

CALIFORNIA COASTAL COMMISSION

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June 12, 2002

TO: Coastal Commissioners and Interested Public

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

SUBJECT: LEGISLATIVE REPORT FOR JUNE 2002

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 Home page at

www.coastal.ca.gov

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

PRIORITY LEGISLATION

AB 985 (Florez) Fully Protected Species

This is a spot bill relating to the Fully Protected Species Act. The author intends to hold public hearings and workshops this summer before submitting final language.

Introduced 02/23/01
Last Amended 08/29/01
Status Passed Assm. WP&W Committee, Passed Assm. Appropriations Committee, Passed Assembly Floor, Referred to Sen. NR&W

AB 1172 (Keeley) Natural Community Conservation Planning

This bill would require the Department of Fish and Game, in three-year intervals, to prepare and submit to the Legislature a report on the functioning and effectiveness of the NCCP Act. The report would include an evaluation of the functioning and effectiveness of the program, an inventory of NCCP plans underway or in the process of review, and the science being utilized in the preparation of those plans.

Introduced 02/23/01
Status Passed WP&W Committee, Passed Assm. Appropriations, Passed Assembly, Referred to Sen. NR&W Committee

AB 1866 (Wright) Housing Density Bonuses

This bill requires that the housing ordinance provide for ministerial approval without discretionary review of applications for 2nd units that meet the requirements of the ordinance, notwithstanding other laws that regulate the issuance of variance, special use, or conditional use permits. Adds criteria for continued affordability of housing in a common interest development. Specifies that the provisions would apply to counties/cities within the coastal zone.

Introduced 01/31/02
Status Passed Assm. Housing & Community Development, Passed Assm. Local Government, Referred to Assm. Appropriations/Suspense File

Commission Position Oppose

AB 1913 (Lowenthal) Notice of Violation Act

This bill permits the California Coastal Commission to file violation notice if determined that real property has been developed in violation of the Coastal Act. It requires public hearing if the owner submits timely objection, and requires issuance of clearance letter to owner if no violation occurred; requires timely notice of decision with county recorder if violation no longer valid.

Introduced 02/08/02
Status Passed Assm. Natural Resources; Passed Assm. Appropriations; Passed Assembly Floor, Referred to Senate Rules

Commission Position Support

AB 1925 (Nakano) California Storm Water

This bill declares that it is the intent of the Legislature to enact subsequent legislation to make available \$30,000,000 of Proposition 40 funds to the California Ocean Trust, for the purpose of establishing a state-of-the-art water quality monitoring system that may be used by public entities.

Introduced 02/12/02
Status Passed Assm. ES&TM Committee.

AB 1940 (Matthews) Land Use: Lot Line Adjustments

Current law limits lot line adjustments to four or fewer adjacent, adjoining parcels. This bill would eliminate the requirement that those parcels be adjoining, allowing for adjustments between non-contiguous lot.

Introduced 02/14/02
Status Referred to Local Government Committee
Commission Position Oppose

AB 1969 (Maddox) Waste Water Discharges: Orange County

This bill would require the Orange County Sanitation District to treat all wastewater discharged into the Pacific Ocean to the secondary level.

Introduced 02/14/02
Status Passed ES&TM Committee; Referred to Assm. Appropriations Committee/Suspense File

AB 2083 (Jackson) Oil Spill Prevention and Response

This bill would require the State Lands Commission to develop a form that is to be completed by any operator engaged in the tankering of oil offshore California. The form would provide information, available to the public and state agencies, that would track the type of oil transported, its origin, destination, as well as the method, path and amount of emissions involved in the transport.

Introduced 02/19/02
Status Passed Assm. Natural Resources Committee; Passed Assm. Appropriations Committee; on Assembly Floor.

AB 2158 (Lowenthal) Coastal Development Permits: Housing

This bill would require the California Coastal Commission to take appropriate steps to ensure that all coastal development permit conditions relating to affordable housing are enforced and do not expire during the term of the permit.

Introduced 02/20/02
Status Passed Assm. Natural Resources Committee; Passed Assm. Appropriations; Passed Assembly Floor.
Commission Position Support

AB 2162 (Negrete-McLeod) Vehicles: License Plates

This bill would eliminate the provision authorizing the appropriation of the balance of the Coastal Enhancement Account to the Coastal Conservancy, and specifies that the other half of the funds available from the Whale Tail license plates be deposited in the License Plate Coastal Access Account, for grants to local governments and non-profits to open and maintain public accessways to the coast.

Introduced 02/20/02
Status Passed Assm. Transportation Committee; Passed Assm. Natural Resources Committee,
Referred to Assm. Approps/Suspense File; Held in Committee
Commission Position Support

AB 2215 (Strom-Martin) Offshore Contaminants Task Force

This bill would create the Joint Agency Review of Offshore Contaminants Task Force to review studies relating to toxic sediments surrounding offshore oil and gas platforms, and initiate further studies to determine the current levels of contamination and associated risks to human health and the environment. Task force participants would be appointed by the administrators of the State Department of Health Services, Department of Fish and Game, State Lands Commission, California Coastal Commission, and the SWRCB.

Introduced 02/20/02
Status Passed ES&TM Committee; Passed WP&W Committee; Referred to Assm.
Appropriations/Suspense File
Commission Position Recommend Neutral

AB 2631 (Matthews) Resources

Repeals the requirement for the Department of Parks and Recreation (DPR) to produce an annual report to the Governor and the Legislature, recommending acquisitions for the establishment of or additions to state seashores, hostel facilities and recreational trails.

Introduced 02/22/02
Status Passed Assm. Natural Resources Committee and WP&W Committee; Passed Assm.
Appropriations; Passed Assm. Floor; Referred to Senate NR&W

AB 2727 (Keeley) State Coastal Conservancy

This bill would remove the restrictions on the percentage of funds that the Conservancy can contribute toward a coastal acquisition, and clarify that acquisitions can be made in connection with a public access project. Recent amendments delete the provision that would require the Department of General Services to consult with the Conservancy to determine the appropriate terms of disposal of properties that have not been transferred within 10 years of purchase, and reinserts existing law which allows DGS to dispose of lands at fair market value without restrictions on subsequent land uses.

Introduced 02/22/02
Status Passed Assm. Natural Resources Committee; Passed Assm. Appropriations; Passed
Assm. Floor; Referred to Senate Rules

AB 2924 (Wiggins) Water Appropriations: Protected Areas

This bill would prohibit the State Water Resources Control Board from approving an application or issuing a permit to appropriate water within a protected area, if the water is proposed to be used outside that area, unless the board of supervisors of the county or counties within which the appropriation is to be made approves that application or the issuance of that permit.

Introduced 02/25/02
Status Passed Labor & Employment Committee; Referred to WP&W Committee. Hearing cancelled at request of author.

AB 2943 (Wiggins) Coastal Commission

This bill would require the commission to forward a copy of the evidence of any recordation to dedicate real property for public access to the Resources Agency. Current law requires the Commission only to forward said information to Parks and Recreation, the State Coastal Conservancy, and the State Lands Commission.

Introduced 02/25/02
Status Passed Assm. Natural Resources Committee; Passed Assm. Appropriations; Passed Assm. Floor; Referred to Senate NR&W

SB 116 (Kuehl) State Parks: roads, construction and improvement

This bill would prohibit the construction of roads by any state or local agency through a state park, unless certain findings are made.

Introduced 01/24/01
Status Passed N.R. & W. Committee, Passed Senate Appropriations, Passed Senate Floor, Failed Passage in Assm. WP&W Committee.

SB 995 (Morrow) Vessels: Special-Use Areas

This bill would prohibit state or local entities relating to personal watercraft from adopting any ordinance, law, regulation, or rule that would allow special use areas to be used in a manner that interferes with boating access to channels, shipping lanes, or international waters.

Introduced 02/23/01
Status Failed to pass out of Senate

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 judgment 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 judgment. 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 Assm. Inactive file

SB 1508 (Scott) Santa Monica Mountains Conservancy: Members

This bill would increase the number of ex-officio nonvoting members of the Santa Monica Mountains Conservancy from 2 to 3, by including the Supervisor of Los Angeles National Forest among those members.

Introduced 02/19/02
Status Passed NR&W Committee; Passed Senate Appropriations Committee; Passed Senate Floor; Referred to Assm. NR Committee

SB 1525 (Sher) Transgenic Species

This bill would make it unlawful to import, transport, possess or release any live transgenic (genetically modified) fish or roe into the waters of California. The bill has been amended to allow GMO fish to be transported or possessed for purposes of research.

Introduced 02/20/02
Status Passed NR&W Committee; Passed Senate Appropriations Committee; Passed Senate Floor

SB 1573 (Karnette) Interagency Aquatic Invasive Species Council

This bill would establish the Interagency Invasive Species Council, using existing staff and funds within the Department of Fish and Game, and require the Council to establish a comprehensive plan for dealing with invasive species in California.

Introduced 02/22/02
Status Passed NR&W Committee; Passed Sen. Appropriations Committee; Passed Senate Floor

SB 1797 (Morrow) Coastal Zone Boundary: San Diego County

This bill would exclude additional areas in the City of Carlsbad from the coastal zone.

Introduced 02/22/02
Status Referred to NR&W Committee. Hearing cancelled at request of author.
Commission Position Oppose

SB 1916 (Figueroa) Local Coastal Programs: Nonpoint Source Pollution

This bill would require every local coastal government with a certified local coastal program, after consultation with the appropriate regional water quality control board, to prepare and adopt for certification by the California Coastal Commission, a nonpoint source pollution prevention element for inclusion in its certified local coastal program, when coming to the Commission for a major amendment.

Introduced 02/22/02
Status Passed NR&W Committee; Passed Appropriations Committee; Passed Senate Floor
Commission Position Support

SB 1962 (Polanco) State Coastal Conservation: Coastal Access

This bill would require the State Coastal Conservancy to accept any outstanding offers to dedicate public accessways that have not been accepted by a local government or nonprofit organization within 90 days of their expiration date. It would also require the conservancy to open at least 3 public accessways each year, and prepare an annual report to the Legislature pertaining to public access.

Introduced 02/22/02
Status Passed NR&W Committee; Passed Senate Appropriations Committee; On Senate Floor
Commission Position Support

SB 1966 (Murray) Development Projects

This bill would require any non-profit group or government agency to make nexus findings and complete an environmental impact report prior to accepting any offer to dedicate (OTD) real property for public improvement.

Introduced 02/22/02
Status Referred to Senate NR&W Committee; Hearing cancelled at request of author
Commission Position Oppose



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**BILL ANALYSIS; AB 2215 (Strom-Martin)****SUMMARY**

AB 2215 would establish the Joint Agency Review of Offshore Contaminants Task Force (OCTF) to conduct an investigation of all oil platforms located offshore California and determine toxicity levels of waters, organisms and sediments in the surrounding areas. The OCTF will have members appointed by the chief administrators of the State Department of Health Services, the Department of Fish and Game, the State Lands Commission, the California Coastal Commission, and the State Water Resources Control Board.

PURPOSE OF THE BILL

The goal of this bill is assess the health of marine environments in zones surrounding offshore oil and gas production platforms, and the health risks associated with the consumption of fish or shellfish collected from these areas. The task force would:

- Conduct an investigation of all oil platforms located offshore in both state and federal waters.
- Test sediment and water surrounding these platforms to determine whether higher than normal concentrations of methylmercury, heavy metals, and/or other known toxins exist.
- Determine the concentration levels of those substances and the causes of contamination.
- Determine the extents of contamination in local biota found near the platforms.
- Determine the potential risk to humans who ingest fish/shellfish taken from these areas.
- Be comprised of representatives from the State Department of Health Services, Department of Fish and Game, State Lands Commission, California Coastal Commission, and State Water Resources Control Board.
- Be required to report all findings and recommendations to the legislature on/before June 1, 2003.

ANALYSIS

Heavy metals and other toxins can be deposited or released into the marine environment as a result of drilling and associated activities. Some, such as methylmercury, are readily absorbed into the living tissue of aquatic organisms, particularly active predators and filter feeders. High levels of heavy metals tend to accumulate in fish and shellfish, which in turn, may be passed on to the humans or other mammals that ingest them. Studies performed by the National Academy of Science have shown that methylmercury induces neurotoxicity in developing organisms, e.g. babies of women who consume contaminated seafood during pregnancy.

Recent studies suggest that areas around oil drilling platforms off the California coastline may be generating higher levels of contamination than previously thought. A study by the Minerals Management Service (MMS) found mercury levels in the sand around some oil platforms in the Gulf of Mexico to be three times higher than levels found at EPA Superfund sites that are closed to all fishing. Mercury levels in many of the organisms from the zones around those platforms were found to be at least 25 times higher than levels found elsewhere in the Gulf.

While similar scenarios may or may not exist off the California coast, it would be beneficial to conduct such studies and collect the data for future planning and permitting activities. However, the bill does not provide any funding for the Task Force, and Commission participation at current staffing levels could be problematic. Depending on the level of participation required, the task force could require between ½ and 1 PY, at a cost of between \$50,000 and \$100,000 per year.

LEGISLATIVE HISTORY

None.

PROGRAM BACKGROUND

Both state and federal programs monitor oil platform activity in California waters. The federal agency governing offshore oil platforms is the Mineral s Management Service (MMS). State agencies primarily involved with regulation of offshore oil platforms are the Department of Fish and Game, California Coastal Commission, State Lands Commission, State Water Resources Control Board, Office of the State Fire Marshall, Division of Oil and Gas for the Department of Conservation, and the State Department of Health Services.

SUPPORT/OPPOSITION

Support:

Pacific Coast Federation of Fishermen's Associations (Sponsor)
Environmental Defense Fund
Sierra Club California

Opposition:

None on file

RECOMMENDED POSITION

Balancing the benefits of the policy with the unfunded additional demands on staff time, staff recommends a **Neutral** position on AB 2215.

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**BILL ANALYSIS; AB 2924 (Wiggins)****SUMMARY**

AB 2924 would prohibit the Water Resources Control Board from approving a permit to appropriate water from within a prescribed protected area, for use outside that area, unless the board of supervisors of the county or counties within which the appropriation is to be made approves the application or the issuance of that permit.

PURPOSE OF THE BILL

The purpose of this bill is to prevent the exporting of water. By preventing the Water Resources Control Board from approving applications to appropriate water for external usage, AB 2924 would help strengthen local governments' jurisdiction over resource allocation and usage within their respective counties, and ensure the protection of both coastal and inland-associated habitats.

Specifically on or after January 1, 2003, the board of local supervisors of the county/counties in which a water appropriation is to be made would have approval jurisdiction over application or issuance of a permit, if the collected water is proposed for usage outside of that area. The Water Resources Control Board would be prohibited from approving such an allocation application without the board of local supervisors' approval.

The requirements established by the bill for affected county boards of supervisors in connection with approving certain applications to appropriate water and the issuance of related permits would impose a state-mandated local program.

ANALYSIS

The amount of water available for usage and consumption has always been an important issue for California, particularly Southern California. With the demand for water increasing, many water transportation companies have developed different ideas as to how water might be collected from supposedly plentiful sources and transferred to southern California. Though profitable for these companies and supportive in maintaining Southern California's water supply, these plans nonetheless pose a potentially serious hazard to the environment, coastal and inland alike.

Recently, the Alaska Water Exports Company proposed plans for an annual transfer of 20,000 acre-feet of water from Mendocino County to San Diego, via 850-foot-long polyfiber bags to be towed along the California coastline. Thawed winter runoff would be siphoned from the Gualala and Albion Rivers by pipelines buried at the sources of each river, then transferred to tow bags which float beneath the ocean's surface via pumps aboard offshore buoys.

The environmental impacts of such an action could potentially damage habitats associated with these rivers, negating the reasons for which these rivers were originally granted special status. Flows from these coastal rivers are essential for the proper ecological functioning of local estuaries and near-shore conditions. In addition, a reduction in flow could adversely affect efforts to rebuild populations of endangered salmonid species, which in turn could have a negative effect on the local fishing and tourism industries. With the risk that current laws designed to protect certain designated rivers are ill equipped to sufficiently protect the unclaimed water from these rivers, AB 2924 is a necessary step in preserving interrelated habitat and proper resource management.

LEGISLATIVE HISTORY

The Wild and Scenic Rivers Act of 1968 selects certain rivers of the nation possessing remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values; preserves them in a free-flowing condition; and protects their local environments.

PROGRAM BACKGROUND

Under existing law, the State Water Resources Control Board administers the provisions of law governing the appropriation of water in the state. Existing law declares that certain protected areas may not be deprived by specified water suppliers of the prior right to water reasonably required to adequately supply the beneficial needs of those areas.

Existing law defines "protected area" to mean all the lands which normally drain to the ocean, to a hydraulic sink, or to another state within any of the following systems:

The Sacramento River System

The Mokelumne River System

The Calaveras River System

The San Joaquin River System

The Mono Lake System

The combined Truckee, Walker and Carson River Systems

The combined river systems that drain to the ocean from and including the Russian River system northward to the California-Oregon border.

ECONOMIC IMPACT

SUPPORT/OPPOSITION

Support:

Opposition:

RECOMMENDED POSITION

Commission staff recommends **Supporting** AB 2924.

ARGUMENTS