

CALIFORNIA COASTAL COMMISSION

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Fri-10b

May 10, 2003

TO: Coastal Commissioners and Interested Public

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

SUBJECT: **LEGISLATIVE REPORT FOR MAY 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

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 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.

Introduced 012/02/02
Status Passed Assembly Natural Resources, Passed Assembly Appropriations, On Assembly Floor

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, Passed Assembly Ag & Water, Referred to Assembly Appropriations

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 Re-referred to Assembly ES&TM
Last Amended 04/22/03

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 Passed Assembly Natural Resources, Referred to Assembly Transportation
Last Amended 03/20/03

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.

Introduced 02/04/03
Status Passed Assembly Transportation Committee, Passed Assembly Natural Resources Committee, Referred to Assembly Appropriations Committee
Last Amended 03/20/03
Commission Position Support

AB 314 (Kehoe) Desalination Facilities

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

Introduced 02/07/03
Status Passed Assembly Water Parks and Wildlife Committee
Last Amended 04/01/03

AB 586 (Koretz) Litter and Marine Debris

This bill would impose a 2-cent fee on retailers who provide disposable plastic bags or cups made from less than 40% recycled material, and require that commercial establishments that encourage smoking outside their facilities provide ashtrays for cigarette butts. The fees would be divided between the Coastal Commission, Department of Parks and Recreation, Department of Conservation, CalTrans, for the purpose of providing grants to local governments and non-profit organizations for project related to recycling, litter control and reducing marine debris and litter.

Introduced 02/18/03
Status Referred to Assembly Natural Resources Committee. Bill held in Committee
Last Amended 04/22/03

AB 907 (Pavley) Environmental Education

This bill would require the State Board of Education and the State Superintendent of Education to adopt statewide content standards for environmental education, as defined. The Board would be required to adopt content and performance standards for the new curriculum.

Introduced 02/20/03
Status Passed Assembly Education Committee, Referred to Assembly Appropriations Committee.
Last Amended 04/21/03
Commission Position Support

AB 947 (Jackson) Ocean Resources

This bill would require all state agencies to follow five priorities when planning and constructing coastal erosion projects in the following order: hazard avoidance, restoring natural sand supplies, beach nourishment, structure relocation, hard structure development. The bill would also require applicable state agencies, including the Coastal Commission, to complete a Coastal Sediment Management Master Plan within two years.

Introduced 02/20/03
Status Passed Assembly Natural Resources Committee, Referred to Assembly Appropriations Committee
Last Amended 04/22/03

AB 974 (Nation) Coastal Zone: Native American Sites

This bill would amend section 30244 of the Coastal Act to require avoidance and mitigation measures for new development that would adversely impact archeological and paleontological resources, and protect Native American cultural sites and sacred sites from significant disturbance.

Introduced 02/20/03
Status Passed Assembly Natural Resources Committee, Referred to Assembly Appropriations Committee
Last Amended 04/22/03
Commission Position Support

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
Status Passed Assembly Natural Resources Committee, Referred to Assembly Appropriations Committee

AB 1517 (Plescia) Stormwater

This bill states that it is the intent of the Legislature to utilize science based, results oriented, cost-effective water quality programs that draw upon the strengths of municipalities and reduce duplication of state and local agencies when implementing stormwater permits.

Introduced 02/21/03
Status Referred to Assembly Natural Resources Committee
Last Amended 04/07/03

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 Passed Senate E.Q., Referred to Senate Appropriations
 Last Amended 04/01/03

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 Passed Senate E.Q., On Senate Floor

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% by weight 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 Passed Senate NR&W, Referred to Senate Appropriations
 Last Amended 04/02/03

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
Status Passed Senate Ag and Water, Referred to Senate Appropriations
Last Amended 04/08/03

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 Executive Directors of both the Commission and 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 Passed Senate NR&W, Referred to Senate Appropriations
Last Amended 04/22/03

SB 619 (Duchenev) Housing

As amended, the relevant section of this bill would amend Section 30604 of the Coastal Act to encourage low and moderate income housing, and prevent the Commission and issuing agencies from requiring measures that reduce residential densities of low and moderate income housing project below the density sought by an applicant if that density is within the permitted density established by local zoning, unless a finding is made that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program. The bill also makes legislative findings that efficient land use is in fact protective of coastal resources.

Introduced 02/20/03
Status Passed Senate H&CD, Referred to Senate Natural Resources
Last Amended 04/21/03

Commission Position: Oppose Unless Amended. Recommend Neutral.

SB 681 (Morrow) Coastal Commission: Permits

This bill would prohibit coastal development permit conditions that require environmental mitigations for repairing or maintaining seawalls.

Introduced 02/21/03
Status Referred to Senate Natural Resources

Commission Position: Oppose

SB 744 (Dunn) Housing

This bill would create the Housing Accountability Committee, consisting of 5 members appointed as specified, to hear appeals of local government decisions that deny or condition affordable housing projects. It would exempt conditions or mitigation measures imposed pursuant to a coastal development permit.

Introduced 02/21/03
Status Passed Senate Housing, Referred to Senate Appropriations
Last Amended 04/21/03

BILL ANALYSIS; SB 236 (Alpert)

SUMMARY

This bill would prohibit the use of trawl nets after January 1, 2007, except in certain circumstances, unless the Fish and Game Commission determines that the activity does not cause significant environmental damage. Until 2007, trawl fishing would be subject to a temporary permitting process. SB 236 also establishes a program to transition trawl fishers into other, more environmentally benign fisheries, and authorizes the Fish and Game Commission to charge fees and administer an economic assistance program to affected fishers.

PURPOSE OF THE BILL

The purpose of this bill is to give the Fish and Game Commission the authority to regulate the trawl fishery in a way that reduces bycatch, promotes less damaging trawl practices, and eliminates the most destructive trawling gear.

EXISTING LAW

The California trawl fishery is not actively managed by a single state or federal agency or entity. For instance, Halibut is managed directly by the Legislature and has no annual quota. Pink shrimp also has no quota but is managed by the Fish and Game Commission, which currently allows certain types of trawl gear that are banned in Oregon waters. The National Marine Fisheries Service has closed most of the West coast continental shelf to fishing for rockfish, but some trawlers are exempt in some areas in California because rockfish is not their "target" catch.

LEGISLATIVE HISTORY

None.

ANALYSIS

SB 236 would establish an interim permit process whereby the F&G Commission would issue temporary trawl permits to operators who agree to allow on-board observers, test particular gear and methods and gather essential information relating to the amount and type of bycatch through 2007. Permits may be revoked if bycatch exceeds maximum standards. Use of certain gear would be immediately prohibited.

After 2007, the F&G Commission may utilize the data and information collected during the interim period to designate areas where trawling would be prohibited, and to regulate specific practices and types of gear. The F&G Commission would be authorized to set and collect fees associated with trawl activities and data collection, and to administer a program to provide economic assistance to affected trawlers in the form of loans, boat buy-backs, and purchase of new equipment.

This bill does not apply to scientific trawling or mid-water trawls where the gear does not contact the sea floor.

Numerous studies (see Thrush and Dayton 2002, Kaiser 2002, Sparks-McConkey and Watling, 2001, Engel and Kvittek 1998, Watling and Norse 1998) have concluded that trawl fishing causes widespread disruption and destruction of benthic habitats and seabed communities. Trawling gear can crush, bury and expose marine life and substrate, and recovery is often slow if it occurs at all. In some cases, the habitat is wholly and fundamentally changed as a result, with a net loss of biodiversity.

Bycatch of non-target species is particularly problematic from an environmental standpoint. The bycatch data for species covered by the bill is spotty or in some cases non-existent, which underscores the need for additional data collection. But worldwide, bycatch estimates vary widely for each fishery, but virtually universally exceed the target species. In California, the bycatch data for the recently closed spot prawn fishery was 8-18:1, that is, for every pound of spot prawn landed, 8 to 18 pounds of other species were also taken.

The current management of trawl fishing can be described as piecemeal at best. Various aspects of the various fisheries are partly addressed by the Legislature, the Fish and Game Commission, and the National Marine Fisheries Service. The lack of comprehensive, holistic management that sets sustainable quotas, designates appropriate areas and regulates equipment and practices is contributing to plummeting populations of both target and non-target species. Assigning broad management authority to the Fish and Game Commission will allow for greater understanding and oversight of trawl fishing, and contribute to the recovery of impacted species. Authorizing the Commission to administer economic assistance programs to affected fishers could help offset the loss of jobs and investments in boats and equipment, but it should be noted that these programs are not funded through this bill.

SUPPORT/OPPOSITION

Support:

California Conference of Machinists

Defenders of Wildlife

International Association of Machinists and Aerospace Workers, Local Lodge W459

Natural Resources Defense Council (sponsor)

Oceana

Planning and Conservation League

Sierra Club, California

The Ocean Conservancy

United Anglers Marine Resource Conservation Program (sponsor)

Opposition:

Alliance of Communities for Sustainable Fisheries

California Fisheries and Seafood Institute

California Wetfish Producers Association

City of Crescent City

City of Monterey

City of Santa Barbara

County of Del Norte

Fishermen's Marketing Association

F/V City of Eureka

F/V Pollux

Pacific Choice Seafood

Pacific Coast Federation of Fishermen's Associations

Port San Luis Harbor Commission

Southern California Trawlers Association

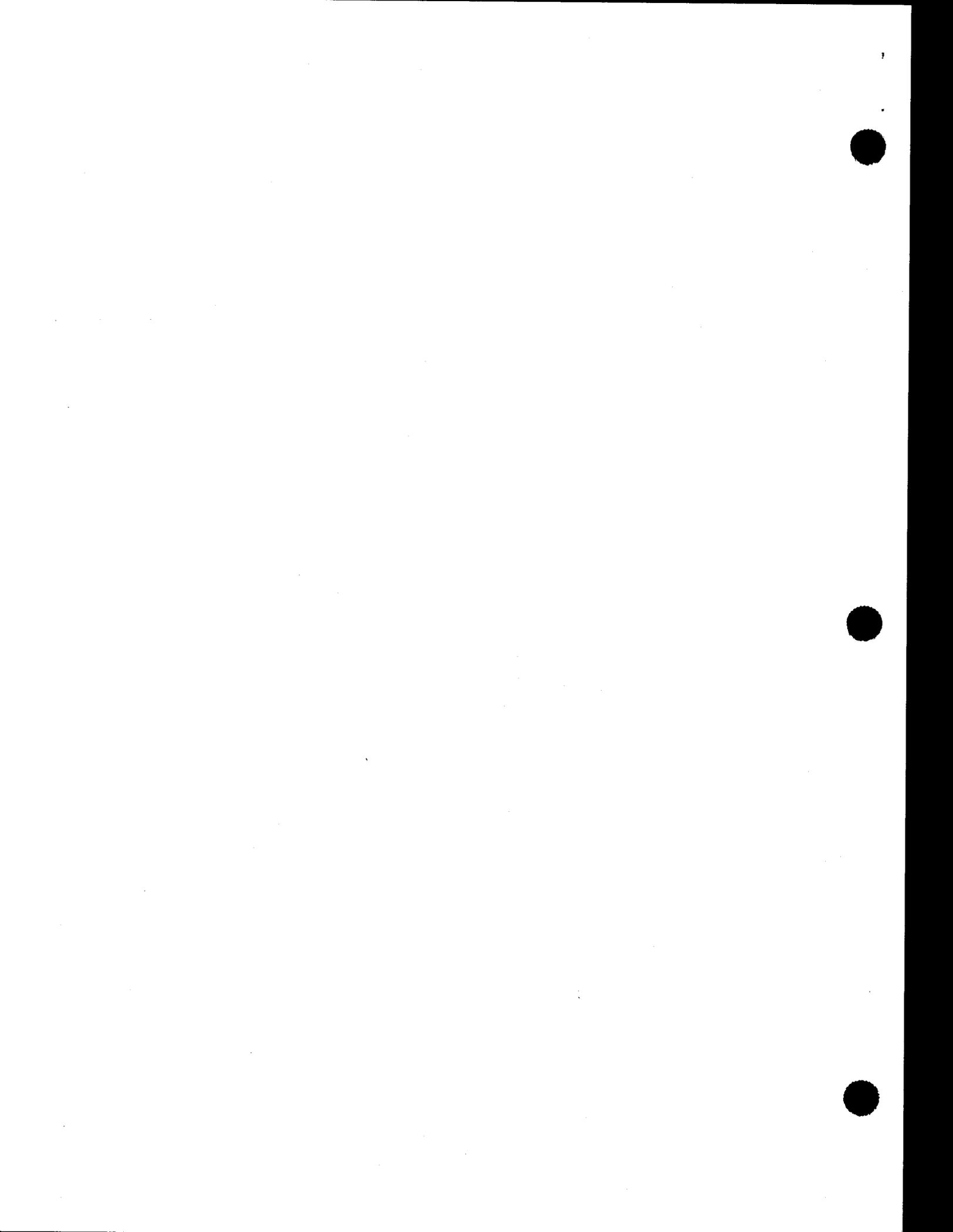
Women's Coalition for Pacific Fisheries

RECOMMENDED POSITION

Staff recommends the Commission **Support** SB 236.

LEGISLATIVE STAFF CONTACT

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LEGISLATIVE BILL

SB 236 (Alpert)



BILL NUMBER: SB 236 AMENDED
BILL TEXT

AMENDED IN SENATE APRIL 2, 2003

INTRODUCED BY Senator Alpert
(Coauthor: Assembly Member Harman)

FEBRUARY 14, 2003

An act to add Section 8841 of the Fish and Game Code, relating to fishing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 236, as amended, Alpert. Fishing: bottom trawling.

(1) Existing law generally permits the use of trawl nets, as defined, for the taking of fish and other marine life, except as otherwise prohibited for specific species or in various areas of the state.

This bill, notwithstanding those provisions, would prohibit *as of January 1, 2007* 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 trawl vesseling ~~produces an~~ *limits* the average bycatch, as defined, the operator of each vessel meets certain requirements and participates in an observer program, and that the bottom trawling does not cause significant environmental harm to the ocean floor. The bill would exempt from that prohibition the use of trawl nets pursuant to a scientific research permit and the use of trawl nets to target certain fish in a manner in which the nets and related gear do not contact the ocean floor.

The bill would grant the commission authority to manage bottom trawl fisheries, and would require the commission to establish a transition ~~period~~ *program* for bottom trawlers to shift to ~~increased selectivity~~ *facilitate conversion of bottom trawlers to more sustainable gears*. The bill would require the commission to establish an economic assistance program for commercial fishermen and women who are adversely affected by the provisions of the bill, and would grant the commission authority to establish fees to cover the costs of administering this program.

(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department and the commission to pay all necessary expenses incurred in carrying out the Fish and Game Code and to pay the compensation and expenses of the commissioners and employees of the commission. Unless otherwise provided, all money collected under the code is deposited in the fund.

By imposing new duties on the commission and the department and increasing revenues deposited in the fund, this bill would make an appropriation.

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

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

SECTION 1. Section 8841 is added to the Fish and Game Code, to read:

8841. (a) The Legislature hereby finds and declares all of the following:

(1) That fish and other marine life associated with ocean floor habitats within state waters constitute valuable and renewable natural resources. These natural resources are an essential component of marine biodiversity, contribute to the food supply, economy, and health of the people of California, support the economies of coastal communities, and provide recreational opportunities.

(2) The people of California are dependent upon healthy and diverse ocean ecosystems for livelihood, recreation, nutrition, medicines, raw materials, quality of life, and valuable natural processes.

(3) Diverse types of marine species and plants are found in marine habitats, many of which have not been adequately studied for their potential benefit to society or their ecological importance to fish species and other forms of marine life.

(4) Habitat complexity and marine biodiversity on the seafloor are essential to numerous fish species, including commercially and recreationally harvested species that rely on them for food and shelter from predation.

(5) The process of bottom trawling reduces habitat complexity ~~and biological diversity by smoothing geologic bedforms and by removing, crushing, burying, and exposing benthic organisms to predators and scavengers.~~

~~(6) The reduction of biodiversity caused by bottom trawling is detrimental to many environmentally, commercially, and recreationally important species and to the industries and the people that depend on them.~~

~~(7) and biological diversity.~~

(6) Bottom trawling is a wasteful and nonselective form of fishing that is marked by large bycatches, resulting in the death of nontargeted species essential to marine ecosystems.

~~(8)~~

(7) Numerous scientific studies show that bottom trawling has a deleterious impact on marine species, plants, and other organisms that live on or near the ocean floor or are dependent on those species, plants, or other organisms.

~~(9) Bottom trawling in these habitats significantly reduces their value for economically and ecologically important fish and other marine life.~~

(8) Impacts on ~~both~~ sandy bottom and more structurally complex marine environments may be long-term ~~and irreversible~~. Recovery of some of these areas to their natural state after trawling ~~may take decades. With repeated trawling in the same area, the damage may be irreversible.~~

~~(10) The protections provided to the marine environment should be as effective as those provided to the terrestrial environment.~~

~~(11) may take decades.~~

(9) It is the intent of the Legislature to promote sustainable fisheries and fishing practices that maintain healthy ocean habitat and limit bycatch to acceptable types and amounts, so

that the long-term productivity of the resource is not sacrificed in favor of short-term gains.

~~—(12) Prohibiting bottom trawling, unless the trawling has limited bycatch and does not cause significant environmental harm to the ocean floor is a practical, precautionary, and enforceable measure to improve protection for environmentally sensitive benthic marine habitats.~~

~~—(13)~~

(10) It is necessary to grant the commission authority over all state-managed bottom trawl fisheries, in order to ensure an orderly phaseout and transition to increased selectivity where feasible, and to provide ongoing oversight of bottom trawl vessels that demonstrate their compliance with the environmental standards of this section.

~~—(14)~~

(11) Commercial fishermen and women who are displaced by reductions in — the bottom trawl fisheries affected by this section should receive economic assistance to encourage a transition out of those fisheries.

(b) The commission is hereby granted authority to manage all bottom trawl fisheries not currently managed by the National Marine Fisheries Service, consistent with the requirements of this section and in accordance with the requirements of Part 1.7 (commencing with Section 7050), including, but not limited to, the following:

- (1) Halibut.
- (2) Sea cucumber.
- (3) Ridge-back, spot and golden prawn.
- (4) Pink shrimp.

(c) Notwithstanding any other provision of law, as of January 1, 2007, the department may not authorize the use of trawl nets to take fish or other marine life from the ocean floor, unless the commission determines, based ~~on performance during a transition period and thereafter, that the~~ on information gathered during the transition program and thereafter, or on information documented through the federal observer program or program of similarly qualified observers, that the trawl vessel meets all of the following requirements:

(1) ~~Produces~~ Limits bycatch to a minimum and produces an average fish bycatch of less than 15 percent of the total catch ~~in the target fishery and catches~~ by weight. For vessels participating in the program created by this section, any landed fish that are managed under a state or federal fishery management plan (FMP) and landed in compliance with that FMP shall be considered target species and not bycatch.

(2) Catches no more than 50 pounds of prohibited species per trip. Prohibited species, for the purpose of this part, means any species designated by the National Marine Fisheries Service or the State of California as overfished ~~and caught by~~ the bottom trawl fisheries, unless retention is authorized by other applicable laws, and any species prohibited under California law. ~~The commission may establish a list of other species that it determines should be considered prohibited species.~~

~~—(2) The operator of the vessel does all of the following:~~

~~—(A) Minimizes its catch of prohibited species.~~

~~—(B)~~

(3) After allowing for sampling by an observer, if an

observer is aboard, sorts its catch immediately after retrieval of the gear and returns all prohibited species or parts thereof to the sea immediately, with a minimum of injury, regardless of their condition, pursuant to guidance by the commission.

~~—(C)~~

(4) Produces an average catch of structure-forming organisms or bottom habitat of less than 15 pounds per trip. As used in this section, "structure-forming organisms" means sessile invertebrates that create physical structures that are used by other organisms as habitat, including colonial bryozoans, hydroids, seapens, anemones, corals, and sponges. "Bottom habitat" includes rocks and boulders.

(5) Does not cause other significant environmental harm to the ~~ocean floor.~~ Examples of environmental harm include but are not limited to:

~~(i) Substantial adverse impacts on federally overfished species or species listed under the Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).~~

~~(ii) Interference with the use of migratory corridors or nursery sites of ocean fish and wildlife, including marine mammals and birds.~~

~~(iii) Conflict~~ ocean floor. Significant environmental harm is presumed if the activity conflicts with habitat protection measures adopted by the California Fish and Game Commission, the Pacific Fishery Management Council, or National Marine Fisheries Service.

~~(iv) Damage to bottom habitat as indicated by significant presence in trawl nets of corals, rocks, invertebrates or other non fish bycatch, or through other documentation.~~

~~—(D)~~

(6) Immediately stops fishing when any target, bycatch, or discard fishing quotas are reached, according to this section, and does not resume fishing until new quotas are available.

(7) Following the transition ~~period~~ program, participates in an observer program that covers at least ~~50~~ 20 percent of the annual trips, unless greater coverage is required under a federal or state program.

(d) The commission shall establish a transition ~~period~~ program for bottom trawling ending on or before January 1, ~~2006~~ 2007. During that ~~period, the commission shall encourage bottom trawlers to shift to increased selectivity where that shift will not contribute to~~ program, the commission shall facilitate the conversion of bottom trawlers to more sustainable gears, where that conversion will not contribute to overcapacity or overfishing.

(1) Bottom trawling during the transition period shall occur only under ~~experimental fishing permits (EFPs)~~ transitional trawl permits (TTPs) that meet the following conditions:

(A) ~~Each EFP~~ On or before March 1, 2004, each TTP shall have a plan for gathering essential information, including amount and makeup of bycatch, the location of fishing effort, and habitat types, verified by an onboard observer.

(B) Each ~~EFP~~ TTP shall have a plan for testing equipment or practices to ~~reduce bycatch.~~

~~(C) Bottom trawling in state waters, use of roller gear more than~~

~~8 inches in diameter and use of halibut trawl nets with mesh smaller than 7.5 inches shall be prohibited.~~ limit bycatch to acceptable types and amounts, and shall carry an observer for all the time spent fishing during at least one two-month period before January 1, 2006.

(C) Use of roller gear more than 8 inches in diameter shall be prohibited.

(2) The department may discontinue an ~~EFP~~ TTP at any time if fish bycatch is more than 15 percent of total catch by weight , or if catch of structure forming organisms or bottom habitat is more than 15 pounds per trip .

(e) After the transition program, the commission may issue a bottom trawl permit only to those vessels that meet the conditions in subdivision (c).

(f) The commission may specify, based on the information collected during the transition program, zones outside of which bottom trawlers may not fish.

(g) The commission shall establish a program to administer any available economic assistance for commercial fishermen and women who are adversely affected by restrictions on bottom trawling pursuant to this section. The program may include boat buybacks, financial assistance for the purchase of new equipment, loans, grants, and other assistance as the commission deems appropriate, subject to available funding.

~~(f)~~

(h) The commission is granted authority to establish fees to cover the cost of administering this section, including the cost of observers and collection and analysis of data.

~~(g)~~

(i) This section does not apply to either of the following:

(1) The use of trawl nets pursuant to a scientific research permit.

(2) The use of trawl nets to target midwater or pelagic fish in a manner in which the trawl nets and related gear do not contact the ocean floor.

