

**CALIFORNIA COASTAL COMMISSION**

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April 9, 2003

TO: Coastal Commissioners and Interested Public

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

SUBJECT: LEGISLATIVE REPORT FOR APRIL 2003

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.

**LEGISLATIVE CALENDAR**

April 10	Spring Recess begins upon adjournment
April 21	Legislature reconvenes from Spring Recess
May 2	Last day for policy committees to hear and report fiscal bills
May 9	Last day for policy committees to report non-fiscal bills to Floor
May 30	Last day for fiscal committees to hear and report fiscal bills to the Floor
June 6	Last day for bills to pass House of Origin
June 15	Budget Bill must be passed by midnight
July 11	Last day for policy committees to meet and report all bills from first house
July 18	Summer recess begins upon adjournment
August 18	Legislature reconvenes
August 29	Last day for fiscal committees to report fiscal bills from first house to the Floor
Sept. 1-12	Floor session only. No committees may meet
Sept 12	Interim recess begins upon adjournment

## PRIORITY LEGISLATION

### **AB 1XX (Jackson)**

This bill would fix the terms of Coastal Commissioners appointed by the Legislature at 4 years, and remove the ability of those appointing authorities to remove commissioners "at will." The initial terms would be staggered, with half of the commissioners serving two year terms, and half serving four year terms, at the discretion of the appointing authority. The bill provides that commissioners can serve successive four year terms, and that a seat shall become vacant 60 days after the expiration of term, unless the appointing authority has made an appointment or reappointment.

Introduced 01/23/03  
Status Chaptered with Secretary of State, 02/20/03

### **AB 16 (Jackson) Oil and Gas Development**

A reintroduction of AB 556 and AB 2327 from previous sessions, this bill would require that all new or expanded oil and gas production produced offshore must be transported onshore by pipeline, rather than by tanker or barge. Once onshore, the oil must be shipped via pipeline to an onshore processing facility. It also requires the use of best achievable technology for well abandonment. (*Analysis and Bill attached.*)

Introduced 012/02/02  
Status Passed Assembly Natural Resources, Referred to Assembly Appropriations

### **AB 90 (Wyland) Coastal Commission: Membership**

This bill would fix terms for all coastal commissioners at 4 years, but provide that the Governor's appointees continue to serve at the pleasure of the Governor.

Introduced 01/08/03  
Status Referred to Assembly Natural Resources

### **AB 105 (Wiggins) Agriculture Land Preservation**

This bill would repeal the provisions establishing the Coastal Farmland Preservation Program, and appropriate to the Department of Conservation \$48,000,000 from Proposition 40 funds of those proceeds from the bond act for grants under the California Farmland Conservancy Program.

Introduced 01/10/03  
Status Passed Assembly Natural Resources, Referred to Assembly Ag & Water

### **AB 121 (Simitian) Large Passenger Vessels: Water Quality**

Federal law prohibits any state from prohibiting the discharge of sewage or graywater from large passenger vessels, unless the state applies to, and receives approval from, the United States Environmental Protection Agency. The bill would direct the SWRCB to apply for such authority with the EPA, and authorize the state to prohibit the discharge of both sewage and gray water by large passenger vessels operating in the marine waters of the state if the request is approved by the EPA administrator. The bill would require an owner or operator of a large passenger vessel, as defined, to submit quarterly reports to the SWRCB itemizing the offloading or release of waste material from that vessel that occurred during the previous calendar quarter while the vessel was located in the marine waters of the state.

Introduced 02/12/02  
Status Referred to Assembly ES&TM

**AB 204 (Nation) Motor Vehicles**

This bill would authorize the Coastal Conservancy to establish the Transportation Fund for Clean Water Subaccount, for the acquisition of open space, and the protection, restoration, and enhancement of streams, creeks, wetlands and watersheds. The bill would impose a fee of up to \$4, to be collected by the Department of Motor Vehicles, upon the registration or renewal of registration of every motor vehicle registered in the county of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, or Sonoma for purposes of funding the account, should at least three of those counties choose to participate in the program. Ten percent of the funds collected would go to the Regional Water Quality Control Board to fund transportation-related water quality projects.

Introduced                    01/28/03  
Status                         Referred to Assembly Natural Resources

**AB 260 (Jackson) Litter**

This bill declares that Caltrans is devoting insufficient attention to litter cleanup on state highways in environmentally sensitive areas, and would require the department to assign a high priority to litter cleanup along state highway segments adjoining streams, rivers, beaches, the ocean, and other environmentally sensitive areas. *(Analysis and Bill attached.)*

Introduced                    02/04/03  
Status                         Referred to Transportation Committee, Hearing cancelled at request of author

**AB 314 (Kehoe) Desalination Facilities**

This bill declare that it shall be the established policy of this state to facilitate the development of desalination projects, and that these projects should be eligible for assistance and funding on an equal basis with projects for water supply reliability and efficiency.

Introduced                    02/07/03

**AB 907 (Pavley) Environmental Education**

This bill would require the State Board of Education to adopt statewide, academically rigorous standards for environmental education, as defined. This would make environmental education a core curriculum area, along with reading, writing, history/social science and science. The Board would be required to adopt content and performance standards for the new curriculum. *(Analysis and Bill attached.)*

Introduced                    02/20/03

**AB 947 (Jackson) Ocean Resources**

This bill is a spot bill intended to implement policies included in the draft review of the Resource Agency's California Coastal Erosion Planning and Response; A Strategy for Action.

Introduced                    02/20/03

**AB 974 (Nation) Coastal Zone: Native American Sites**

This bill would amend section 30244 of the Coastal Act to require mitigation measures for new development that would adversely impact Native American cultural sites.

Introduced                    02/20/03

**AB 1212 (Pavley) Coastal Development: Permits**

This bill would require that any coastal development permit issued for the purpose of sand replenishment must include a condition for onsite monitoring, and prohibit any the permit from being issued until the applicant provides a plan for onsite monitoring and supervision.

Introduced 02/21/03

**AB 1517 (Plescia) Stormwater**

This bill would narrow the definition of stormwater to exclude certain discharges; prohibit the State Water Resources Control Board from prohibiting the discharge of municipal stormwater, allow applicants for redevelopment projects to pay an in lieu fee instead of implementing stormwater measures; allow municipalities to transport stormwater "in stream" to a regional treatment facility.

Introduced 02/21/03

**SB 18 (Burton) Sacred Sites**

This is a spot bill relating to the protection of Native American sacred sites.

Introduced 12/02/02

**SB 68 (Alpert) Water Quality: San Diego Bay**

This bill would establish the San Diego Bay Advisory Committee for Ecological Assessment. The bill would require the committee to prepare a report relating to the water quality and regulation of the San Diego Bay. The bill would require the committee to submit the report to the Legislature, the San Diego Regional Water Quality Control Board, the state board, and the California Coastal Commission. Representatives to the committee may be appointed by the Governor, the San Diego Board of Supervisors, the US Navy, the San Diego City Council, the San Diego Port Tenants Association, the Industrial Environmental Association, the San Diego Unified Port District, the San Diego Convention and Visitors Bureau, Scripps Institute of Oceanography, the City of San Diego Metropolitan Wastewater Department, the State Water Resources Control Board, the San Diego Regional Water Quality Control Board and the California Coastal Commission.

Introduced 01/17/03  
Status Referred to Senate E.Q.

**SB 196 (Kuehl) Regional Boards: Membership**

This bill would amend the Porter Cologne Act to specify that appointments to Regional Water Quality Control Boards who are appointed pursuant to the existing requirement that they be "associated" with municipal and/or county government, be elected officials to a city council or Board of Supervisors.

Introduced 02/13/03  
Status Referred to Senate E.Q.

**SB 216 (Sher) Endangered Species Recovery**

Existing law requires the Department of Fish and Game to develop and implement a recovery strategy pilot program for the Greater Sandhill crane, and authorizes the Fish and Game Commission, based on recommendations from the department, to identify four additional candidate, threatened, or endangered species for which the department is required to develop and implement a recovery strategy. Under existing law, the pilot program is repealed as of January 1, 2004. This bill would continue that existing law beyond January 1, 2004, by extending the repeal date to January 1, 2009.

Introduced 02/13/03  
Status Referred to Senate NR&W

**SB 236 (Alpert) Fishing: Bottom Trawling**

This bill would prohibit the Department of Fish and Game from authorizing the use of trawl nets to take fish or other marine life from the ocean floor, unless the Fish and Game Commission determines that the operator of each vessel participates in an observer program, and that the bottom trawling does not produce a bycatch of more than 15% of the target catch, and does not cause significant environmental harm to the ocean floor. The bill would allow the use of trawl nets for scientific research and to target certain fish in a manner in which the nets and related gear do not contact the ocean floor. The bill also grants authority to the Fish and Game Commission to manage all bottom trawl fisheries not currently managed by the National Marine Fisheries Service, including Halibut, Sea Cucumber, Pink Shrimp, and Ridgeback, Spot and Golden Prawns.

Introduced                    02/14/03  
Status                         Referred to Senate NR&W

**SB 318 (Alpert) Desalinated Water**

This bill would require that Urban Water Management Plans, prepared by urban water suppliers and submitted to the Department of Water Resources, must include a description of the opportunities for providing water via desalination.

Introduced                    02/19/03

**SB 445 (Kuehl) Coastal Access: State Coastal Conservancy**

Existing law requires the State Coastal Conservancy to open at least three public accessways per year. This bill would modify that requirement by stating that this requirement only applies to the extent funds are available. The bill also shifts responsibilities previously assigned to the Director of the Commission to the Conservancy. These responsibilities include:

- Proof of non-profit eligibility
- Approval of a management plan
- Determination of whether the accessway is being managed properly for purposes of reclaiming or reassigning the interest in the property

Introduced                    02/20/03  
Status                         Referred to Senate NR&W

**SB 619 (Duchenev) Housing**

The relevant section of this bill would amend Section 30500.1 of the Coastal Act to encourage low and moderate income housing, preclude the Commission from imposing conditions that reduce residential density sought by the applicant, or that have the effect of precluding the construction of low to moderate income housing. The bill also makes legislative findings that state that residential development does not in and of itself constitute an adverse impact on coastal resources, and that efficient land use is in fact protective of coastal resources. *(Analysis and Bill attached.)*

Introduced                    02/20/03  
Status                         Referred to Senate H&CD

**SB 681 (Morrow) Coastal Commission: Permits**

This bill would prohibit coastal development permit conditions that require environmental mitigations for repairing or maintaining seawalls. *(Analysis and Bill attached.)*

Introduced                    02/21/03

**BILL ANALYSIS; AB 16 (Jackson)**  
(Staff recommends the Commission Support AB 16)

**SUMMARY**

This bill would amend section 30262 of the Coastal Act relating to oil and gas development. The amendment establishes a process for ensuring the safe transport of oil extracted from offshore sources using "best achievable technology," if that oil is considered to be "new or expanded." The terms "best achievable technology" and "new or expanded" are defined in the bill.

This bill requires that, where new oil and gas development is permitted offshore, all of that oil will be transported to onshore processing facilities by pipeline only, and all pipelines used to transport this oil will utilize the best achievable technology to ensure maximum protection. The bill provides a limited exception where the crude oil is so highly viscous that pipelining is infeasible.

The bill further provides that when an offshore well is abandoned or permanently shut down, the best achievable technology shall be used to seal and cap a well to prevent any further failure or leakage of oil from the well into the marine environment.

**PURPOSE OF THE BILL**

The purpose of this bill is to require all new or expanded offshore oil production to be transported via pipeline, rather than by tanker or barge, and to require that the best achievable technologies be used in construction of pipelines and capping of wells.

**EXISTING LAW**

The Coastal Act (Division 20 of the Public Resources Code) regulates development within the Coastal Zone, including state waters out to three miles. The Commission has permit jurisdiction over new offshore oil and gas development within the Coastal Zone. Section 30262 of the Coastal Act requires that the Commission approve oil and gas development if certain conditions are met. This provision currently does not require that new facilities use pipelines to carry oil to the shore or to refineries. Tankers and other modes of transportation are allowable. There is no requirement that pipelines use best available technology.

**LEGISLATIVE HISTORY**

This is a reintroduction of AB 1280, introduced by the same author in the 1999-00 legislative session. The Commission supported AB 1280.

**PROGRAM BACKGROUND**

The California Coastal Act states that pipelining oil is a more environmentally and economically feasible method of transport but does not specifically mandate the use of pipelines. Because the law is not explicit, some tankering/barging of oil still occurs off of California's coast.

Regulatory authority over the drilling and transport of crude oil and construction and maintenance of pipelines is shared between the Minerals Management Service, the Army Corps of Engineers, the State Fire Marshall, State Lands Commission, the Division of Oil, Gas and Geothermal Resources and local

air boards as well as the Commission. The California Department of Fish and Game Office of Spill Prevention and Response regulates and coordinates emergency oil spill response.

### **ANALYSIS**

The majority of oil extracted offshore along the California coast is already transported to shore or refinery via pipeline. This bill would most directly affect a single company, Venoco, which is planning to increase development from platform Holly off the Santa Barbara coast. Venoco currently transports its crude oil via barge, and is planning to expand production. Although this bill would only require Venoco to construct a pipeline to handle the new or expanded production levels, the practical effect would be that all crude would be transported via pipeline, once constructed.

While pipelining of oil from an off-shore platform to an on-shore site is not without risk, the League for Coastal Protection states that eight of nine of California's most serious oil spills were tanker related rather than pipeline related. Requiring oil transport to shift from barge to pipeline will reduce the chances of an accidental spill.

Requiring that the best achievable technology be utilized in both the construction of new pipelines and the capping of wells will further reduce the chance of spills. Although the Commission and other permitting agencies currently have the discretion to impose such requirements, a clear legal mandate to do so will add clarity to the permitting process.

### **SUPPORT/OPPOSITION**

Support:

None on file

Opposition:

None on file

### **RECOMMENDED POSITION**

Staff recommends the Commission **Support** AB 16.

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**BILL ANALYSIS; AB 260 (Jackson)**  
(Staff recommends the Commission Support AB 260)

**SUMMARY**

This bill would require the California Department of Transportation (CalTrans) to assign a high priority to litter cleanup along highway segments adjacent to streams, rivers, beaches, the ocean, and other environmentally sensitive areas. This bill also requires the Department of Transportation (CalTrans) to report to the legislature annually on the department's progress.

**PURPOSE OF THE BILL**

The purpose of this bill is to improve water quality and riparian habitat, and reduce the amount of trash and debris that finds its way to public beaches by requiring more aggressive efforts aimed at litter control.

**EXISTING LAW**

Existing law designated Caltrans as the owner and operator of the state highway system. The priority for the expenditure of funds in the State Highway Account (SHA) is as follows:

- a) Operation, maintenance and rehabilitation of the state highway system.
- b) Safety improvements.
- c) Congestion relief.
- d) Environmental enhancement and mitigation.
- e) Compatibility improvements.

**LEGISLATIVE HISTORY**

None.

**PROGRAM BACKGROUND**

California has several existing programs designed to reduce litter and trash on state highways and beaches. Caltrans' Adopt-A-Highway was established in 1989. To date, more than 8,000 miles of highway have been adopted. The 4,200 community groups, businesses and individuals who have adopted a section of highway agree to collect roadside litter on a regular basis. Each year, Caltrans reports that it removes an average of 250,000 bags of roadside debris. Caltrans also coordinates with local community service workers to pick up roadside litter in areas where it is appropriate. Within the agency, Caltrans' maintenance division employees are assigned to litter and debris removal on an as-needed basis.

The California Coastal Commission sponsors the annual Coastal Clean-Up Day, which has engaged 551,000 volunteers and removed more than 8 million pounds of debris from beaches and watersheds statewide since 1985.

The Commission's Adopt-a-Beach program encourages local community groups and volunteers to assume a continuing responsibility for beach clean-ups year-round.



## **ANALYSIS**

Despite the efforts of Caltrans, the Coastal Commission the Regional Water Quality Control Boards and other entities, litter on state highways and local roadways continues to be a significant environmental and visual problem in many areas of the state. In urban areas, litter and debris finds its way to the coast from inland locations in large quantities, particularly after strong rains. Plastics in the ocean degrade the marine environment and pose a significant threat to wildlife, particularly birds. Other types of debris contribute to habitat disruption, and detract from scenic public views of and along the coast.

If enacted and implemented, this bill would likely reduce the volume of trash and debris on the state's highways, waterways and beaches, thus enhancing coastal resources. The cost to the agency is difficult to predict, as requiring Caltrans to assign a "higher priority" to litter removal on specified highways could be interpreted and implemented any number of ways. For instance, Caltrans could step up the requirements for community groups who adopt highways in these areas, at little cost. Or the agency may be able to re-direct existing maintenance staff from other areas to concentrate on litter removal on highways adjacent to coastal and/or riparian areas.

## **SUPPORT/OPPOSITION**

### Support:

American Federation of State, County, and Municipal Employees  
Californians Against Waste  
California Police Activities League (PAL)  
Keep California Beautiful, Inc.

### Opposition:

None on file

## **RECOMMENDED POSITION**

Staff recommends the Commission **Support** AB 260.

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**BILL ANALYSIS; AB 907 (Pavley)**  
(Staff recommends the Commission Support AB 907)

**SUMMARY**

This bill would require the State Board of Education to revise the academic content and performance standards for language arts, history/social science, and science to incorporate environmental education, and develop content and performance standards according to existing guidelines. Environmental education is defined in the bill as including but not limited to all of the following topics:

- Ecosystem preservation, management, and health.
- Impacts of pollution on human health and the natural environment.
- Ocean conservation.
- Pollution treatment.
- Integrated waste management.
- Energy conservation.
- Water conservation and pollution prevention.
- Air resources.
- Integrated pest management.
- Toxic materials.
- Wildlife conservation and forestry

**PURPOSE OF THE BILL**

The purpose of this bill is to improve the environmental literacy of California students by revising existing content standards and performance to include environmental topics when teaching core curriculum subjects.

**EXISTING LAW**

The Leroy Greene California Assessment of Academic Achievement Act requires the State Board of Education to promulgate statewide academic content standards that reflect the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century, to adopt performance standards that define various levels of competence at each grade level, and to gauge the degree to which a pupil has met the content standards and the degree to which a school or school district has met the content standards.

Section 30012 (b) of the Coastal Act requires the Commission to carry out a public education program for the purpose of fostering and encouraging the conservation of coastal and ocean resources.

**LEGISLATIVE HISTORY**

1990: SB 1322 required the Integrated Waste Management Board (IWMB) to work with the Department of Education to develop and implement a K-12 education program to teach the concepts of integrated waste management. In addition, it required the department to incorporate IWM concepts into the science framework.

2000: SB 373 created the Office of Integrated Environmental Education and directed the office to work with the Department of Education and Office of the Secretary of Education to develop an

integrated approach to environment-based education within state government. It required the IWMB to work with State Board of Education to incorporate broader environmental concepts into the Science Framework and to coordinate a \$1.5 million grant program to fund campus environmental programs.

### **ANALYSIS**

Instruction in public schools is largely driven by state-adopted academic content standards, which form the basis for curriculum frameworks and instructional materials. Standards identify what students will learn in each subject area at each grade level. The state assessment tests that measure student achievement are therefore linked to these standards. The state has just adopted its own assessment program--STAR testing is now testing student achievement at every grade level in reading and math, and will be testing science in 5<sup>th</sup> and 9<sup>th</sup> through 11<sup>th</sup> grades starting this year. Since STAR is aligned with existing content standards, it is unlikely that content standards will be replaced in the immediate future.

With the growing emphasis on standardized testing and performance based budgeting, California public school teachers have difficulty fitting environmental education into their curricula, seeing it as an "add on" to an already crowded schedule. The incorporation of environmental education into these mandated standards will help ensure that environmental education is addressed in public schools. By systematically weaving environmental topics throughout the curriculum, these new standards would not be an "add on" for teachers, and would not detract from the other important subjects that need to be taught. As the new standards take effect, STAR testing would also need revision to reflect the new content standards.

Studies by the National Environmental Education and Training Foundation, the North American Association for Environmental Education, and the State Education and Environment Roundtable demonstrate that the use of environmental education as a curriculum focus can improve academic performance across the curriculum, as well as classroom discipline. It has the potential to motivate students to enter environmental careers, helps make science "come alive" by providing applications that have direct application to student's lives, and fosters a sense of personal responsibility necessary for creating collective change. As the environmental problems facing our society grow in scope and complexity, it is appropriate to raise awareness of these concerns in our public education system.

### **COMMENTS**

California schools are an effective way of reaching citizens early on and making sustainability a part of their behavior life-long. Current state education standards adopted by the State Board of Education do not adequately address resource conservation and pollution prevention. Adding environmental education to the state's core curriculum is generally consistent with Public Education Program, as outlined in Section 30012 of the Coastal Act. The Public Education Program has developed model coastal curriculum for a variety of grade levels, and developed other educational materials used in presentations to public schools and youth groups. Should this bill become law, Commission staff should participate with the State Board of Education to develop appropriate coast and ocean curriculum. Thus, pressure is mounting to incorporate environment-based education into CA schools and CA curriculum. This bill is a long-term solution to an existing problem—interim measures need to be added to this legislation to initiate some incorporation of environmental concepts into existing education standards.

**SUPPORT/OPPOSITION**

Support:

None on file

Opposition:

None on file

**RECOMMENDED POSITION**

Staff recommends the Commission **Support** AB 907.

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## **BILL ANALYSIS; SB 619 (Ducheney)**

(Staff recommends the Commission **Oppose** SB 619 unless amended)

### **SUMMARY**

The relevant sections of this bill would amend section 30500.1 of the Coastal Act relating to affordable housing, and eliminate public hearings for affordable housing projects up to 150 units, under certain conditions. The bill would direct the commission to encourage housing opportunities for people of low and moderate income; preclude the commission from reducing residential densities of a low or moderate housing project below the level sought by the applicant if it was consistent with applicable zoning; prevent the commission from applying permit conditions that preclude the construction of low or moderate income housing developments; make Legislative findings that higher density residential development does not in and of itself constitute an adverse impact on the environment, and that locating residential development within or contiguous with or in proximity to developed areas is protective of coastal resources.

### **PURPOSE OF THE BILL**

The purpose of this bill is to encourage the construction of affordable housing by eliminating public hearings on proposed affordable housing projects of up to 150 units, and by preventing the commission from reducing densities of proposed low and moderate income housing projects in the coastal zone, or requiring permit conditions that preclude the construction of new affordable housing.

### **EXISTING LAW**

The Coastal Act (Division 20 of the Public Resources Code) requires application of coastal conservation policies through regulation of and planning for development within the Coastal Zone, but states that no local coastal program shall be required to include housing policies and programs.

Other policies in Chapter 3 require protection of environmentally sensitive habitat, agricultural lands, landforms, lands having high scenic value, water quality and other coastal resources.

Chapter 3 section 30250 (a) states, "New residential, commercial, or industrial development... shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services..."

The Commission's regulations require local governments to conduct noticed public hearings for all CDP applications that are appealable to the Commission (14 C.C.R.13565). In areas where the Commission retains original jurisdiction, the Commission is required to hold noticed public hearings for all CDP applications other than those deemed to be ministerial by the Executive Director.

### **LEGISLATIVE HISTORY**

From the date of its enactment in 1976 until 1981, the California Coastal Act included specific policy language requiring the provision of affordable housing in the coastal zone for persons of low and moderate income. As originally enacted, Section 30213 of the Coastal Act provided:

“Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and, where feasible, provided.”

Under that authority, the Commission required, as conditions to coastal development permits issued for a variety of projects along the coast, most notably numerous Orange County residential subdivisions, that 25% to 35% of the permitted units be maintained as affordable housing with re-sale controls to ensure their continued affordability.

In 1981, the Legislature repealed the Commission’s statutory authority to protect and provide affordable housing in the coastal zone. SB 626 (Mello) (Ch. 1007 Statutes of 1981) amended PRC Section 30213 by repealing the above language, and by adding Section 30500.1 which states:

“No local coastal program shall be required to include housing policies and programs.”

SB 626 also added Section 65590 to the Government Code, authorizing the demolition or conversion of affordable housing units in the coastal zone, so long as replacement dwelling units were constructed within the same city or county, within 3 miles of the coastal zone. SB 626 was supported by the development community and coastal local governments arguing that in the wake of Proposition 13 local governments needed the additional tax revenues derived from higher cost, market rate housing. The commission did not support this legislation in 1981 arguing that affordable housing is a form of public access and that affordable units could in fact be provided in connection with new subdivisions and still provide the developer a high margin of profit.

#### **ANALYSIS**

This bill would eliminate the commission’s ability to implement coastal resource protection policies where doing so would reduce residential densities for affordable housing projects below the level proposed by a coastal development permit applicant, provided that the density is consistent with current zoning. Accordingly, even if findings were made that the proposed density of development would adversely impact environmentally sensitive habitat (including wetlands), agriculture, public access or other coastal resources, the commission could not reduce the number of proposed units. The bill also would prohibit the commission from imposing permit conditions that would have the effect of “precluding the construction” of a low-income housing project. But it does not define the term “preclude.” Under this bill, an applicant could argue that commission requirements protective of coastal resources, such as set backs from sensitive habitats or geological features such as bluffs and canyons, parking requirements, or other mitigation measures render the project economically unfeasible and therefore cannot be required. These limitations on the Commission’s authority to safeguard coastal resources would severely impair its ability to implement Coastal Act environmental protection mandates in situations where affordable housing projects are proposed without regard to adverse impacts on coastal resources.

A legislative finding in the bill that residential density does not, in and of itself, constitute an adverse impact on the environment does not reflect the reality that density can and does adversely affect environmental quality and resources. Water-scarce areas or areas with poorly drained/low percolating

soils and/or high ground water levels may not be able to support high density residential development without harmful impacts to water quality and supply. In addition, the concept of increasing density of development and locating new development adjacent to urbanized areas is implicit in Section 30250.

#### **COMMENTS**

Commission staff recognizes that it is important to address the scarcity of affordable housing in the coastal zone. However, new legislation to address the issue of affordable housing in the coastal zone should not come at the expense of coastal resource protection mandated in the Coastal Act. Experience has shown that affordable housing proposals in the coastal zone are frequently used as a stalking horse for market rate development and are proposed in specific locations where market rate units would not be consistent with Coastal Act policies. For example, the commission has seen affordable housing proposed in wetlands, ESHA, productive agricultural lands and in endangered species habitat in conjunction with market rate units proposed in more desirable areas. The affordable component, often required by local government or used as an inducement to secure local approval, is seen as leverage to gain support for a larger, market rate project that maximizes development potential. The Commission has a strong record of support for affordable housing and has the ability to ensure that affordable housing projects are designed and built in a manner that protects coastal resources consistent with Coastal Act policies.

Commission staff suggests that a more effective approach would be to restore the Commission's ability to require affordable housing as a component of large development projects. Amending the Coastal Act to allow the Commission to encourage affordable housing through regulatory and local coastal program planning actions consistent with coastal resource protection policies should be considered as a substitute to the proposed approach set forth in the bill.

#### **SUPPORT/OPPOSITION**

Support:

None on file

Opposition:

None on file

#### **RECOMMENDED POSITION**

Staff recommends the Commission **Oppose** SB 619 unless amended.

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**BILL ANALYSIS; SB 681 (Morrow)**  
(Staff recommends the Commission Oppose SB 681)

**SUMMARY**

This bill would amend Section 30235 of the Coastal Act to prohibit the imposition of coastal development permit conditions that mitigate environmental impacts caused by the repair or maintenance of seawalls.

**PURPOSE OF THE BILL**

The purpose of this bill is to prevent the Commission and local governments from requiring permit conditions designed to mitigate environmental impacts when issuing coastal development permits for the repair and maintenance of sea walls.

**EXISTING LAW**

The Coastal Act (Division 20 of the Public Resources Code) regulates development within the Coastal Zone. Section 30235 (a) states that sea walls "shall be permitted to protect existing structures or public beaches from erosion, when designed to eliminate or mitigate adverse impacts on local shoreline sand supply." Coastal development permits issued for sea walls must comply with all other Chapter 3 policies, such as those protecting public access, environmentally sensitive habitat areas, wetlands and public views.

**ANALYSIS**

Although Section 30253 requires sea walls to be designed to eliminate or mitigate adverse impacts on local shoreline sand supply, this is not always possible. By definition, many sea walls diminish natural beach sand supplies by preventing natural bluff erosion that threatens built structures. In these cases, the Commission can require applicants to pay in lieu fees to a local or regional sand supply fund, in an effort to more fully mitigate for seawalls' impacts to the shoreline sand supply. Other types of mitigation may include texturing, re-vegetating, back filling with sand, and design modifications to reduce impacts to public access and viewsheds.

Repair and maintenance of sea walls frequently extends their useful life far beyond that contemplated by the original permit. Extending the lifespan of sea walls is particularly significant in cases where sand replenishment mitigation fees offset the loss of bluff sand and fund beach replenishment. Because extending the life of sea walls also extends the impacts on sand supply, the Commission can and does assess an additional sand mitigation fee when issuing CDPs for sea wall maintenance.

In cases where no permit was issued for the original structure, the CDP process for the repair of a sea wall may be the first opportunity the Commission has had to consider the structure. Proposed maintenance activities may cause structures to encroach farther onto public beaches, impede or disrupt public access, or destroy vegetation and habitat. Requiring mitigation measures as permit conditions, enables the Commission to ensure Coastal Act compliance by minimizing visual impacts and requiring design features that protect public access.



## **COMMENTS**

Eliminating the Commission's ability to condition CDPs to mitigate or reduce the environmental impacts of sea wall repair and maintenance would be a significant restriction in the Commission's existing authority. In addition, it would be inconsistent Coastal Act requirements to minimize adverse impacts on a wide range of coastal resources, including public access, habitat, recreation and scenic viewsheds.

Environmental mitigations for sea wall repair and maintenance is no less critical than mitigations for the original structure

## **SUPPORT/OPPOSITION**

### Support:

None on file

### Opposition:

None on file

## **RECOMMENDED POSITION**

Staff recommends the Commission **Oppose** SB 681.

## **LEGISLATIVE STAFF CONTACT**

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## LEGISLATIVE BILLS

AB 16 (Jackson)  
AB 260 (Jackson)  
AB 907 (Pavley)  
SB 619 (Duchenev)  
SB 681 (Morrow)



**ASSEMBLY BILL**

**No. 16**

**Introduced by Assembly Member Jackson  
(Coauthor: Assembly Member Simitian)**

December 2, 2002

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An act to amend Section 30262 of the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

AB 16, as introduced, Jackson. Oil and gas development: pipelines.

The California Coastal Act of 1976 permits oil and gas development, if specified conditions relating to safety and environmental mitigation are met.

This bill would include, within those specified conditions that are required to be met where oil and gas development is permitted, a condition requiring that all oil, as defined, produced offshore in new or expanded oil extractions, as defined, be transported onshore by pipeline only, and that all pipelines used to transport this oil onshore utilize the best achievable technology, as defined, to ensure maximum protection of public health and safety and of the integrity and productivity of terrestrial and marine ecosystem.

The bill would also include within those conditions a requirement that oil produced offshore be transported to processing and refining facilities by pipeline when it is onshore. However, for new or expanded oil extraction operations where the crude oil is so highly viscous that pipelining is found to be an infeasible mode of transportation, or there is no feasible access to a pipeline, the bill would permit shipment of crude oil over land by other modes of transportation including trains and

trucks that meet all applicable rules and regulations, excluding any waterborne mode of transport.

The bill would also include within the specified conditions a requirement that the best achievable technology be used when an offshore well is abandoned, in addition to all other measures that will maximize the protection of marine habitat and environmental quality.

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 30262 of the Public Resources Code is  
 2 amended to read:  
 3 30262. (a) Oil and gas development shall be permitted in  
 4 accordance with Section 30260, if the following conditions are  
 5 met:  
 6 (a)  
 7 (1) The development is performed safely and consistent with  
 8 the geologic conditions of the well site.  
 9 (b)  
 10 (2) New or expanded facilities related to ~~such~~ *that*  
 11 development are consolidated, to the maximum extent feasible and  
 12 legally permissible, unless consolidation will have adverse  
 13 environmental consequences and will not significantly reduce the  
 14 number of producing wells, support facilities, or sites required to  
 15 produce the reservoir economically and with minimal  
 16 environmental impacts.  
 17 (c)  
 18 (3) Environmentally safe and feasible subsea completions are  
 19 used ~~when~~ *if* drilling platforms or islands would substantially  
 20 degrade coastal visual ~~qualities unless use of such~~ *qualities, unless*  
 21 *the use of those* structures will result in substantially less  
 22 environmental risks.  
 23 (d)  
 24 (4) Platforms or islands will not be sited where a substantial  
 25 hazard to vessel traffic might result from the facility or related  
 26 operations, *as* determined in consultation with the United States  
 27 Coast Guard and the Army Corps of Engineers.  
 28 (e) ~~Such~~

1 (5) The development will not cause or contribute to subsidence  
2 hazards unless it is determined that adequate measures will be  
3 undertaken to prevent damage from ~~such~~ that subsidence.

4 (⊕)

5 (6) With respect to new facilities, all oilfield brines are  
6 reinjected into oil-producing zones unless the Division of ~~Oil and~~  
7 ~~Gas Oil, Gas, and Geothermal Resources~~ of the Department of  
8 Conservation determines to do so would adversely affect  
9 production of the reservoirs and unless injection into other  
10 subsurface zones will reduce environmental risks. Exceptions to  
11 reinjections will be granted consistent with the Ocean Waters  
12 Discharge Plan of the State Water Resources Control Board and  
13 where adequate provision is made for the elimination of petroleum  
14 odors and water quality problems.

15 (7) (A) All oil produced offshore California shall be  
16 transported onshore by pipeline only. The pipelines used to  
17 transport this oil shall utilize the best achievable technology to  
18 ensure maximum protection of public health and safety and of the  
19 integrity and productivity of terrestrial and marine ecosystems.

20 (B) Once oil produced offshore California is onshore, it shall  
21 be transported to processing and refining facilities by pipeline.

22 (C) The following guidelines shall be used when applying  
23 subparagraphs (A) and (B):

24 (i) "Best achievable technology," means the technology that  
25 provides the greatest degree of protection taking into  
26 consideration both of the following:

27 (I) Processes that are being developed, or could feasibly be  
28 developed, anywhere in the world, given overall reasonable  
29 expenditures on research and development.

30 (II) Processes that are currently in use anywhere in the world.  
31 This clause is not intended to create any conflicting or duplicative  
32 regulation of pipelines, including those governing the  
33 transportation of oil produced from onshore reserves.

34 (ii) "Oil" refers to crude oil before it is refined into products,  
35 including gasoline, bunker fuel, lubricants, and asphalt. Crude oil  
36 that is upgraded in quality through residue reduction or other  
37 means shall be transported as provided in subparagraphs (A) and  
38 (B).

39 (iii) Subparagraphs (A) and (B) shall apply only to new or  
40 expanded oil extraction operations. "New extraction operations"

1 means production of offshore oil from leases that did not exist or  
2 had never produced oil, as of January 1, 2003, or from platforms,  
3 drilling island, subsea completions, or onshore drilling sites, that  
4 did not exist as of January 1, 2003. "Expanded oil extraction"  
5 means an increase in the geographic extent of existing leases or  
6 units, including lease boundary adjustments, or an increase in the  
7 number of well heads, on or after January 1, 2003.

8 (iv) For new or expanded oil extraction operations subject to  
9 clause (iii), if the crude oil is so highly viscous that pipelining is  
10 determined to be an infeasible mode of transportation, or where  
11 there is no feasible access to a pipeline, shipment of crude oil may  
12 be permitted over land by other modes of transportation, including  
13 trains or trucks, which meet all applicable rules and regulations,  
14 excluding any waterborne mode of transport.

15 (8) If a state of emergency is declared by the Governor for an  
16 emergency that disrupts the transportation of oil by pipeline, oil  
17 may be transported by a waterborne vessel, if authorized by  
18 permit, in the same manner as required by emergency permits that  
19 are issued pursuant to Section 30624.

20 (9) In addition to all other measures that will maximize the  
21 protection of marine habitat and environmental quality, when an  
22 offshore well is abandoned, the best achievable technology shall  
23 be used.

24 (b) Where appropriate, monitoring programs to record land  
25 surface and near-shore ocean floor movements shall be initiated in  
26 locations of new large-scale fluid extraction on land or near shore  
27 before operations begin and shall continue until surface conditions  
28 have stabilized. Costs of monitoring and mitigation programs shall  
29 be borne by liquid and gas extraction operators.

30 (c) Nothing in this section shall affect the activities of any state  
31 agency that is responsible for regulating the extraction,  
32 production, or transport of oil and gas.

33 SEC. 2. The provisions of this act are severable. If any  
34 provision of this act or its application is held invalid, that invalidity  
35 shall not affect other provisions or applications that can be given  
36 effect without the invalid provision or application.



**ASSEMBLY BILL**

**No. 260**

**Introduced by Assembly Member Jackson  
(Coauthors: Assembly Members Lowenthal, Mullin, Nakano,  
Nation, Pavley, and Vargas)**

February 4, 2003

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An act to add Section 91.6 to the Streets and Highways Code, relating to highways.

LEGISLATIVE COUNSEL'S DIGEST

AB 260, as introduced, Jackson. State highways: litter control.

Existing law provides that the Department of Transportation shall have full possession and control of all state highways and associated property. Existing law authorizes the department to enter into an agreement to accept funds or services from any person for maintenance of a section of a state highway, and also requires the department to place signs along state highways indicating the maximum penalty for littering.

This bill would require the department to assign a high priority to litter cleanup along state highway segments adjoining streams, rivers, beaches, the ocean, and other environmentally sensitive areas, and to report to the Legislature on or before January 20 of each year on its actions in that regard.

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 91.6 is added to the Streets and  
2 Highways Code, to read:

3 91.6. (a) The Legislature finds and declares that the  
4 department is devoting insufficient attention to litter cleanup on  
5 state highway rights of way in environmentally sensitive areas,  
6 with resulting degradation of stream, river, beach, and ocean areas  
7 from litter originating from highways. Litter dumped on state  
8 highways finds its way to adjoining lands and bodies of water  
9 through wind and storm runoff. The department's failure to  
10 adequately address this situation sullies California's otherwise  
11 beautiful scenery and is detrimental to California's  
12 critically-important tourist industry.

13 (b) The department shall assign a high priority to litter cleanup  
14 along state highway segments adjoining streams, rivers, beaches,  
15 the ocean, and other environmentally sensitive areas.

16 (c) The department shall report to the Legislature on or before  
17 January 20 of each year on its actions pursuant to this section.

**ASSEMBLY BILL**

**No. 907**

**Introduced by Assembly Member Pavley**

February 20, 2003

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An act to add Section 60605.3 to the Education Code, relating to curriculum.

LEGISLATIVE COUNSEL'S DIGEST

AB 907, as introduced, Pavley. Environmental education: content and performance standards.

Existing law requires the State Board of Education to adopt statewide academically rigorous content standards and performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science.

This bill would require the State Board of Education to revise the academic content standards and performance standards for language arts, history/social science, and science to incorporate environmental education content and performance standards, as provided. The bill would require the revisions to occur within the timeframes and procedures set forth in the State Department of Education's schedule for curriculum framework development and adoption of instructional resources.

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

1 (a) California has a diverse natural environment with  
2 unparalleled biodiversity and extraordinary natural resources.

3 (b) California has numerous pollution, ecosystem degradation,  
4 and natural resource scarcity problems.

5 (c) Recognizing and solving environmental problems and  
6 sustaining natural resources for future generations requires  
7 awareness and knowledge in a wide array of disciplines.

8 (d) Existing law recognizes that throughout the state and the  
9 nation there is a growing awareness of the benefits derived from  
10 a healthy environment and a healthy economy, that the citizens of  
11 the State of California expect the educational institutions of this  
12 state to provide pupils with educational materials that are balanced  
13 and objective in their coverage of current scientific and economic  
14 research on environmental and ecological issues, that an  
15 educational program is needed to build the necessary attitudes of  
16 stewardship towards the maintenance of the quality of our  
17 common environment, that an environmental education will help  
18 each pupil contribute meaningfully to the decisionmaking process  
19 on issues involving the environment and its resources, that in all  
20 grade levels, environmental facts should be taught as they relate  
21 to each other, and that it is necessary to develop educational  
22 programs for teachers and pupils commensurate with protecting  
23 scarcer resources and safeguarding the quality of our environment.

24 (e) The Leroy Greene California Assessment of Academic  
25 Achievement Act requires the State Board of Education to  
26 promulgate statewide academic content standards that reflect the  
27 knowledge and skills that pupils will need in order to succeed in  
28 the information-based, global economy of the 21st century, to  
29 adopt performance standards that define various levels of  
30 competence at each grade level, and to gauge the degree to which  
31 a pupil has met the content standards and the degree to which a  
32 school or school district has met the content standards.

33 (f) California's mandated content and performance standards  
34 serve as the basis for statewide assessment, curriculum  
35 frameworks, and instructional materials.

36 (g) Statewide content and performance standards for  
37 kindergarten and grades 1 to 12, inclusive, including science  
38 standards, currently lack comprehensive environmental education  
39 content and performance standards.

1 (h) Environmental literacy remains widespread in the absence  
2 of integration of environmental educational standards into the  
3 state education system.

4 SEC. 2. Section 60605.3 is added to the Education Code, to  
5 read:

6 60605.3. (a) The State Board of Education shall revise  
7 academic content standards and performance standards to  
8 incorporate environmental education content and performance  
9 standards. The revisions shall occur within the timeframes and  
10 procedures set forth in the State Department of Education's  
11 schedule for curriculum framework development and adoption of  
12 instructional resources.

13 (b) The environmental education and performance standards  
14 shall be incorporated as follows:

15 (1) The language arts content and performance standards shall  
16 be revised to include environmental education selections to the  
17 recommended readings in literature for kindergarten and grades 1  
18 to 8, inclusive, to support the reading comprehension and literary  
19 response and analysis standards.

20 (2) The science content and performance standards shall be  
21 revised to include environmental education content standards to  
22 the earth, life, and physical sciences, and to the investigation and  
23 experimental standards for kindergarten and grades 1 to 12,  
24 inclusive.

25 (3) The history/social science content and performance  
26 standards shall be revised to include environmental content  
27 standards for grades 1 to 12, inclusive, within a chronological and  
28 geographic context.

29 (c) In developing the environmental education standards, the  
30 State Board of Education may consider the following resources:

31 (1) The California Integrated Waste Management Board's  
32 Office of Integrated Environmental Education report to the  
33 Legislature on the Environmental Ambassador Pilot Program, as  
34 required pursuant to Section 51226.4.

35 (2) The 2002 Strategic Initiatives for Enhancing Education in  
36 California developed by the State Department of Education's  
37 Office of Environmental Education, in conjunction with the  
38 Superintendent of Public Instruction's Environmental Education  
39 Task Force Steering Committee and the State Department of  
40 Education's Environmental Education Advisory Committee. The

1 State Board of Education may consider development of  
2 environmental standards that reflect environmental education as  
3 an integrated context for learning, as recommended by the  
4 strategic initiatives.

5 (3) Resources developed or utilized by other municipal, state,  
6 or federal governmental agencies involved with environmental  
7 protection and education, resources within the State Department  
8 of Education, including the Office of Environmental Education  
9 and the Conservation Education Service, and publications,  
10 including the California Guide to Environmental Literacy.

11 (4) Resources developed or utilized by nonprofit organizations  
12 with expertise in environmental education and issues.

13 (d) In developing the environmental education content and  
14 performance standards, the State Board of Education shall consult  
15 with interested stakeholders, including, but not limited to,  
16 nonprofit organizations with expertise in environmental education  
17 and issues.

18 (e) For purposes of this section, "environmental education"  
19 includes, but is not limited to, education relating to all of the  
20 following topics:

21 (1) Ecosystem preservation, management, and health.

22 (2) Impacts of pollution on human health and the natural  
23 environment.

24 (3) Ocean conservation.

25 (4) Pollution treatment.

26 (5) Integrated waste management.

27 (6) Energy conservation.

28 (7) Water conservation and pollution prevention.

29 (8) Air resources.

30 (9) Integrated pest management.

31 (10) Toxic materials.

32 (11) Wildlife conservation and forestry.

33 (f) The implementation of this section is subject to funds being  
34 made available for this purpose in the annual Budget Act or other  
35 legislation.

Introduced by Senator Ducheny

February 20, 2003

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An act to amend Sections 65008, 65400, 65589.5, and 65914 of, and to add Section 65589.4 to, the Government Code, to amend Sections 50650.3, 50650.4, and 50650.5 of the Health and Safety Code, and to amend Section 30500.1 of the Public Resources Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 619, as introduced, Ducheny. Housing.

(1) The Planning and Zoning Law prohibits a local agency from prohibiting or discriminating against a residential development or emergency shelter because of specified reasons.

This bill would additionally prohibit those actions from being taken because the development consists of a multifamily residential project or because of the method of financing or other specified assistance, and would include actions taken based in whole or in part on the specified reasons, as modified by the bill.

(2) Existing law requires a local planning agency upon adoption of a general plan by the legislative body, to provide an annual report on the status of the plan and progress toward its implementation to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development.

This bill would authorize prescribed judicial enforcement action upon the failure to make that report, as specified.

(3) Existing law restricts a local agency from disapproving an affordable housing development project, as prescribed.

This bill would define "housing development project" for the purposes of that requirement.

The bill would additionally require the administrator designated by the planning agency for the granting of permits to approve or disapprove applications for low- and moderate-income residential development projects that are consistent with the applicable general plan land use designation without a hearing.

(4) Existing law prescribes criteria for the awarding of costs of suit and attorney's fees to a plaintiff, including a public entity, in an action against a public entity to enjoin or obtain a writ of mandate relative to the carrying out or approval of a housing development, if the court makes certain findings.

This bill would additionally authorize the awarding of damages and would specify that those awards may be given to a prevailing party other than a public entity.

(5) The existing CalHome Program authorizes loans and grants to be provided to assist homeownership, as prescribed, including mutual housing developments.

This bill would authorize CalHome funds to be used for construction training and would prescribe other criteria for awarding and administering those funds, including assistance for mutual housing development and limited equity cooperative housing developments.

(6) The existing California Coastal Act provides that no local coastal program is required to include housing policies and programs.

This bill would authorize the California Coastal Commission to take prescribed actions to encourage affordable housing and would prohibit the commission from proposing and applying measures that preclude affordable housing.

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 65008 of the Government Code is  
 2 amended to read:  
 3 65008. (a) Any action pursuant to this title by any city,  
 4 county, city and county, or other local governmental agency in this  
 5 state is null and void if it denies to any individual or group of  
 6 individuals the enjoyment of residence, landownership, tenancy,  
 7 or any other land use in this state because of any of the following  
 8 reasons:



- 1 (1) The race, sex, color, religion, ethnicity, national origin,  
2 ancestry, lawful occupation, familial status, disability, or age of the  
3 individual or group of individuals. For purposes of this section,  
4 both of the following definitions apply:  
5 (A) "Familial status" as defined in Section 12955.2.  
6 (B) "Disability" as defined in Section 12955.3.  
7 (2) The method of financing of any residential development of  
8 the individual or group of individuals.  
9 (3) The intended occupancy of any residential development by  
10 persons or families of low, moderate, or middle income.  
11 (b) (1) No city, county, city and county, or other local  
12 governmental agency shall, in the enactment or administration of  
13 ordinances pursuant to this title, prohibit or discriminate against  
14 any residential development or emergency shelter ~~because for any~~  
15 ~~of the following reasons:~~  
16 (A) *Because* of the method of financing ~~or~~.  
17 (B) *Because* of the race, sex, color, religion, ethnicity, national  
18 origin, ancestry, lawful occupation, familial status, disability, or  
19 age of the owners or intended occupants of the residential  
20 development or emergency shelter.  
21 ~~(c) (1) No city, county, city and county, or other local~~  
22 ~~governmental agency shall, in the enactment or administration of~~  
23 ~~ordinances pursuant to this title, prohibit or discriminate against~~  
24 ~~a residential development or emergency shelter because~~  
25 (C) *Because* the development or shelter is intended for  
26 occupancy by persons and families of low and moderate income,  
27 as defined in Section 50093 of the Health and Safety Code, or  
28 persons and families of middle income.  
29 ~~(2)~~  
30 (D) *Because* the development consists of a multifamily  
31 residential project.  
32 (2) *The discrimination prohibited by this subdivision includes*  
33 *the denial or conditioning of a residential development or shelter*  
34 *based in whole or in part on the method of financing or the*  
35 *development or the occupancy of the development by persons*  
36 *protected by this subdivision, including, but not limited to, persons*  
37 *and families of low and moderate income.*  
38 (c) For the purposes of this section, "persons and families of  
39 middle income" means persons and families whose income does

1 not exceed 150 percent of the median income for the county in  
2 which the persons or families reside.

3 (d) (1) No city, county, city and county, or other local  
4 governmental agency may impose different requirements on a  
5 residential development or emergency shelter that is subsidized,  
6 financed, insured, or otherwise assisted by the federal or state  
7 government or by a local public entity, as defined in Section 50079  
8 of the Health and Safety Code, than those imposed on nonassisted  
9 developments, except as provided in subdivision (e). *The*  
10 *discrimination prohibited by this subdivision includes the denial*  
11 *or conditioning of a residential development or shelter based in*  
12 *whole or in part on the fact that the development is subsidized,*  
13 *financed, insured, or otherwise assisted as described in this*  
14 *paragraph.*

15 (2) No city, county, city and county, or other local  
16 governmental agency may, because of the race, sex, color,  
17 religion, ethnicity, national origin, ancestry, lawful occupation,  
18 familial status, disability, or age of the intended occupants, or  
19 because the development is intended for occupancy by persons and  
20 families of low, moderate, or middle income, impose different  
21 requirements on these residential developments than those  
22 imposed on developments generally, except as provided in  
23 subdivision (e).

24 (e) Notwithstanding subdivisions (a) to (d), inclusive, nothing  
25 in this section or this title shall be construed to prohibit either of  
26 the following:

27 (1) The County of Riverside from enacting and enforcing  
28 zoning to provide housing for older persons, in accordance with  
29 state or federal law, if that zoning was enacted prior to January 1,  
30 1995.

31 (2) Any city, county, or city and county from extending  
32 preferential treatment to residential developments or emergency  
33 shelters assisted by the federal or state government or by a local  
34 public entity, as defined in Section 50079 of the Health and Safety  
35 Code, or other residential developments or emergency shelters  
36 intended for occupancy by persons and families of low and  
37 moderate income, as defined in Section 50093 of the Health and  
38 Safety Code, or persons and families of middle income, or  
39 agricultural employees, as defined in subdivision (b) of Section  
40 1140.4 of the Labor Code, and their families. This preferential

1 treatment may include, but need not be limited to, reduction or  
2 waiver of fees or changes in architectural requirements, site  
3 development and property line requirements, building setback  
4 requirements, or vehicle parking requirements that reduce  
5 development costs of these developments.

6 (f) "Residential development," as used in this section, means  
7 a single-family residence or a multifamily residence, including  
8 manufactured homes, as defined in Section 18007 of the Health  
9 and Safety Code.

10 (g) This section shall apply to chartered cities.

11 (h) The Legislature finds and declares that discriminatory  
12 practices that inhibit the development of housing for persons and  
13 families of low, moderate, and middle income, or emergency  
14 shelters for the homeless, are a matter of statewide concern.

15 SEC. 2. Section 65400 of the Government Code is amended  
16 to read:

17 65400. After the legislative body has adopted all or part of a  
18 general plan, the planning agency shall do both of the following:

19 (a) Investigate and make recommendations to the legislative  
20 body regarding reasonable and practical means for implementing  
21 the general plan or element of the general plan, so that it will serve  
22 as an effective guide for orderly growth and development,  
23 preservation and conservation of open-space land and natural  
24 resources, and the efficient expenditure of public funds relating to  
25 the subjects addressed in the general plan.

26 (b) (1) Provide an annual report to the legislative body, the  
27 Office of Planning and Research, and the Department of Housing  
28 and Community Development on the status of the plan and  
29 progress in its implementation, including the progress in meeting  
30 its share of regional housing needs determined pursuant to Section  
31 65584 and local efforts to remove governmental constraints to the  
32 maintenance, improvement, and development of housing pursuant  
33 to paragraph (3) of subdivision (c) of Section 65583.

34 (2) The housing portion of the annual report required to be  
35 provided to the Office of Planning and Research and the  
36 Department of Housing and Community Development pursuant to  
37 this subdivision shall be prepared through the use of forms and  
38 definitions adopted by the ~~Department of Housing and~~  
39 ~~Community Development~~ *department* pursuant to the  
40 Administrative Procedure Act (Chapter 3.5 (commencing with

1 Section 11340) of, Chapter 4 (commencing with Section 11370)  
2 of, and Chapter 5 (commencing with Section 11500) of, Part 1 of  
3 Division 3 of Title 2). This report shall be provided to the  
4 legislative body, the Office of Planning and Research, and the  
5 ~~Department of Housing and Community Development~~  
6 *department* on or before October 1 of each year.

7 (3) *If the planning agency fails to provide the annual report*  
8 *required by this subdivision to the Office of Planning and Research*  
9 *and the Department of Housing and Community Development by*  
10 *October 1 in any year, the office, the department, or any person,*  
11 *or their representative, may make a written demand to the planning*  
12 *agency asking that the report be submitted to the office and the*  
13 *department within 30 days. If the agency fails to submit an annual*  
14 *report that fully complies with the requirements of this subdivision*  
15 *within the 30-day period, the office, department, or any interested*  
16 *person may institute proceedings for a writ of mandate or*  
17 *injunctive or declarative relief in any court of competent*  
18 *jurisdiction to enforce the duty to provide the report. The court*  
19 *shall award court costs and reasonable attorney fees to the plaintiff*  
20 *should the plaintiff prevail in litigation filed pursuant to this*  
21 *section.*

22 SEC. 3. Section 65589.4 is added to the Government Code, to  
23 read:

24 65589.4. (a) Applications for low- and moderate-income  
25 residential development projects that are consistent with the  
26 applicable general plan land use designation, zoning ordinance,  
27 and development standards, shall be accepted and approved or  
28 disapproved by the administrator designated by the planning  
29 agency to grant those permits, without a hearing.

30 (b) For the purposes of this section, "residential" means a use  
31 consisting of either of the following:

32 (1) Residential units only.

33 (2) Mixed-use developments in which nonresidential uses are  
34 limited to commercial uses serving the neighborhood and to the  
35 first floor of buildings that are at least two stories.

36 (c) For the purposes of this section, "development project"  
37 means any of the following:

38 (1) A project of 100 units or less.

39 (2) A project of 150 units or less if the project is located within  
40 one-half mile of an existing rail transit station, a ferry terminal

1 served by either a bus or rail transit service, or the intersection of  
2 two or more major bus routes with a frequency of service interval  
3 of 15 minutes or less during the morning and afternoon peak  
4 commute periods.

5 (d) A project may not be divided into smaller projects to qualify  
6 as a 'development project' pursuant to this section.

7 (e) For purposes of this section, a residential development  
8 project that is "consistent with the applicable general plan land use  
9 designation, zoning ordinance, and development standards"  
10 means the development project is consistent with both of the  
11 following:

12 (1) Applicable development standards, including site,  
13 construction, design, and use standards, provided those standards  
14 are applied in a manner consistent with subdivision (e) of Section  
15 65915.

16 (2) Any applicable general plan, specific plan, and local coastal  
17 program, including any mitigation measures required by a plan or  
18 program pursuant to the California Environmental Quality Act,  
19 Division 13 (commencing with Section 21000) of the Public  
20 Resources Code, as they existed on the date that the application  
21 was deemed complete and with any applicable zoning ordinance,  
22 as that zoning ordinance existed on the date that the application  
23 was deemed complete, except that consistency with the zoning of  
24 the project property shall not be required if the project property has  
25 not been rezoned to conform with the general plan.

26 (f) For purposes of this section "low- and moderate-income  
27 residential development projects" means housing affordable to  
28 very low, low- and moderate-income households as defined in  
29 paragraph (2) of subdivision (h) of Section 65589.5.

30 SEC. 4. Section 65589.5 of the Government Code is amended  
31 to read:

32 65589.5. (a) The Legislature finds and declares all of the  
33 following:

34 (1) The lack of housing is a critical problem that threatens the  
35 economic, environmental, and social quality of life in California.

36 (2) California housing has become the most expensive in the  
37 nation. The excessive cost of the state's housing supply is partially  
38 caused by activities and policies of many local governments that  
39 limit the approval of housing, increase the cost of land for housing,

1 and require that high fees and exactions be paid by producers of  
2 housing.

3 (3) Among the consequences of those actions are  
4 discrimination against low-income and minority households, lack  
5 of housing to support employment growth, imbalance in jobs and  
6 housing, reduced mobility, urban sprawl, excessive commuting,  
7 and air quality deterioration.

8 (4) Many local governments do not give adequate attention to  
9 the economic, environmental, and social costs of decisions that  
10 result in disapproval of housing projects, reduction in density of  
11 housing projects, and excessive standards for housing projects.

12 (b) It is the policy of the state that a local government not reject  
13 or make infeasible housing developments that contribute to  
14 meeting the housing need determined pursuant to this article  
15 without a thorough analysis of the economic, social, and  
16 environmental effects of the action and without complying with  
17 subdivision (d).

18 (c) The Legislature also recognizes that premature and  
19 unnecessary development of agricultural lands for urban uses  
20 continues to have adverse effects on the availability of those lands  
21 for food and fiber production and on the economy of the state.  
22 Furthermore, it is the policy of the state that development should  
23 be guided away from prime agricultural lands; therefore, in  
24 implementing this section, local jurisdictions should encourage, to  
25 the maximum extent practicable, in filling existing urban areas.

26 (d) A local agency shall not disapprove a housing development  
27 project, including farmworker housing as defined in subdivision  
28 (d) of Section 50199.50 of the Health and Safety Code, for very  
29 low, low- or moderate-income households or condition approval,  
30 including through the use of design review standards, in a manner  
31 that renders the project infeasible for development for the use of  
32 very low, low- or moderate-income households unless it makes  
33 written findings, based upon substantial evidence in the record, as  
34 to one of the following:

35 (1) The jurisdiction has adopted a housing element pursuant to  
36 this article that has been revised in accordance with Section 65588  
37 and that is in substantial compliance with this article, and the  
38 development project is not needed for the jurisdiction to meet its  
39 share of the regional housing need for very low, low-, or  
40 moderate-income housing.

1 (2) The development project as proposed would have a  
2 specific, adverse impact upon the public health or safety, and there  
3 is no feasible method to satisfactorily mitigate or avoid the specific  
4 adverse impact without rendering the development unaffordable  
5 to low- and moderate-income households. As used in this  
6 paragraph, a "specific, adverse impact" means a significant,  
7 quantifiable, direct, and unavoidable impact, based on objective,  
8 identified written public health or safety standards, policies, or  
9 conditions as they existed on the date the application was deemed  
10 complete.

11 (3) The denial of the project or imposition of conditions is  
12 required in order to comply with specific state or federal law, and  
13 there is no feasible method to comply without rendering the  
14 development unaffordable to low- and moderate-income  
15 households.

16 (4) Approval of the development project would increase the  
17 concentration of lower income households in a neighborhood that  
18 already has a disproportionately high number of lower income  
19 households and there is no feasible method of approving the  
20 development at a different site, including those sites identified  
21 pursuant to paragraph (1) of subdivision (c) of Section 65583,  
22 without rendering the development unaffordable to low- and  
23 moderate-income households.

24 (5) The development project is proposed on land zoned for  
25 agriculture or resource preservation that is surrounded on at least  
26 two sides by land being used for agricultural or resource  
27 preservation purposes, or which does not have adequate water or  
28 wastewater facilities to serve the project.

29 (6) The development project is inconsistent with both the  
30 jurisdiction's zoning ordinance and general plan land use  
31 designation as specified in any element of the general plan as it  
32 existed on the date the application was deemed complete, and the  
33 jurisdiction has adopted a housing element pursuant to this article.

34 (e) Nothing in this section shall be construed to relieve the local  
35 agency from complying with the Congestion Management  
36 Program required by Chapter 2.6 (commencing with Section  
37 65088) of Division 1 of Title 7 or the California Coastal Act  
38 (Division 20 (commencing with Section 30000) of the Public  
39 Resources Code). Neither shall anything in this section be  
40 construed to relieve the local agency from making one or more of

1 the findings required pursuant to Section 21081 of the Public  
2 Resources Code or otherwise complying with the California  
3 Environmental Quality Act (Division 13 (commencing with  
4 Section 21000) of the Public Resources Code).

5 (f) Nothing in this section shall be construed to prohibit a local  
6 agency from requiring the development project to comply with  
7 written development standards, conditions, and policies  
8 appropriate to, and consistent with, meeting the quantified  
9 objectives relative to the development of housing, as required in  
10 the housing element pursuant to subdivision (b) of Section 65583.  
11 Nothing in this section shall be construed to prohibit a local agency  
12 from imposing fees and other exactions otherwise authorized by  
13 law which are essential to provide necessary public services and  
14 facilities to the development project.

15 (g) This section shall be applicable to charter cities because the  
16 Legislature finds that the lack of housing is a critical statewide  
17 problem.

18 (h) The following definitions apply for the purposes of this  
19 section:

20 (1) "Feasible" means capable of being accomplished in a  
21 successful manner within a reasonable period of time, taking into  
22 account economic, environmental, social, and technological  
23 factors.

24 (2) "*Housing development project*" means a use consisting of  
25 either of the following:

26 (A) *Residential units only.*

27 (B) *Mixed-use developments in which nonresidential uses are*  
28 *limited to commercial uses serving the neighborhood and to the*  
29 *first floor of buildings that are at least two stories.*

30 (3) "Housing for very low, low-, or moderate-income  
31 households" means that either (A) at least 20 percent of the total  
32 units shall be sold or rented to lower income households, as  
33 defined in Section 50079.5 of the Health and Safety Code, or (B)  
34 100 percent of the units shall be sold or rented to moderate-income  
35 households as defined in Section 50093 of the Health and Safety  
36 Code, or middle-income households, as defined in Section 65008  
37 of this code. Housing units targeted for lower income households  
38 shall be made available at a monthly housing cost that does not  
39 exceed 30 percent of 60 percent of area median income with  
40 adjustments for household size made in accordance with the



1 adjustment factors on which the lower income eligibility limits are  
2 based. Housing units targeted for persons and families of moderate  
3 income shall be made available at a monthly housing cost that does  
4 not exceed 30 percent of 100 percent of area median income with  
5 adjustments for household size made in accordance with the  
6 adjustment factors on which the moderate income eligibility limits  
7 are based.

8 ~~(3)~~

9 (4) "Area median income" means area median income as  
10 periodically established by the Department of Housing and  
11 Community Development pursuant to Section 50093 of the Health  
12 and Safety Code. The developer shall provide sufficient legal  
13 commitments to ensure continued availability of units for very low  
14 or low-income households in accordance with the provisions of  
15 this subdivision for 30 years.

16 ~~(4)~~

17 (5) "Neighborhood" means a planning area commonly  
18 identified as such in a community's planning documents, and  
19 identified as a neighborhood by the individuals residing and  
20 working within the neighborhood. Documentation demonstrating  
21 that the area meets the definition of neighborhood may include a  
22 map prepared for planning purposes which lists the name and  
23 boundaries of the neighborhood.

24 ~~(5)~~

25 (6) "Disapprove the development project" includes any  
26 instance in which a local agency does either of the following:

27 (A) Votes on a proposed housing development project  
28 application and the application is disapproved.

29 (B) Fails to comply with the time periods specified in  
30 subparagraph (B) of paragraph (1) of subdivision (a) of Section  
31 65950. An extension of time pursuant to Article 5 (commencing  
32 with Section 65950) shall be deemed to be an extension of time  
33 pursuant to this paragraph.

34 (i) If any city, county, or city and county denies approval or  
35 imposes restrictions, including design changes, a reduction of  
36 allowable densities or the percentage of a lot that may be occupied  
37 by a building or structure under the applicable planning and zoning  
38 in force at the time the application is deemed complete pursuant  
39 to Section 65943, that have a substantial adverse effect on the  
40 viability or affordability of a housing development for very low,

1 low-, or moderate-income households, and the denial of the  
2 development or the imposition of restrictions on the development  
3 is the subject of a court action which challenges the denial, then the  
4 burden of proof shall be on the local legislative body to show that  
5 its decision is consistent with the findings as described in  
6 subdivision (d) and that the findings are supported by substantial  
7 evidence in the record.

8 (j) When a proposed housing development project complies  
9 with applicable, objective general plan and zoning standards and  
10 criteria, including design review standards, in effect at the time  
11 that the housing development project's application is determined  
12 to be complete, but the local agency proposes to disapprove the  
13 project or to approve it upon the condition that the project be  
14 developed at a lower density, the local agency shall base its  
15 decision regarding the proposed housing development project  
16 upon written findings supported by substantial evidence on the  
17 record that both of the following conditions exist:

18 (1) The housing development project would have a specific,  
19 adverse impact upon the public health or safety unless the project  
20 is disapproved or approved upon the condition that the project be  
21 developed at a lower density. As used in this paragraph, a  
22 "specific, adverse impact" means a significant, quantifiable,  
23 direct, and unavoidable impact, based on objective, identified  
24 written public health or safety standards, policies, or conditions as  
25 they existed on the date the application was deemed complete.

26 (2) There is no feasible method to satisfactorily mitigate or  
27 avoid the adverse impact identified pursuant to paragraph (1),  
28 other than the disapproval of the housing development project or  
29 the approval of the project upon the condition that it be developed  
30 at a lower density.

31 (k) If in any action brought to enforce the provisions of this  
32 section, a court finds that the local agency disapproved a project  
33 or conditioned its approval in a manner rendering it infeasible for  
34 the development of housing for very low, low-, or  
35 moderate-income households, including farmworker housing,  
36 without making the findings required by this section or without  
37 making sufficient findings supported by substantial evidence, the  
38 court shall issue an order or judgment compelling compliance with  
39 this section within 60 days, including, but not limited to, an order  
40 that the local agency take action on the development project. The

1 court shall retain jurisdiction to ensure that its order or judgment  
2 is carried out and shall award reasonable attorney fees and costs of  
3 suit to the plaintiff or petitioner who proposed the housing  
4 development, except under extraordinary circumstances in which  
5 the court finds that awarding fees would not further the purposes  
6 of this section. If the court determines that its order or judgment  
7 has not been carried out within 60 days, the court may issue further  
8 orders as provided by law to ensure that the purposes and policies  
9 of this section are fulfilled.

10 (l) In any action, the record of the proceedings before the local  
11 agency shall be filed as expeditiously as possible and,  
12 notwithstanding Section 1094.6 of the Code of Civil Procedure, all  
13 or part of the record may be filed (1) by the petitioner with the  
14 petition or petitioner's points and authorities, (2) by the respondent  
15 with respondent's points and authorities, (3) after payment of costs  
16 by the petitioner, or (4) as otherwise directed by the court. If the  
17 expense of preparing the record has been borne by the petitioner  
18 and the petitioner is the prevailing party, the expense shall be  
19 taxable as costs.

20 SEC. 5. Section 65914 of the Government Code is amended  
21 to read:

22 65914. (a) In any civil action or proceeding, including, but  
23 not limited to, an action brought pursuant to Section 21167 of the  
24 Public Resources Code, against a public entity ~~which~~ *that* has  
25 issued planning, subdivision, or other approvals for a housing  
26 development, to enjoin the carrying out or approval of a housing  
27 development or to secure a writ of mandate relative to the approval  
28 of, or a decision to carry out the housing development, the court,  
29 after entry of final judgment and the time to appeal has elapsed,  
30 and after notice to the plaintiff or plaintiffs, may award all  
31 reasonably incurred costs of suit, including attorney's fees, *and*  
32 *damages that may have been incurred as the result of the action or*  
33 *proceeding*, to the prevailing public entity *or other prevailing*  
34 *defendant, intervenor, or real party in interest* if it finds all of the  
35 following:

36 (1) The housing development meets or exceeds the  
37 requirements for low- and moderate-income housing as set forth  
38 in Section 65915.

39 (2) The action was frivolous ~~and~~ *or* undertaken with ~~the~~ *a*  
40 primary purpose of *significantly* delaying or thwarting the low- or

1 moderate-income nature of the housing development or portions  
2 thereof.

3 (3) The public entity *or other prevailing defendant, intervenor,*  
4 *or real party in interest* making application for costs under this  
5 section has prevailed on all issues presented by the pleadings, and,  
6 if an intervenor; *or the public entity or other prevailing defendant*  
7 *or real party in interest* actively, through counsel or otherwise,  
8 took part on a continuing basis in the defense of the lawsuit.

9 (4) A demand for a preliminary injunction was made by the  
10 plaintiff and denied by a court of competent jurisdiction, such  
11 denial not having been reversed on appeal, or the action or  
12 proceeding was dismissed as a result of a motion for summary  
13 judgment by any defendant *or hearing on a writ of mandate*, and  
14 not reversed on appeal.

15 (b) In any appeal of any action described in subdivision (a), the  
16 reviewing court may award all reasonably incurred costs of suit,  
17 including attorney's fees, to the prevailing public entity *or other*  
18 *prevailing defendant, intervenor, or real party in interest* if the  
19 court reviews and upholds the trial court's findings with respect to  
20 paragraphs (1) to (4), inclusive, of subdivision (a).

21 (c) *Nothing in this section shall be construed to limit the*  
22 *application of any other remedies or rights provided under law.*

23 SEC. 6. Section 50650.3 of the Health and Safety Code is  
24 amended to read:

25 50650.3. (a) Funds appropriated for purposes of this chapter  
26 shall be used to enable low- and very low income households to  
27 become or remain homeowners. Funds shall be provided by the  
28 department to local public agencies or nonprofit corporations as  
29 either of the following:

30 (1) Grants for programs that assist individual households.

31 (2) Loans that assist development projects involving multiple  
32 homeownership units, including single-family subdivisions.

33 (b) Grant funds may be used for first-time homebuyer  
34 downpayment assistance, home rehabilitation, homebuyer  
35 counseling, home acquisition and rehabilitation, ~~or~~ self-help  
36 mortgage assistance programs, *construction training*, or ~~for~~  
37 technical assistance for self-help and shared housing  
38 homeownership. Loan funds may be used for *the* purchase of real  
39 property, site development, predevelopment, and construction  
40 period expenses incurred on homeownership development

1 projects, and permanent financing for mutual housing or  
2 cooperative developments. Upon completion of construction, the  
3 department may convert project loans into grants for programs of  
4 assistance to individual homeowners. Financial assistance  
5 provided to individual households shall be in the form of deferred  
6 payment loans, repayable upon sale or transfer of the homes, when  
7 they cease to be owner-occupied, or upon the loan maturity date.  
8 All loan repayments shall be used for activities allowed under this  
9 section, and shall be governed by a reuse plan approved by the  
10 department. Those reuse plans may provide for loan servicing by  
11 the grant recipient or a third-party local government agency or  
12 nonprofit corporation.

13 *(c) In administering the CalHome program, the department*  
14 *shall do all of the following:*

15 *(1) Allow borrowers to pay off debts or financial obligations*  
16 *within 90 days of escrow if CalHome funds are not used for that*  
17 *purpose.*

18 *(2) Permit borrowers to retain retirement account savings and*  
19 *education account savings and not require liquidation and*  
20 *application of those savings towards the home purchase.*

21 *(3) Impose reasonable fees and charges on borrowers in*  
22 *accordance with standard Federal Housing Administration*  
23 *financing practices.*

24 *(4) Permit mortgage brokers to collect reasonable fees and*  
25 *charges in accordance with standard industry financing practices.*

26 *(5) Permit room additions to qualify for rehabilitation*  
27 *financing when needed to help relieve overcrowded conditions.*

28 *(6) Permit assistance in purchasing new and existing homes*  
29 *with or without rehabilitation.*

30 *(7) Permit higher per home and per project levels of assistance*  
31 *in higher cost areas.*

32 *(8) Impose reasonable loan limits in accordance with standard*  
33 *Fannie Mae and Freddie Mac financing practices.*

34 SEC. 7. Section 50650.4 of the Health and Safety Code is  
35 amended to read:

36 50650.4. To be eligible to receive a grant or loan, local public  
37 agencies or nonprofit corporations shall demonstrate sufficient  
38 organizational stability and capacity to carry out the activity for  
39 which they are requesting funds, including, where applicable, the  
40 capacity to manage a portfolio of individual loans over an

1 extended time period. Capacity may be demonstrated by  
2 substantial successful experience performing similar activities, or  
3 through other means acceptable to the department. *In*  
4 *administering the CalHome program, the department shall permit*  
5 *local agencies and nonprofit corporations to apply their own*  
6 *underwriting guidelines when evaluating CalHome rehabilitation*  
7 *loan applications, following prior review and approval of those*  
8 *guidelines by the department, and shall permit department*  
9 *approval of the organization's program rather than approval of*  
10 *individual assistance to each homeowner.* In allocating funds, the  
11 department shall utilize a competitive application process, using  
12 weighted evaluation criteria, ~~including, but not limited to, and~~  
13 ~~award priority on the basis of~~ (a) the extent that the program or  
14 project utilizes volunteer or self-help labor, trains youth *and young*  
15 *adults* in construction skills, or involves community participation,  
16 and (b) whether the program or project contributes toward  
17 community revitalization. To the extent feasible, the application  
18 process shall ensure a reasonable geographic distribution of funds.

19 SEC. 8. Section 50650.5 of the Health and Safety Code is  
20 amended to read:

21 50650.5. For the purposes of this chapter, ~~mutual~~:

22 (a) *Mutual housing and limited equity cooperative housing*  
23 *shall be deemed to be forms of homeownership. For these project*  
24 ~~types: (a) program and developments of those types of housing, as~~  
25 ~~defined in subdivision (b), shall be eligible to receive assistance~~  
26 *under the CalHome program. The department may require that*  
27 *mutual housing or limited equity cooperative applicants not*  
28 *simultaneously apply for and receive funding through the*  
29 *department's rental housing programs for the same projects for*  
30 *which CalHome assistance is sought. For mutual housing and*  
31 *limited equity cooperative projects, all of the following shall*  
32 *apply:*

33 (1) *Program funds shall be used for project development costs*  
34 ~~only; (b) the only.~~

35 (2) *The department shall enter into a regulatory agreement*  
36 *limiting occupant incomes, occupancy charges, and share*  
37 *purchase terms for 55 years; and (c) notwithstanding years.*

38 (3) *Notwithstanding Section 50650.3, program assistance shall*  
39 *be provided in the form of a deferred payment loan.*

1 (b) As used in this section, "mutual housing development"  
2 means a housing development owned and sponsored by a nonprofit  
3 corporation or a limited partnership in which the nonprofit  
4 corporation is the sole general partner, and all of the following  
5 requirements are met:

6 (1) The nonprofit corporation is exempt from taxes under  
7 Section 501(c)(3) of the Internal Revenue Code or subdivision (d)  
8 of Section 23701 of the Revenue and Taxation Code.

9 (2) The nonprofit corporation has as one of its principal  
10 purposes the advancement of mutual housing.

11 (3) A majority of the board of directors of the nonprofit  
12 corporation sponsor are residents or former residents of  
13 developments sponsored by the nonprofit corporation.

14 (4) The nonprofit corporation agrees to assist the residents of  
15 the development in setting up a resident council, and the operating  
16 budget for the development provides for ongoing financial support  
17 to allow the resident council to carry out its activities.

18 (c) Lower income participants in a qualified mutual housing  
19 development that is assisted pursuant to this chapter shall not be  
20 required to have a vested ownership interest in the property.

21 SEC. 9. Section 30500.1 of the Public Resources Code is  
22 amended to read:

23 30500.1. (a) No local coastal program shall be required to  
24 include housing policies and programs.

25 (b) The commission shall encourage housing opportunities for  
26 persons of low and moderate income. In reviewing residential  
27 development applications for low- and moderate-income housing,  
28 the commission may propose and apply measures that reduce  
29 adverse impacts on coastal resources, but not measures that reduce  
30 residential densities below the density sought by an applicant if  
31 within the permitted density or range of density established by  
32 local zoning plus the additional density permitted under Section  
33 65915.

34 (c) The commission may propose and apply policies to protect  
35 coastal resources, including, but not limited to, requiring  
36 consistency with local certified land use plans, encouraging  
37 location of development away from sensitive coastal resources and  
38 within, contiguous with, or in proximity to existing developed  
39 areas where adequate public services exist.

1     (d) *The commission may not propose and apply measures that*  
2 *have the effect of precluding the construction of low- and*  
3 *moderate-income housing developments at affordable housing*  
4 *cost, as defined in Section 50052.5 of the Health and Safety Code.*  
5     (e) *The Legislature finds and declares that higher density of*  
6 *residential development does not in and of itself constitute an*  
7 *adverse impact on coastal resources and further finds and declares*  
8 *that it is, in fact, protective of coastal resources to use land more*  
9 *efficiently by locating residential development within, contiguous*  
10 *with, or in proximity to, existing developed or newly developing*  
11 *areas consistent with state law.*





Introduced by Senator Morrow

February 21, 2003

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An act to amend Section 30235 of the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 681, as introduced, Morrow. Coastal resources: coastal commission: permits.

The California Coastal Act permits the construction of revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other construction that alters natural shoreline processes when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

This bill would revise that provision to prohibit the attachment of environmental mitigation requirements to permits for the maintenance or repair of existing seawalls.

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 30235 of the Public Resources Code is  
2 amended to read:  
3 30235. (a) Revetments, breakwaters, groins, harbor  
4 channels, seawalls, cliff retaining walls, and other ~~such~~  
5 construction that alters natural shoreline processes shall be  
6 permitted when required to serve coastal-dependent uses or to  
7 protect existing structures or public beaches in danger from

- 1 erosion and when designed to eliminate or mitigate adverse
- 2 impacts on local shoreline sand supply. Existing
- 3 (b) Existing marine structures causing water stagnation
- 4 contributing to pollution problems and fishkills should be phased
- 5 out or upgraded where feasible.
- 6 (c) Permits for the maintenance or repair of seawalls may not
- 7 include environmental mitigation requirements.

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