DEPARTMENT Coastal Commission	AUTHOR Robert Pacheco	BILL NUMBER AB 1781
SUBJECT State Beaches		DATE LAST AMENDED 1/25/00

I. SUMMARY:

A. Bill Summary:

AB 1781 would remove the \$250,000 spending limit (adjusted annually for inflation) for the construction or expansion of specified noncommercial developments on 8 public beaches formerly owned by the State, now owned by the County of Los Angeles.

B. Summary of Issues/Concerns:

This bill would allow for the expansion or new construction of public facilities, including rock revetments, sand walls and other forms of coastal slope erosion protective structures. Construction of such structures can cause or contribute to increased erosion up-current and down-current, a net loss of sandy beach as eroding materials are prevented from nourishing the littoral zone, and an eventual loss of public access.

C. Fiscal Summary:

Minor costs to the Department of Parks and Recreation to amend the deeds. Possible future costs to the state if seawall construction leads to increased erosion on adjacent State Beaches.

D. Sponsorship:

County of Los Angeles

E. Related Legislation

A.B. 909 (Bowen)
Chapter 472 Statutes of 1995

F. Support and Opposition:

None registered at this time.

G. Other Departments Likely to be Affected:

Department of Parks and Recreation, State Lands Commission

Prepared By Sarah Christie, Legislative Coordinator
Phone: 445-6067
Prepared by: Sarah Christie Date: 3/3/00

Department Director Position <input type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> SA <input type="checkbox"/> OUA <input checked="" type="checkbox"/> N <input type="checkbox"/> NP <input type="checkbox"/> NA <input type="checkbox"/> NAR <input type="checkbox"/> DEFER TO _____	Agency Secretary Position <input type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> SA <input type="checkbox"/> OUA <input type="checkbox"/> N <input type="checkbox"/> NP <input type="checkbox"/> NA <input type="checkbox"/> NAR <input type="checkbox"/> DEFER TO _____	GOVERNOR'S OFFICE USE Position approved <input type="checkbox"/> Position disapproved <input type="checkbox"/> <input type="checkbox"/> Position noted <input type="checkbox"/>
Department Director Peter Douglas	Date	Agency Secretary
Date		Date
By:		Date:

II. ANALYSIS

A. Existing Law:

The California Coastal Act regulates development in the Coastal Zone, and requires coastal development permits for all of the activities included in AB 1781. Existing deed restrictions prohibit all new or expanded commercial development, and limit new or expanded non-commercial development to activities which do not exceed estimated construction costs of \$250,000 on the following former State beaches deeded to the County of Los Angeles by the State Department of Parks and Recreation.

- Las Tunas State Beach
- Topanga State Beach
- Manhattan State Beach
- Redondo State Beach
- Royal Palms State Beach
- Point Dume State Beach (partial)
- Dan Blocker State Beach/Latigo Shores
- Malibu Lagoon State Beach/Surfrider Beach

Noncommercial improvements to these public beaches is limited to projects that provide for the safety, use, enjoyment, and educational use of the general public. (5002.6 (3)(B) PRC). The County must apply for a coastal development permit before undertaking any construction. Because the County does not have a certified Local Coastal Program, the Commission retains permit jurisdiction.

B. This Bill Would:

AB 1781 would remove the deed restrictions which limit construction projects to those in which the estimated construction costs do not exceed \$250,000 for the following non-commercial projects:

- Restrooms
- Ramp accessways that comply with the Americans with Disabilities Act
- Pedestrian Accessways
- Storm Drains
- Lifeguard Facilities
- Parking lots
- Sand walls
- Rock revetments

C. Issues/Concerns:

The construction of restrooms, pedestrian accessways, A.D.A. compliant ramps, lifeguard stations, and parking lots is consistent with Coastal Act policies encouraging public access and visitor-serving facilities. However, the construction and placement of storm drains may create conflicts with Coastal Act policies which protect water quality. In addition, sea walls (coastal slope erosion protection) and rock revetments can cause or contribute to increased erosion of adjacent bluffs, net loss of sandy beach as eroding materials are prevented from nourishing the littoral zone, and eventual loss of public access. For this reason, the Coastal Act only allows the construction of sea walls to protect existing structures, or in cases where conditions on a public beach have become hazardous. Because of the damaging cumulative effects of sea wall construction on public trust resources, current Commission practice in many instances is to require applicants for new construction to sign a deed restriction waiving their right to construct a sea wall in the future as a condition of their coastal development permit.

If the County intends to build non-commercial structures in areas of geologic instability, which would likely require a shoreline protective structure at a later date, this would be of concern to the Commission. Additionally, any sea wall construction that may be proposed on a public beach to protect structures on private property could result in loss of public access and public trust resources for private benefit. This could also be of concern to the Commission.

Documentation of the type or cost of planned facilities is not yet available.

D. Suggested Amendments:

Amend AB 1781 to specify that no new or expanded noncommercial development which takes place after the effective date shall be eligible for protective works at a later date. Additionally, no public funds shall be expended for shoreline protective works intended in part or in whole to protect privately owned improvements on private property on or adjacent to any of the enumerated beaches.



ASSEMBLY BILL

No. 1781

**Introduced by Assembly Members Robert Pacheco and
Vincent**

**(Principal coauthors: Assembly Members Campbell,
Cardenas, Margett, Washington, and Zettel)**

**(Coauthors: Assembly Members Baugh, Havice, Lowenthal,
Nakano, and Rod Pacheco)**

January 25, 2000

An act to amend Section 5002.6 of the Public Resources Code, relating to state beaches.

LEGISLATIVE COUNSEL'S DIGEST

AB 1781, as introduced, Robert Pacheco. State beaches: County of Los Angeles: deed restrictions.

Existing law requires the Director of Parks and Recreation, upon the adoption of a specified resolution by the County of Los Angeles, to grant to the County of Los Angeles, in trust for the people of California, all of the rights, title, and interest of the State of California in specified state beach property. Existing law prohibits any new project for new or expanded noncommercial development on that beach property from exceeding an estimated cost limitation for each project of \$250,000, as adjusted. Existing law requires that limitation to be specified in each deed.

This bill would exempt specified noncommercial projects, including restrooms, among other projects, from the estimated cost limitation. The bill would require the director to execute an amendment to any deed conveying the state

beach property to incorporate the exemptions provided by the bill.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 5002.6 of the Public Resources
2 Code is amended to read:
3 5002.6. (a) Notwithstanding any other provision of
4 law, and upon the adoption of a resolution of acceptance
5 pursuant to subdivision (h), the director shall grant to the
6 County of Los Angeles, at no cost to the county, in trust
7 for the people of the State of California, and subject to the
8 conditions set forth in this section, all of the rights, title,
9 and interest of the State of California in lands, and
10 improvements thereon, generally described as follows,
11 and more particularly described in the deed:
12 (1) Parcel 1. Approximately 3.83 acres of
13 unimproved land, known as Las Tunas State Beach.
14 (2) Parcel 2. Approximately 31.21 acres of improved
15 land, known as Topanga State Beach.
16 (3) Parcel 3. Approximately 46.34 acres of improved
17 land, being a portion of Manhattan State Beach.
18 (4) Parcel 4. Approximately 26.03 acres of improved
19 land, known as Redondo State Beach.
20 (5) Parcel 5. Approximately 18.07 acres of improved
21 land, known as Royal Palms State Beach.
22 (6) Parcel 6. Approximately 30.64 acres of improved
23 land, being a portion of Point Dume State Beach.
24 (7) Parcel 7. Approximately 15.12 acres of
25 unimproved land, known as Dan Blocker State Beach,
26 and which includes Latigo Shores.
27 (8) Parcel 8. Approximately 10.50 acres of improved
28 land, being a portion of Malibu Lagoon State Beach,
29 known as Surf Rider Beach.
30 (b) (1) The grant in trust for the people of the State
31 of California made pursuant to subdivision (a) shall be
32 made upon the express condition that the County of Los
33 Angeles shall use, operate, and maintain the granted

1 lands and improvements thereon for public recreation
2 and beach purposes in perpetuity, and shall comply with
3 all restrictions specified in each deed and prescribed in
4 subdivision (e). The county shall not make or permit any
5 other use of the granted lands and improvements. Any
6 violation of this prohibition or any violation of subdivision
7 (e) shall constitute a breach of conditions for purposes of
8 paragraph (2) of this subdivision.

9 (2) Upon a material breach of any condition of a grant
10 made pursuant to this section which is determined by a
11 court of competent jurisdiction to have been made
12 intentionally, the State of California shall terminate the
13 interest of the County of Los Angeles in the granted lands
14 and improvements pursuant to Chapter 5 (commencing
15 with Section 885.010) of Title 5 of Part 2 of Division 2 of
16 the Civil Code. Upon exercise of the state's power of
17 termination in accordance with Section 885.050 of the
18 Civil Code, all rights, title, and interest of the County of
19 Los Angeles in the granted lands and improvements shall
20 terminate and revert to, and rest in, the state, and the
21 county shall, within 30 days from the date of that
22 judgment, pay to the state an amount equal to funds
23 received by the county annually from the appropriation
24 under ~~subdivision~~ *schedule* (a) of Item 3680-105-516 of
25 the Budget Act of 1995 or from any subsequent
26 appropriation received from the state specifically for the
27 operation or maintenance of the granted lands and
28 improvements. However, in no event shall that payment
29 exceed the sum of one million five hundred thousand
30 dollars (\$1,500,000). The returned funds shall be
31 deposited in the State Parks and Recreation Fund.

32 (3) Notwithstanding Section 885.030 of the Civil Code,
33 the state's power of termination pursuant to paragraph
34 (2) shall remain in effect in perpetuity.

35 (c) Any operating agreement between the State of
36 California and the County of Los Angeles pertaining to
37 any of the real property described in subdivision (a), in
38 existence at the time of the grant, shall be terminated by
39 operation of law upon the conveyance of the real
40 property to the County of Los Angeles.

1 (d) There is hereby excepted and reserved to the State
2 of California from the grants made pursuant to
3 subdivision (a) all mineral deposits, as defined in Section
4 6407, which lie below a depth of 500 feet, without surface
5 rights of entry.

6 (e) The transfer of all rights, title, and interest in the
7 lands and improvements described in subdivision (a)
8 shall be subject to the following restrictions, which shall
9 be specified in each deed:

10 (1) (A) No new or expanded commercial
11 development shall be allowed on the granted real
12 property.

13 (B) Any project for new or expanded noncommercial
14 development on the granted real property shall not
15 exceed an estimated cost limitation for each project of
16 two hundred fifty thousand dollars (\$250,000), as adjusted
17 annually to reflect the California Construction Index
18 utilized by the Department of General Services. Any
19 authorization for new and expanded noncommercial
20 development shall be limited to projects that provide for
21 the safety and convenience of the general public in the
22 use and enjoyment of, and enhancement of, recreational
23 and educational experiences, and shall be consistent with
24 the use, operation, and maintenance of the granted lands
25 and improvements as required pursuant to subdivision
26 (b). The per-project limitation in this paragraph shall
27 apply in the aggregate, so that not more than the amount
28 specified in this subparagraph may be expended for the
29 project as a whole, regardless of any division of the project
30 into phases or parts. For purposes of this subparagraph,
31 "project" means the whole of an action that constitutes
32 the entirety of the particular type of new construction,
33 alteration, or extension or betterment of an existing
34 structure.

35 (C) Notwithstanding subparagraph (B), the deed for
36 the conveyance of Royal Palms State Beach shall contain
37 a provision that allows for the implementation of the
38 state-approved local assistance grant (project number
39 SL-19-003) to the County of Los Angeles already
40 approved in the Budget Act of 1988 for noncommercial

1 development to rehabilitate the existing park
2 infrastructure at that state beach.

3 *(D) The estimated cost limitation specified in*
4 *subparagraph (B) shall not apply to the following*
5 *noncommercial projects:*

6 *(i) Restrooms.*

7 *(ii) Ramp accessways that comply with the Americans*
8 *with Disabilities Act of 1990, as amended (42 U.S.C. Sec.*
9 *12101 et seq.).*

10 *(iii) Pedestrian accessways.*

11 *(iv) Storm drains.*

12 *(v) Lifeguard facilities.*

13 *(vi) Maintenance facilities.*

14 *(vii) Parking lots.*

15 *(viii) Sand walls.*

16 *(ix) Rock revetments.*

17 *(x) Coastal slope erosion protection.*

18 (2) The granted lands and improvements may not be
19 subsequently sold, transferred, or encumbered. For
20 purposes of this section, "encumber" includes, but is not
21 limited to, mortgaging the property, pledging the
22 property as collateral, or any other transaction under
23 which the property would serve as security for borrowed
24 funds. Any lease of the granted lands or improvements
25 shall only be consistent with the public recreation and
26 beach purposes of this section.

27 (f) As an alternative to the exercise of the power of
28 termination for a material breach of conditions, each
29 condition set forth in this section shall be enforceable as
30 a covenant and equitable servitude through injunction
31 for specific performance issued by a court of competent
32 jurisdiction.

33 (g) On and after June 30, 1998, it is the intent of the
34 Legislature that any application by the County of Los
35 Angeles Fire Department to secure state funding support
36 for boating safety and enforcement on waters within the
37 County of Los Angeles shall be given priority
38 consideration by the Legislature, unless an alternative
39 source of funding is secured prior to that date which
40 serves the same or similar purposes.

1 (h) This section shall become operative only if the
2 Board of Supervisors of the County of Los Angeles adopts
3 a resolution accepting the fee title grants, in trust for the
4 people of the State of California, in accordance with this
5 section, of the lands and improvements described in
6 subdivision (a).

7 SEC. 2. With regard to any deed executed by the
8 Director of Parks and Recreation granting property to
9 the County of Los Angeles pursuant to Section 5002.6 of
10 the Public Resources Code, the director, on or before
11 June 30, 2001, shall execute an amendment to that deed
12 modifying the deed restriction required by subdivision
13 (e) of Section 5002.6 of the Public Resources Code to
14 incorporate the provisions of subparagraph (C) of
15 paragraph (1) of subdivision (e) of Section 5002.6 of the
16 Public Resources Code.

17 _____

18 CORRECTIONS

19 **Heading — Authors—lines 2, 4 and 5.**

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