

**CALIFORNIA COASTAL COMMISSION**

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March 14, 2001

TO: Coastal Commissioners and Interested Persons

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

SUBJECT: LEGISLATIVE REPORT FOR MARCH 2001

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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 [www.coastal.ca.gov](http://www.coastal.ca.gov)

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

**IMPORTANT LEGISLATIVE DATES**

The California State Legislature re-convened on January 3, 2001. The last day to submit bills to Legislative Counsel was Jan. 26, 2001. Over 3,000 bills were submitted on that day. The last day for authors to actually introduce new bills is February 23, 2001. Many of these may be "unjacketed" or "spot" bills, and full text will not be available until later in the year. The California Coastal Commission is not sponsoring any bills this session.

- April 5-16; Spring Recess
- April 27; Last day for policy committees to meet and report, fiscal bills
- May 11; Last day for policy committees to meet and report, non-fiscal bills
- June 1; Last day for fiscal committees to report to Floor
- June 8; Last day for bills to report out of house of origin
- June 15; Budget must be passed by midnight
- July 20-Aug 20, Summer Recess
- Sept 14; Last day for each house to pass bills
- Oct. 14; Last day for Governor to sign or veto bills



AB 640 (Jackson) Coastal Resources: Certified Local Programs

This bill would amend Section 30519.5 of the Coastal Act, relating to Periodic Reviews of Local Coastal Programs. The legislative findings related to changed circumstances and out-dated LCPs direct the Commission and local governments to undertake, as expeditiously as possible, the review of previously certified LCPs and take corrective measures as necessary to ensure that implementation meets the goals and policies of the Coastal Act. The bill provides that if, after public hearings and notifications as prescribed in the bill, a local government elects not to amend its LCP as recommended by the Commission, the Commission may vote to:

- a) Not process any further amendments to the affected local coastal program until the local government takes the actions recommended by the Commission;
- b) Review on appeal any permits issued by the local Government;
- c) Review all appeals using the Chapter 3 policies of the Coastal Act, not the LCP as the standard of review.

The bill also requires the Commission to adopt non-regulatory guidelines no later than January 1, 2003, for purposes of implementation. (Analysis Attached)

Introduced	02/22/01
Status	Assm. Natural Resources Committee
<b>Commission Position</b>	<b>Recommend Support</b>

AB 560 (Jackson) Storm Water

This bill would add Chapter 5.11 to the Water Code, requiring the state board to establish a storm water petroleum waste removal program. The bill would also direct the state board to provide grants to local public agencies to fund installation of devices for the removal of petroleum wastes from storm water drains, and direct the California Conservation Corps to assist with installation, where feasible.

Introduced	02/22/01
Status	Assm. Natural Resources Committee

SB 1 (Alpert) California Endowment for Marine Preservation

This bill would create the California Endowment for Marine Preservation, and the California Marine Resources Trust Fund, to be administered as proscribed by the bill. Both funds would receive a portion of the savings afforded to owner/operators of offshore oil and gas platforms, in the event they choose to participate in a "Rigs to Reefs" program, to be administered by the Department of Fish and Game, in consultation with the Commission, State Lands Commission, BCDC and Minerals Management Service.

Introduced	01/04/00
Status	Referred to N.R.&W. Com.

SB 55 (Kuehl) City of Malibu Local Coastal Program

This bill would authorize the Commission to re-direct \$100,000 of Local Government Assistance Grant funds to reimburse the agency for costs associated with the preparation and certification of the city of Malibu's Local Coastal Program, consistent with the provisions of AB 988 (Hertzberg). (Analysis attached.)

Introduced 12/21/00  
 Status Passed N.R.&W. Com., Passed Appropriations Com.  
**Commission Position: Recommend Support**

SB 908 (Chesbro) California Coastal Trail

This bill would require the Coastal Conservancy, in consultation with the Coastal Commission and the Department of Parks and Recreation, to develop a plan designating the primary hiking route and alternate routes for the trail, to estimate of costs of acquiring and developing the trail, and a description of where the trail might connect with existing, inland trail routes.

Introduced 02/23/01  
 Status N.R.&W. Com

SB 107 (Sher) Natural Community Conservation Planning

This bill would repeal the Natural Community Conservation Planning Act of 1982, and replace it with the new Act. This bill would authorize the Department of Fish and Game to enter into agreements with local governments and private property owners for the purpose of allowing 'take' of species covered by the plan, subject to certain standards relating to collection of data, application of scientifically sound principles, and a process for public participation.

Introduced 01/22/01  
 Status N.R.&W. Com.

SB 124 (Johnson) Property Transfer

This bill would require the Department of Transportation to transfer a 15-acre parcel of open space from the Department of Transportation to the Department of Parks and Recreation, for a sum equal to the cost of acquisition. The parcel is located in the coastal zone adjacent to Pacific Coast Highway in the City of Newport Beach. The bill would authorize the state and the city to enter into an operating agreement for the purpose of managing the property as a public park.

Introduced 01/25/01  
 Status Governmental Organization Comm.

SB 516 (Johnson) Local Coastal Programs

This bill would allow the County of Orange to continue to implement the Irvine Coast LCP for that portion of the Irvine Coast which will be annexed by the City of Newport Beach. (Bill Text Attached)

Introduced 02/22/01  
 Status N.R.&W. Com.

**SB 1164 (Sher) Local Coastal Programs: Costs**

This bill would amend Section 30353 of the Public Resources Code to allow local governments to recover from the state costs incurred as a result of defending local actions pursuant to local coastal programs prior to the rendering of judgement if the Attorney General has intervened in support of the local government's position and the amount paid does not exceed \$500,000. Local governments would repay the state from any costs recovered as a result of final judgement. The bill would require the Director of the Commission, in consultation with the Attorney General, to establish procedures for the payment of litigation costs.

Introduced	02/23/01
Status	Awaiting Committee Assignment

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**BILL ANALYSIS; AB 640 (Jackson)****SUMMARY**

A.B. 640 would amend Section 30519.5 of the Coastal Act, pertaining to periodic reviews of previously certified Local Coastal Programs. The bill would allow the Commission, after a periodic review of a certified LCP and a public process proscribed by the bill, to vote to do one or more of the following:

- Not process any further amendments to the affected local coastal program until the local government takes the actions recommended by the Commission;
- Review on appeal any permits issued by the local Government;
- Review all appeals using the Chapter 3 policies of the Coastal Act, not the LCP as the standard of review.

**PURPOSE OF THE BILL**

The purpose of the bill is to strengthen the periodic review process to ensure that the goals and policies of the Coastal Act are carried out at the local level, and to preserve coastal resources at risk due to out-of-date or inadequately implemented LCPs.

**EXISTING LAW**

The existing California Coastal Act of 1976 requires the Commission, from time to time, but at least once every 5 years after certification of a local coastal program, to review every certified local program to determine whether the program is being effectively implemented in conformity with the policies of the act. The act requires the commission, if it determines that a certified local coastal program is not being carried out in conformity with any policy of the act to submit to the affected local government recommendations of corrective actions that should be taken, and requires the review of recommendations submitted pursuant to those provisions within one year of that submission by an affected local government, as provided. If the local government does not accept the Commission's recommendations, the Commission may submit a letter to the Legislature recommending corrective actions.

**PROGRAM BACKGROUND**

Approximately 50 LCP are currently overdue for periodic review, some by more than 10 years. Due to staffing issues, the Commission has completed only a few LCP reviews<sup>1</sup> to date. Yet, significant changes continue to occur in the coastal zone over time, and cumulative impacts often go unassisted at the local level. LCPs that contain out of date policies and standards for managing sensitive coastal resources become far less effective in guiding sound coastal management and threaten the continued protection of fragile coastal land and water areas.

**ANALYSIS**

Even if the commission had additional staff to complete all mandated periodic reviews, existing law does not ensure that recommendations developed during the process will actually be incorporated into the LCP. While the data gathered during the review and the analysis of cumulative impacts is valuable in its own right when considering future LCP amendments, permits and appeals, the most effective use of the work

<sup>1</sup> City of Trinidad; City of Sand City; San Luis Obispo County in progress

product is incorporation into the LCP via amendment. In the instances where local governments are reluctant to accept such recommendations, AB 640 provides additional incentive, as the Commission may vote to not process any future LCP amendments unless they implement the Commission's suggestions.

AB 640 also provides some additional protections for coastal resources at risk of loss from outdated LCPs, as the Commission would have the option to consider on appeal *all* coastal development permits not just those in the appealable areas. Replacing the outdated LCP policies of the LCP with the Chapter 3 policies of the Act as the standard of review for appeals is reasonable, considering that the Commission may have just concluded that some of the existing LCP policies are not adequate for implementing the policies of the Coastal Act.

AB 640 would add value to the periodic review process, by providing some assurance that once completed, the Commission's recommendations will be accepted or an additional level of review may be instituted. This is not only more protective of coastal resources, it is fiscally prudent, as periodic reviews require substantial staff time and resources at both the state and local level.

### **SUPPORT/OPPOSITION**

Support:

None on file

Opposition:

None on file

### **RECOMMENDED POSITION**

Staff recommends the Commission **Support** AB 640.

### **LEGISLATIVE STAFF CONTACT**

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**BILL ANALYSIS; SB 55 (KUEHL)****SUMMARY**

This bill would allow the Coastal Commission to shift funds (\$100,000) currently appropriated for grants to local governments for the purpose of preparing Local Coastal Plans (LCP), to the Commission for the purpose of preparing an LCP for the city of Malibu, pursuant to the provisions of AB 988 (Chapter 952, Statutes of 2000).

**PURPOSE OF THE BILL**

The purpose of this bill is to reimburse the Coastal Commission for costs associated with preparing and certifying an LCP for the city of Malibu.

**EXISTING LAW**

The Coastal Act currently requires each local government lying, in whole or in part, within the Coastal Zone to prepare a Local Coastal Program consistent with the policies of the Coastal Act for that portion of the coastal zone within its jurisdiction. The Commission is required to review a Local Coastal Program submitted by a local government and, if the Commission finds that the submittal is in conformity with the policies of the Coastal Act, it shall certify the LCP.

Assembly Bill 988, which went into effect January 1, 2001, amended the Coastal Act, Public Resources Code Sections 30000, et seq., to add Section 30166.5 which establishes mandatory timelines and delegates responsibility for preparation and certification of a LCP for the City of Malibu to the Coastal Commission. As amended, pursuant to AB 988, the Coastal Act requires the Commission to submit to the City of Malibu an initial draft of the Land Use Plan (LUP) portion of the LCP for the City of Malibu on or before January 15, 2002. The bill further requires the Commission, after public hearing and consultation with the City of Malibu, to certify a Local Coastal Program for the City on or before September 15, 2002.

Additionally, the bill required the City of Malibu, subsequent to certification of the LCP, to immediately assume coastal development permitting authority, thereby imposing a state-mandated LCP. The bill further provides that, notwithstanding specified requirements for the review and approval of development projects, once the City assumes coastal development permit authority, no application for a coastal development permit shall be deemed approved if the City fails to take timely action to approve or deny the application.

**PROGRAM BACKGROUND**

Preparation of the LCP for certification by the Commission will be the responsibility of the staff of the Commission's South Central Coast District office in Ventura. This office has been responsible for reviewing and analyzing coastal development permit applications and making recommendations to the Commission relative to consistency with the Coastal Act for various projects within the City since its incorporation in 1991. Coastal Act issues raised by development applications in Malibu are often complex and sometimes contentious which has resulted in a heavy demand on the workload of staff in the Ventura office as well as the Commission which must ultimately rule on applications for development proposals within the City in lengthy public hearings.

Preparation of the LCP in accordance with the mandatory timelines established by AB 988 will require adherence to a strict timetable in order to provide for the required 6-week public review period, consultation with the City and public hearings before the Malibu City Council and the Commission prior to adoption and certification of the LUP and the subsequent Implementation Plan (IP). It is necessary to release the draft LUP for public review by May 1, 2001 in order to provide a minimum of two public hearings before the Commission in October, 2001 and January, 2002. Correspondingly, it will be necessary to release the draft Implementation Plan by March 1, 2002 to allow for public review and hearings to achieve final certification by September 15, 2002.

In order to meet the statutory requirements of AB 988, the Commission has had to hire an independent consultant. This bill would allow the Commission to utilize local government assistance grant funds which have not yet been encumbered for the purpose of retaining the consultant. The LCP preparation work is consistent with the stated purpose of the grant funding.

### **ANALYSIS**

This bill would allow the Coastal Commission to shift funds currently allocated for grants to local governments for the purpose of preparing Local Coastal Plans (LCP), to the Commission for the purpose of preparing an LCP for the city of Malibu, pursuant to the provisions of AB 988 (Chapter 952, Statutes of 2000). This bill would divert \$100,000 of unencumbered local government grant funds to the Commission to reimburse the costs of contracting with a consultant to assist with preparation of the plan. This bill would cover the Commission's budgetary shortfall caused by the unfunded mandate from the Legislature to prepare Malibu's LCP. The Commission cannot carry out the mandate of AB 988 with existing staff, nor does it have the ability to hire a consultant to perform the work without legislative authorization. Without the ability to shift funds as authorized in SB 55, the Commission will have to pay for contract labor out of its core budget.

### **LEGISLATIVE HISTORY**

AB 988 (Hertzberg) (Chapter 952, Statutes of 2000) mandated the Commission to prepare and certify an LCP for the city of Malibu. The Commission must produce a public review a draft version of the land use plan portion of the local coastal program by May 1, 2001, complete an initial draft of the land use portion by January 15, 2002, and the entire local coastal program by September 15, 2002. The bill did not include any funding or additional staff to complete the work.

### **SUPPORT/OPPOSITION**

Support:  
None on file

Opposition:  
None on file

### **RECOMMENDED POSITION**

Staff recommends the Commission **Support** SB 55.

### **LEGISLATIVE STAFF CONTACT**

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**BILL LANGUAGE  
BILL NUMBER: SB 55  
BILL TEXT**

**INTRODUCED BY Senator Kuehl**

An act relating to coastal programs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 55, as introduced, Kuehl. Local coastal program: City of Malibu.

(1) Existing law requires the California Coastal Commission, on or before January 15, 2002, to submit to the City of Malibu an initial draft of the land use portion of the local coastal program for the City of Malibu portion of the coastal zone. Existing law requires the commission, on or before September 15, 2002, after public hearing and consultation with the City of Malibu, to adopt a local coastal program for that area within the City of Malibu portion of the coastal zone.

This bill would reappropriate \$150,000 from specified items of the Budget Acts of 1999 and 2000 to the commission for the purpose of implementing these provisions.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

SECTION 1. The sum of one hundred fifty thousand dollars (\$150,000) is hereby reappropriated from the following items in accordance with the following schedule to the California Coastal Commission to be used for the purpose of implementing Section 30166.5 of the Public Resources Code:

(a) The sum of fifty thousand dollars (\$50,000) from Schedule (a) of Item 3720-101-0001 of the Budget Act of 1999 (Ch. 50, Stats. 1999).

(b) The sum of one hundred thousand dollars (\$100,000) from Schedule (a) of Item 3720-101-0001 of the Budget Act of 2000 (Ch. 52, Stats. 2000).

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

(a) The Legislature, during the 1999-2000 Regular Session, enacted Chapter 952 of the Statutes of 2000, requiring the California Coastal Commission to prepare and adopt a local coastal program for the City of Malibu because the city has not completed a local coastal program, as required by law, that is certifiable pursuant to the California Coastal Act.

(b) The commission does not currently have the staff resources or the funding necessary to complete the work mandated by Chapter 952 within the time limits specified by law.

(c) The commission must receive funding and begin work on the local coastal program immediately because of state-mandated deadlines for its creation and adoption. The commission must present for public review a draft version of the land use plan portion of the local coastal program by May 1, 2001, and Chapter 952 requires that it complete an initial draft of the land use portion of the local coastal program by January 15, 2002, and the entire local coastal program by September 15, 2002. If the commission does not receive supplementary state funding before January 1, 2002, it will not be able to secure the additional staff necessary to complete the mandate of Chapter 952 in a timely fashion.