

## CALIFORNIA COASTAL COMMISSION

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# W-23

May 1, 2007

TO: Coastal Commission and Interested Public

FROM: Peter M. Douglas, Executive Director  
 Sarah Christie, Legislative Coordinator  
 Michael Endicott, Coastal Program Manager, North Central Coast District

SUBJECT: Legislative Report for May 2007

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.

*Bills on which the Commission has taken a position or are suggested for Commission action at this meeting are highlighted with a box.*

**Note: Information contained in this report is accurate as of 5/1/07. Changes in the status of some bills may have occurred between the date this report was prepared and the presentation date.**<sup>1</sup> Current status of any bill may be checked by visiting the California Senate homepage at [www.senate.ca.gov](http://www.senate.ca.gov). This report can also be accessed through the Commission's web homepage at [www.coastal.ca.gov](http://www.coastal.ca.gov).

### **Bills suggested for action by the Commission:**

AB 258 (Krekorian) Marine Debris: Plastic Discharge: Nurdles - **Support** (Page 2)

AB 1066 (Laird) Coastal resources; local coastal programs: sea level rise and climate change **Support if amended to integrate fully with Coastal Act process.** (Page 4)

SB 412 (Simitian) State Energy Resources Conservation and Development Commission:LNG terminals (Page 7). **No action** at this time, but FYI analysis attached.

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### Legislative Calendar

May 11	Last day for policy committees to hear and report fiscal bills for referral to fiscal committees
May 25	Last day for policy committees to meet prior to June 11
June 1	Last day for fiscal committees to hear and report bills to the Floor
June 8	Last day to pass bills from house of origin
June 11	Committee meetings may resume
June 15	Budget must be passed by midnight
July 13	Last day for policy committees to meet and report bills from first house
July 20	Summer recess begins at the end of session if Budget Bill has been enacted
Aug. 20	Legislature reconvenes
Aug. 31	Last day for fiscal committees to meet and report bills to the Floor
Sept. 7	Last day to amend bills on the Floor
Sept. 14	Last day for any bill to be passed. Interim Recess begins on adjournment of session
Oct. 14	Last day for Governor to sign or veto bills passed by the Legislature before Sept. 14

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<sup>1</sup> Terms used in this report relating to bill status. 1) "On Suspense" means bill is held in Appropriations because of potential costs to state agency. Bills usually heard by Appropriations near Fiscal Committee Deadline in June. 2) "Held in committee" means bill was not heard in the policy committee this year. 3) "Failed passage" means a bill was heard by policy committee but failed to get a majority vote. Reconsideration can be granted by the committee.

## **PRIORITY LEGISLATION**

### **AB 120 (Laird) Budget 2007-2008**

This bill would enact the California State Budget for fiscal year 2007-2008. No substantial changes are proposed to the Coastal Commission's budget.

Introduced 01/10/07  
Status Referred to Assembly Budget Committee

### **AB 141 (Saldaña) Water Quality: California Baja-California border region**

This bill would declare that it is the intent of the Legislature to enact legislation to improve water quality in the state's California-Baja California border region.

Introduced 01/17/07  
Status Assembly First Reading

### **AB 258 (Krekorian) Environment; marine debris; plastic discharge**

This bill would direct the state and regional water boards to implement a program to control the discharge of preproduction plastics from point and nonpoint sources. The program would include the development of best management practices to be used during the manufacturing, storing and transportation of those plastics.

Introduced 02/05/07  
Last Amended 04/09/07  
Status Assembly Appropriations Committee  
**Commission position Recommend support** (Analysis attached)

### **AB 319 (Nava) Emergencies: Tsunami hazard preparedness and mitigation**

This bill would establish the California Tsunami Steering Committee, including a representative from the Coastal Commission, to guide tsunami hazard preparation activities in the state. It would require the Office of Emergency Services to establish a statewide tsunami hazard mitigation program to maintain consistent planning efforts regarding preparation, communication, response, and mitigation in the event of a tsunami.

Introduced 02/13/07  
Last Amended 04/18/07  
Status Assembly Appropriations Committee

### **AB 350 (Blakeslee) Vegetation Mapping**

This bill would require the Department of Fish and Game (DFG) to develop a fine-scale multiple-attribute statewide vegetation layer map for habitat and wildland corridor identification. States legislative intent that the map build on the progress of DFG in mapping the state as part of its vegetation classification and mapping program.

Introduced 02/14/07  
Last Amended 04/10/07  
Status Assembly Appropriations Committee

**AB 719 (Devore) Energy: electrical generation: zero carbon dioxide emissions**

This bill would repeal the ban on new nuclear power generating facilities in California.

Introduced	02/22/07
Status	Failed passage in Assembly Natural Resources Committee

**AB 739 (Laird) Stormwater discharge**

This bill would require the State Water Resources Control Board to develop a framework for assessing the effectiveness of current stormwater management programs. It would establish grant criteria for Proposition 84 stormwater funding and develops a framework for assessing the effectiveness of municipal stormwater management programs.

Introduced	02/22/07
Last Amended	04/17/07
Status	Assembly Appropriations Committee

**AB 740 (Laird) Vessels: invasive species**

This bill would require in-water cleaning and record keeping for vessels that visit a California port. It directs the State Lands Commission to develop regulations by January 1, 2012 that would govern the management of hull fouling on vessels.

Introduced	02/22/07
Last Amended	04/17/07
Status	Assembly Appropriations Committee

**AB 828 (Ruskin) Wildlife Conservation**

This bill would require the Wildlife Conservation Board, in consultation with Department of Fish and Game, to investigate, study and determine what areas in the state are most essential as wildlife corridors and habitat linkages, and to make that information available to the public.

Introduced	02/22/07
Last Amended	04/18/07
Status	Assembly Appropriations Committee

**AB 992 (Brownley) Roads: stormwater containment**

This bill would require the Regional Water Quality Control Boards (RWQCBs) to issue a clean water certificate to a project proponent proposing to construct a new road or repair any portion of an existing road if the project proposes to install post-construction onsite controls that prevent the flow of stormwater into local water bodies from the surface of the road to the maximum extent feasible.

Introduced	02/23/07
Last Amended	04/10/07
Status	Assembly Transportation Committee

**AB 1056 (Leno) Ocean Protection Council: expenditures**

This bill would authorize the Ocean Protection Council (OPC) to establish a scientific advisory panel in consultation with the California Ocean Science Trust (COST), a nonprofit created by statute to use public and private resources to promote coastal and ocean research, education and management. It also authorizes OPC to expend funds without Coastal Conservancy approval in some cases.

Introduced 02/23/07  
Last Amended 04/18/07  
Status Assembly Appropriations Committee - on suspense

**AB 1066 (Laird) Coastal resources; local coastal programs**

This bill would require local governments to consider the impacts of sea level rise when preparing or amending a local coastal program for Commission certification.

Introduced 02/23/07  
Last Amended 04/09/07  
Status Assembly Appropriations Committee  
**Commission position Recommend support if amended** (Analysis attached.)

**AB 1074 (Houston) California State Conservation Permit**

This bill would require the Secretary of the Resources Agency to establish the California State Conservation Permit, with a permit specific to each of the 7 regions of the Department of Fish and Game. The permit would apply to projects by private landowners to implement conservation measures that enhance and restore wildlife habitat, improve water quality and quantity, or protect endangered or threatened species; that complies with the Natural Resources Conservation Service's Conservation Practice Standards and Specifications; and that uses funds from specified federal programs.

Introduced 02/23/07  
Last Amended 04/17/07  
Status Assembly Appropriations Committee

**AB 1096 (Devore) CEQA: housing exemptions report**

This bill would require the Office of Planning and Research (OPR) to report to the Legislature regarding the conditions in development of affordable housing projects affecting the use of existing statutory exemptions from CEQA.

Introduced 02/23/07  
Last Amended 04/26/07  
Status Assembly Appropriations Committee

**AB 1280 (Laird) Ocean resources**

This bill would authorize the expenditure of funds in the California Ocean Protection Trust Fund for the preparation of fisheries management plans pursuant to the Marine Life Management Act.

Introduced 02/23/07  
Status Assembly Appropriations Committee - on suspense

**AB 1338 (Huffman) Public resources: Local Coastal Programs (LCP): nonpoint source pollution**

This bill would require local governments to include an element on reducing nonpoint source pollution, when preparing or amending an LCP for Commission certification.

Introduced 02/23/07 Last Amended - 4/11/07  
Status Assembly Floor  
Passed Assembly Appropriations Committee - 11-5 (05/02/07)  
Passed Assembly Natural Resource Committee - 6-3 (04/16/07)  
**Commission Position Support** (04/11/07)

**AB 1396 (Laird) California Coastal Trail**

This bill would require the California Department of Transportation (Caltrans) to annually identify all excess property in the coastal zone, and provide that information to the State Coastal Conservancy, the Wildlife Conservation Board and the Department of Fish and Game, for the purpose of making those properties available for purchase or lease by a public agency to facilitate the development of the California Coastal Trail. It also would require Caltrans to consult with other state agencies re: trail implementation, and requires regional transportation planning agencies with jurisdiction in the coastal zone to coordinate with specified state agencies regarding development of the trail, and to include provisions for the Coastal Trail in their plans.

Introduced 02/23/07  
Status Assembly Appropriation Committee

**AB 1457 (Huffman) State Parks and Roads**

This bill would prohibit the construction of roads through State parks, unless the Director makes certain findings as specified. It also contains a provision for civil suits against any public agency that violates the requirements of the bill.

Introduced 02/23/07  
Status Held in Assembly Water, Parks and Wildlife Committee

**AB 1459 (Levine) California Coastal Act: coastal development**

This bill would prohibit the transfer, sale or conversion of a visitor serving facility, or any unit within a visitor serving facility, for full time or part time residential use.

Introduced 02/23/07  
Status Failed passage in Assembly Natural Resource Committee – 4-4-1 (04/23/07)  
**Commission Position Oppose** (04/11/07)

**AB 1470 (Huffman) Solar energy: Solar Hot Water and Efficiency Act of 2007**

This bill would create a \$250,000,000 subsidy program for solar hot water heaters with the goal of promoting the installation of 200,000 solar hot water systems in California by 2017.

Introduced 02/23/07  
Last Amended 04/12/07  
Status Assembly Appropriations Committee

**AB 1568 (Berg) Senator Wesley Chesbro Coastal Trail**

This bill designates a portion of the Ma-le'l Dunes in Humboldt County that is part of the California Coastal Trail as the Senator Wesley Chesbro Coastal Trail.

Introduced 02/23/07  
Status Assembly Appropriations Committee  
Set for hearing on 05/02/07

**SB 4 (Oropeza) State beaches: Smoking ban**

This bill would prohibit smoking tobacco in any form on any state beach or state park, other than in a parking lot.

Introduced 12/04/06  
Status Senate Natural Resources and Water Committee

**SB 10 (Kehoe) Airport land use commissions; San Diego County**

This bill would transfer the authority for coordination of airport land use planning from the current authority, the San Diego Regional Airport Authority, to a consolidated agency comprised of the San Diego Association of Governments, the Metropolitan Transit Development Board, and the North County Transit District. It would dissolve the existing Board of Directors and replace it with a 7-member Board of Directors, appointed locally.

Introduced 12/04/06  
Last Amended 02/14/07  
Status Senate Floor

**SB 54 (Ducheny) Budget 2007-2008**

This bill would enact the California State Budget for fiscal year 2007-2008. No substantial changes are proposed to the Coastal Commission's budget.

Introduced 01/10/07  
Status Referred to Budget & Fiscal Review Committee

**SB 157 (Wiggins) Tribal gaming; compact ratification**

This bill would ratify a tribal gaming compact between the State of California, the Big Lagoon Rancheria and the Los Coyotes Band of Cahuilla and Cupeno Indians to allow the transfer of rights to develop a casino at Big Lagoon in Humboldt County, to an urban site in the City of Barstow.

Introduced 01/30/07  
Status Senate Rules Committee  
**Commission Position Support (04/11/07)**

**SB 300 (Corbett) San Francisco Bay Conservation & Development Commission (BCDC) Penalties**

This bill would increase the amount of money in civil penalties the BCDC can impose on a person or entity from an amount not to exceed \$30,000 to an amount not to exceed \$100,000.

Introduced 02/15/07  
Status At Assembly desk

**SB 333 (Ackerman) Marine resources; Marine Life Protection Act**

This bill would make technical, non-substantive changes to the Marine Life Protection Act.

Introduced 2/20/07  
Status Referred to Rules Committee for assignment

**SB 412 (Simitian) State Energy Resources Conservation and Development Commission: LNG terminals**

This bill would require the California Energy Commission (CEC) to conduct an LNG Needs Assessment Study to be completed by November 1, 2008. The study shall include an assessment of future demand and supply, as well as a determination whether it is feasible to meet California's future natural gas needs without construction LNG terminals. It directs the CEC, in consultation with relevant state and federal agencies (including the Coastal Commission) to evaluate every proposed LNG project.

Introduced 02/21/07  
Last Amended 04/16/07  
Status Senate Appropriations Committee - set for hearing on 05/08/07  
**Commission Position** Recommend no action at this time. (Analysis attached)

**SB 821 (Kuehl) Land use: water supply planning**

This bill would require the California Research Bureau, by July 1, 2008, to provide a report to the Legislature covering the 2004, 2005, and 2006 calendar years that includes information relating to how existing water subdivision planning law is addressing the provision of adequate water supplies for proposed residential developments.

Introduced 02/23/07  
Last Amended 04/23/07  
Status Senate Appropriations

**SB 884 (Lowenthal) California Coastal Commission; gift or gratuity**

This bill would prohibit a Commission member from accepting a gift or gratuity from any person, or his hired representative, who has an application or business pending before the Commission. It would establish a civil fine not to exceed \$500.

Introduced 02/23/07  
Last Amended 04/30/07  
Status Senate Natural Resources and Water - set for hearing 05/08/07

**SB 911 (Wiggins) Emergency call boxes: public beaches**

This bill states that it is the intent of the Legislature to place emergency call boxes at regular intervals along public beaches.

Introduced 02/23/07  
Status Senate Rules Committee

**SB 939 (Wiggins) Klamath River: nutrient levels**

This bill would direct the North Coast Water Quality Control Board to take all appropriate action to reduce nutrient levels in the Klamath River to the maximum extent possible.

Introduced	02/23/07
Last Amended	04/17/07
Status	Senate Rules Committee

**SB 965 (Lowenthal) Oil spills; CalPORTS**

This bill would establish the California Physical Oceanographic Real Time System (CalPorts). It would also authorize the administrator of the Oil Spill Prevention and Response program to establish, operate and maintain a CalPorts information network linking existing and proposed technologies that provide critical environmental information for the purpose of increased navigational safety and efficiency.

Introduced	02/23/07
Last Amended	04/19/07
Status	Senate Appropriations. Set for hearing 05/07/07. Passed Senate Environmental Quality Committee – 6-0 (04/16/07).
<b>Commission Position</b>	<b>Support</b> (04/11/07)

**SCA 1 (McClintock) Eminent Domain**

This bill would amend the state constitution to prohibit the use of eminent domain by a public agency unless it is for a stated public use. The bill would require the consent of the land owner in most cases.

Introduced	12/04/06
Last Amended	02/05/07
Status	Senate Judiciary and Elections, Reapportionment & CA Committees

**Please contact Michael Endicott at (415) 904-5260 with any questions on material contained in this report.**



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**BILL ANALYSIS**  
**AB 258 (Krekorian)**  
As Amended, April 9, 2007

**SUMMARY**

AB 258 requires the State Water Resources Control Board (SWRCB) and regional water quality control boards (RWQCBs) to implement a program to control discharges of preproduction plastic, which are plastic pellets, plastic resin products, powdered coloring for plastics, plastic additives, plastic materials, and plastic fragments (aka. nurdles). The program would include: a) waste discharge, monitoring, and reporting requirements for facilities that handle preproduction plastic; b) best management practices (BMPs) for manufacturing, handling, and transportation facilities to control discharges of preproduction plastic; c) a certification process by which a facility could gain a "no exposure" status which would exempt it from needing BMPs.; and, d) a fee schedule to fund the boards' activities.

**PURPOSE OF THE BILL**

The purpose of this bill is to establish a plastic debris eradication program to reduce the amount of plastic entering the marine environment, harming marine life and degrading ocean and coastal water quality.

**EXISTING LAW**

Under Section 30231 of the Coastal Act, the Commission is required to protect, and where feasible, restore, the biological productivity of coastal waters by minimizing the adverse effects of runoff. The Commission also must protect the biological productivity and quality of the coastal waters, wetlands and rivers by minimizing the effects of waste water discharge and controlling runoff under Sections 30230 and 30231.

The U.S. Environmental Protection Agency (USEPA) is primarily responsible for water quality regulation and enforcement. However, much of the implementation of the federally mandated water quality control programs is delegated to the SWRCB, which also administers the state's independent body of water quality law, the Porter-Cologne Act. The federal program authorizes the SWRCB, and the RWQCBs, to issue waste discharge requirements for the discharge of stormwater by municipalities and industries in accordance with the federal national pollutant discharge elimination system (NPDES) permit program.

The Marine Plastic Pollution Research and Control Act of 1987 prohibits the at-sea disposal of plastic and other solid materials for all navigable waters within the United States. The law also requires USEPA, the National Oceanic and Atmospheric Administration, and the US Coast Guard to jointly conduct a public education program on the marine environment. USEPA conducts a National Marine Debris Monitoring Program at designated beaches every 28 days.

**PROGRAM BACKGROUND**

In July of 1999, the Commission and the SWRCB jointly released a draft nonpoint source program entitled California's Nonpoint Source Pollution Control Program. California was the first state in the nation to gain federal approval for both segments of the plan as mandated under the Clean Water Act Section 319. The Commission works in coordination with the SWRCB and the RWQCBs to minimize nonpoint source pollution through a MOU signed in February 2000.

The Commission also independently promotes the use of best management practices (BMPs) that are effective at mitigating the impacts of nonpoint source pollution from development when issuing coastal development permits.

## **ANALYSIS**

Marine debris has become a severe problem along shorelines, coastal waters, estuaries, and oceans throughout the world. In addition to being unsightly, it poses a serious threat to everything with which it comes into contact. Marine debris can be life threatening to marine organisms and can strongly impact coastal communities and the fishing industry.

AB 258 deals with land originated, marine debris from stormwater runoff, solid waste, floating structures, poorly maintained garbage bins and dumps. According to the proponents, land based litter constitutes nearly 80% of the marine debris found on our beaches and oceans, and 90% of it is plastic.

This debris threatens marine life because they confuse the debris for food. Small pieces of preproduction plastic, plastic cups, bags, and cigarette filters are often found in the stomachs of fish, birds, whales, and other marine creatures.

Recent studies by the Algalita Marine Research Foundation and the Southern California Coastal Water Research Project have found that the average mass of plastics in the seawater off the coast of Long Beach is two and a half times greater than the average mass of plankton. After storms with excessive runoff, the mass of plastics is even greater. A similar study of seawater 1,000 miles west of San Francisco found the mass of plastics was six times the mass of plankton in drifts where marine animals congregate for feeding on plankton. These plastics are discharged into waterways during transport, packaging, and processing when proper housekeeping practices are not employed. Because of their small size, these materials are not generally captured through traditional storm water catch basins.

## **SUPPORT/OPPOSITION (from Author's Office 4/30/07)**

### **Support for AB 258:**

Algalita Marine Research Foundation  
Baykeeper  
Californians Against Waste  
California League of Conservation Voters  
Coastkeeper Alliance  
Defenders of Wildlife  
Environment California (co-sponsor)  
John Garamendi, Lieutenant Governor (co-sponsor)  
Heal the Bay (co-sponsor)  
Newport Beach Chapter of the Surfrider Foundation  
Ocean Conservation Society  
Planning and Conservation League  
San Diego Coastkeeper (co-sponsor)  
Santa Monica Baykeeper  
Sierra Club California

### **Opposition to AB 258:**

Stop Hidden Taxes Coalition

**LEGISLATIVE HISTORY**

Assm. Natural Resources      6-3 (04/16/07)  
Assm. Appropriations      Not yet set for hearing.

**RECOMMENDED POSITION**

Staff recommends the Commission **Support** AB 258.

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**BILL ANALYSIS**  
**AB 1066 (Laird)**  
As Amended April 9, 2007

**SUMMARY**

AB 1066 would require a local coastal government to consider the impacts of sea-level rise when preparing, adopting or updating a Local Coastal Program (LCP). It requires the Resources Agency, in coordination with the California Environmental Protection Agency (CalEPA) and the Governor's Office of Planning and Research (OPR) to assist land use agencies in planning for sea-level rise impacts on the California coast. The bill also directs the California Coastal Commission (Commission) to assist local coastal governments in obtaining state and federal grant funds to defray the costs associated with understanding and planning for climate change impacts.

**PURPOSE OF THE BILL**

The purpose of the bill is to improve planning in coastal communities for sea level rise due to climate change and to compile state of the knowledge information to assist communities in planning for sea level rise.

**EXISTING LAW**

The Coastal Act declares that, in order to promote the public safety, health, and welfare, public and private property, wildlife, marine fisheries, and ocean resources, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction. Careful planning is essential to the economic and social well-being of the people of the state (Pub.Res. Code Section 30001). Under PRC Section 30231, the Commission is required to protect, and where feasible, restore, the biological productivity of coastal waters by maintaining riparian habitat.

The Coastal Act directs a local government in the coastal zone to prepare a LCP to guide and manage coastal development. The LCP is comprised of a land use plan and zoning ordinance. The Act authorizes the Commission to certify a LCP, consistent with the Coastal Act, after which a local government assumes jurisdiction to issue coastal development permits (CDPs).

**BACKGROUND INFORMATION**

The Legislature found, in passage of the California Global Warming Solution Act of 2006 (AB 32), that climate change poses a serious threat to the economic well-being, public health, natural resources and the environment of California. AB 32 specifically identified sea level rise, displacement of coastal businesses and residences, and damage to the marine ecosystem as a major consequence of global warming.

The author's office points to the International Panel on Climate Changes (IPCC) for the underlying need for sea level rise planning.<sup>1</sup> The most recent IPCC (April 6, 2007) finds,

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<sup>1</sup> The IPCC was established by the World Meteorological Organization and the United Nations Environment Programme in 1988. The role of the IPCC is to assess the scientific, technical and socio-economic information relevant to understanding the scientific basis of risk of human-induced climate change, its potential impacts and options for adaptation and mitigation.

“Coasts are projected to be exposed to increasing risks, including coastal erosion, due to climate change and sea-level rise and the effect will be exacerbated by increasing human-induced pressures on coastal areas.”

A U.S. Geological Survey assessment of the California shoreline identifies flooding, levee stability, coastal erosion, cliff retreat and beach loss as the most significant impacts of future sea-level rise. Coastal areas near or along Eureka, the San Francisco Bay Area, Monterey, Santa Barbara, Los Angeles, and San Diego are the most vulnerable to these impacts. A 2006 study estimated the future rates of sea-level rise California can expect under three emission scenarios developed by the IPCC.<sup>2</sup> Compared to sea levels in 2000, the following ranges are predicted for years 2070-2099: lower (4.3-21 inches), middle (5.5-24 inches) and upper (6.7-28 inches).

Almost all coastal systems will be affected. Increased nearshore wave heights and wave energy will raise the potential for storm damage, beach erosion and bluff retreat. Ports and harbors will have reduced cargo transfer capability as ships ride higher along the dock. Wetlands may be inundated if they are not able to migrate either upward or landward. Groundwater aquifers will be a greater risk from saltwater intrusion.

The findings of the bill cite a recent CalEPA sponsored survey of federal, state, and local coastal managers in California regarding perceptions of sea level rise and related climate change impacts.<sup>3</sup> The survey indicates that coastal managers are concerned with the potential impacts associated with climate change on the coast, but that the majority of coastal managers are not addressing these impacts in their planning and development decisions on the coast to date. According to this study, "The sobering conclusion is that California is inadequately preparing for the impacts of climate change on coastal areas at this time. Local governments will need substantial support from state and federal agencies if the level of preparedness for climate change and other inundation-related risks is to be elevated in the future."

## **ANALYSIS**

AB 1066 requires the Resources Agency, in coordination with CalEPA and OPR, to assist coastal land use agencies in planning for sea-level rise impacts on the California coast by surveying science-based information that can assist in predicting future sea level rise along the coast in a format useful for coastal managers. It would identify information needs of coastal managers and provide for exchange of information among them about their responses to sea-level rise and related impacts.

This bill is also consistent with the policies and issues identified in the Commission's report, *Overview of Sea Level Rise and Some Implications for Coastal California*, (June 2001). This report points out that responses to sea-level rise will vary. The actions that can be taken in response include hard engineering (such as seawalls, revetments, breakwaters, levees and other structures built to protect inland areas), soft engineering (such as beach nourishment or vegetated buffers), accommodation/adaptation, and retreat. Careful review, siting and

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<sup>2</sup>Cayan, D., Bromirski, P., Hayhoe, K., Tyree, M., Dettinger, M., and Flick, R., Projecting Future Sea Level, Climate Change Center (March 2006)

<sup>3</sup>Moser, S., and Tribbia, J., Vulnerability to Inundation and Climate Change Impacts In California: Coastal Managers' Attitudes and Perceptions, Marine Technology Society Journal, v.40, n.3 (Fall 2006)

permitting of new projects on the coast can increase the likelihood that these projects will be able to adapt and change to accommodate future coastal hazards.

**Suggested Amendments:** As the bill is focused on land use planning mechanisms along the coast, the bill should include specific reference to the Commission in appropriate places where there is a nexus to the requirements of the Coastal Act and the role of the Commission (as page 3, lines 13-17 and lines 28-32). This would keep the bill consistent with the public process and standards of the Coastal Act.

**SUPPORT/OPPOSITION (from Author's Office 5/1/07)**

**Support for AB 1066:**

California Federation for Animal Legislation  
American Planning Association, California Chapter (if amended)  
The Nature Conservancy  
Sierra Club California

**Opposition to AB 1066:**

None on file.

**LEGISLATIVE HISTORY**

Assm. Natural Resources	6-3 (04/16/07)
Assm. Local Government	5-2 (04/25/07)
Assm. Appropriations	Not yet set for hearing.

**RECOMMENDED POSITION**

Staff recommends the Commission Support if amended to assure integration with the Coastal Act requirements and the Commission's jurisdiction as discussed in the Analysis section above.

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### BILL ANALYSIS

#### SB 412 (Simitian)

As Amended April 16, 2007

#### SUMMARY

SB 412 would require the California Energy Commission (CEC) to conduct a Liquefied Natural Gas (LNG) Needs Assessment by November 1, 2008. It directs the CEC to evaluate every proposed LNG project, and prohibits the construction of a LNG project without CEC's approval. SB 412 also requires the CEC to regularly update a publicly accessible matrix on its website which compares the progress of each applicant in meeting the steps necessary for obtaining a permit to build and operate.

#### PURPOSE OF THE BILL

According to the author, the purpose of the bill is to provide state decision-makers and the public with information necessary to evaluating LNG terminal proposals in a coherent fashion by a) providing a needs assessment, and b) compiling information which would allow comparisons of the merits and drawbacks of various potential LNG projects, as well as the progress a proposal is making through the approval process.

#### EXISTING LAW

The Coastal Commission reviews projects proposed to be constructed and operated in federal waters under the California Coastal Management Program (CCMP). It examines such projects for consistency with CCMP's policies which are derived under the federal Coastal Zone Management Act, Chapter 3 of the California Coastal Act, as well as state and local regulations designed to meet the requirements of the federal Clean Air Act and Clean Water Act.

The Warren-Alquist Act (WAA), grants the CEC exclusive authority to permit thermal power plants 50 megawatts and larger. The WAA authorizes the CEC to override other state, local or regional decisions and to certify a power plant it determines is required for "public convenience and necessity." In approving a proposed power plant, the CEC must find that the facility's construction and operation is consistent with a variety of environmental standards.

The CEC biennially assesses electricity infrastructure trends and issues facing California and recommends energy policies for the state to address such issues as part of its Integrated Energy Policy Report (IEPR).

#### BACKGROUND INFORMATION

SB 412 appears to derive its approach from the CEC's WAA process and regulatory authority for large thermal power plants, which was intended to streamline the environmental review and permitting process. By integrating a permit process with a planning process, WAA was intended to guard against under- or over-building of power plants. Under WAA, the CEC long-term forecasts of state energy needs served as the basis for planning and certification of individual power plants. That process has since been decoupled

According to the Senate Committee on Energy, Utilities and Commerce analysis, "California imports approximately 85% of its natural gas supply, primarily from gas fields in the Southwest, Rockies and Alberta, Canada. The 15% of supply derived from in-state sources is typically a lower quality gas, which must be blended with higher BTU gas, such as propane, to meet pipeline and end-use

specifications. Additional supplies of in-state gas are available, but remain untapped”. The CEC’s current projections show California’s demand for natural gas growing.

There are four LNG receiving and re-gasification terminals in the United States --in Louisiana, Georgia, Maryland and Massachusetts. Seven LNG terminals have been proposed for California, three onshore in Vallejo, Eureka, and the Port of Long Beach and four offshore along the Southern California coast. Plans for the Vallejo and Eureka plants have been abandoned. The Port of Long Beach plant, a partnership between Mitsubishi and ConocoPhillips called Sound Energy Solutions (SES), was denied by the Port in January, though the Port’s actions have been challenged in court by SES.

In April, the State Lands Commission (SLC) rejected a lease for seafloor pipelines by BHP Billiton, a sponsor of an offshore project known as the Cabrillo Port. In the same month, the Coastal Commission also objected to the applicant’s certification that the proposal was consistent with the policies of the CCMP.

At least three of the proposed LNG terminals are still being actively pursued. Sempra, the parent of San Diego Gas and Electric Company, is building a LNG plant near Ensenada, Mexico.

## **ANALYSIS**

As currently written, SB 412 gives the CEC new informational responsibilities, but also gives it new regulatory authority.<sup>1</sup> The current permitting process for offshore projects, where the terminals are outside of California waters, makes the U.S. Coast Guard the lead federal agency and gives the Governor authority to reject a project. The Coastal Commission has the responsibility to review the project impacts of activities in federal waters, state waters and the coastal zone. The State Lands Commission has authority to issue coastal development permits and leases for state lands.

**Author’s Perspective:** Senator Simitian intends for the processes in this bill to supplement, not replace, the current environmental review process, and it has moved forward though the legislative process as a “work in progress.” He observes that there are five different pending proposals to build LNG terminals onshore or offshore of California. Each proposal differs significantly in terms of technology, design, location, and impacts to public health, safety, the environment, military training and operations and vulnerability to terrorist attack. While SB 412’s current language does not reflect that there is particular consensus among all of the interest groups on any given element, there does seem to be some feeling that the current LNG terminal siting process could be improved.

**Senate Policy Committee Staff Analysis:** The Senate EU&C Committee analysis raised some questions, including: a) Is a “needs assessment” really needed; b) What state interests (and what criteria) should be evaluated; c) Is it appropriate to use the CEC powerplant process as a model; and, d) Is a new process even necessary if there is a limited need for landing LNG in California due to terminals being built in Oregon and Mexico?

**Support Perspective:** The supporters of this bill feel that improvements to the process are necessary for adequate understanding and informed decision-making, particularly in three areas: a) improved needs assessment; b) better criteria that must be met by potential LNG facilities, and c) greater transparency for consumer protection.

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<sup>1</sup> As SB 412’s language is set to be altered quite drastically, rather than describe the particulars of the current bill, this analysis will identify some of the key points raised in public testimony bill by interested parties. Hopefully, this will be more useful to informing the Commission of the state of discussions than a critique of specific bill provisions that will soon be gone.



**Opposition Perspective:** One potential LNG project, SES Terminal LLC, has opposed the bill and asserts it is a) unnecessary; b) in conflict with federal law (on environmental standards and proprietary information); c) overly burdensome (for considering sustainability and carbon neutrality of natural gas supply operations); and, d) unfair and preempted for requiring that 20% of capacity be reserved for open source supply.

**Sample of Other Potential Issues to Bear in Mind:**

**Regulatory Authority:** Are the responsibilities ultimately assigned to the CEC under SB 412 consistent with the Coastal Commission's jurisdiction and authority or might they undermine the Coastal Commission's ability to effectively carry out its responsibilities? Are the criteria for mitigation consistent with those of the CCMP?

**Needs Assessment:** What criteria are needed for defining the needs assessment to assure that the models adequately reflect the legal and actual implementation of recently enacted programs (such as the Renewable Portfolio Standard and Energy Efficiency Programs)? For instance, funding for energy efficiency programs has grown greatly in recent years. Are underlying modeling assumptions still correct, and do they examine appropriately both intrastate and extrastate activities? Are the right indicators selected that accurately portray natural gas supply availability and trends?

**SUPPORT/OPPOSITION (from Author's Office 5/1/07)**

**Support for SB 412:**

California Coastal Protection Network (sponsor)  
Environmental Defense Center  
Pacific Environment  
Planning and Conservation League  
Sierra Club California

**Opposition to SB 412:**

Sound Energy Solutions Terminal LLC (Mitsubishi/ConocoPhillips)

**LEGISLATIVE HISTORY**

Senate E,U & C	Passed 5-3-1 (04/24/07).
Senate Appropriations	Not yet set for hearing.

**RECOMMENDED POSITION**

Staff recommends that the Commission need not take any position at this stage especially as the current language in the bill is expected to change significantly.

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 258**

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**Introduced by Assembly Member Krekorian**  
**(Principal coauthor: Assembly Member Feuer)**  
**(Coauthors: Assembly Members Huffman, Karnette, and Portantino)**

February 5, 2007

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An act to add Section 30237 to the Public Resources Code, and to add Chapter 5.2 (commencing with Section 13367) to Division 7 of the Water Code, relating to the ~~environment~~ *water quality*.

LEGISLATIVE COUNSEL'S DIGEST

AB 258, as amended, Krekorian. Environment: marine debris: plastic discharges.

~~(1) Existing law, the California Coastal Act of 1976, provides for the maintenance, enhancement, or restoration of the marine environment, where feasible.~~

~~This bill would require the State Coastal Commission, to the extent feasible and within its existing resources: (1) to convene a multiagency task force, consisting of specified representatives from the commission, the Department of Fish and Game, the Department of Conservation, the State Water Resources Control Board, the California Integrated Waste Management Board, the Department of Boating and Waterways, the State Coastal Conservancy, and the San Francisco Bay Conservation and Development Commission, for the purpose of implementing a statewide marine debris reduction effort; and (2) to undertake certain actions, as specified. The bill would also make various legislative findings regarding marine debris.~~

~~(2) Under~~

*Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality. The state board and the regional boards prescribe waste discharge requirements for the discharge of waste in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. A person who discharges waste into the waters of the state in violation of waste discharge requirements, or other order or prohibition issued by a regional board or the state board, is required upon the order of that regional board or the state board, to clean up the waste or to abate the effects of the waste. The act authorizes the state board or a regional board to issue a cleanup or abatement order.*

*This bill would require the state board and the regional boards, by January 1, 2009, to implement a program for the control of discharges of preproduction plastics, as defined, from point and nonpoint sources, including waste discharge, monitoring, and reporting requirements for all that at a minimum, target facilities—handling that handle preproduction plastics and nonpoint sources involved in the transfer of preproduction plastic, and the implementation of specified best management practices for the control of discharges of preproduction plastic by plastic manufacturing, handling, and transportation facilities. The state board would be required to establish criteria for submittal of the no exposure certification by certain plastic manufacturing and processing facilities. A plastic manufacturing and process facility that is given a no exposure certification would not be required to implement the best management practices if all manufacturing, loading, unloading, and storage activities occur within the certified facility, unless required by the state board or a regional board. The bill would require the state board would be required to establish a fee schedule sufficient to pay for the costs of implementing the program.*

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) The increasing problem of marine debris is harmful to the  
2 marine resources, particularly sensitive species that ingest or  
3 become entangled in floating debris.

4 (b) Plastic is the most common type of marine debris,  
5 comprising up to 90 percent of floating marine debris.

6 (c) *The problem of plastic marine debris is increasing in*  
7 *California and the North Pacific Gyre, where densities of*  
8 *microplastics have tripled during the last decade.*

9 (e)

10 (d) Plastics are especially harmful to the marine environment  
11 due to their plastics' nondegradable qualities.

12 (e) *Thermoplastic resin pellets, commonly known as "nurdles,"*  
13 *plastic powders, and production scrap, all of which have been*  
14 *mistaken as food by marine life, are a significant source of beach*  
15 *pollution. One survey conducted in the summer of 1998 estimated*  
16 *that over 100 million nurdles were polluting Orange County*  
17 *beaches alone. This represented over 98 percent of all the pollution*  
18 *collected in terms of abundance and 17 percent in terms of weights.*

19 (f) *Plastics can contain potentially harmful constituents such*  
20 *as phthalates, bisphenol A, styrene, perfluorooctanoic acid, vinyl*  
21 *chloride, and flame retardants.*

22 (g) *Nurdles have been shown to adsorb chemicals from ambient*  
23 *seawater. Concentrations of pollutants, such as polychlorinated*  
24 *biphenyls and dichlorodiphenyldichloroethylene have been found*  
25 *to be up to one million times higher on nurdles than levels detected*  
26 *in surrounding seawater.*

27 (h) *Approximately 60 billion pounds of nurdles are*  
28 *manufactured annually in the United States alone.*

29 (i) *The presence of resin pellets is not unique to United States*  
30 *beaches and waters. Studies have shown an international*  
31 *proliferation of nurdles in the marine environment.*

32 (j) *Plastic and other debris litter our beaches and represents a*  
33 *threat to California's \$46 billion ocean-dependent,*  
34 *tourism-oriented economy, and in certain circumstances may pose*  
35 *a public health threat.*

36 (k) *State and local agencies spend millions of dollars per year*  
37 *in litter collection.*

38 (l) *The majority of trash capture best management practices,*  
39 *such as catch basin inserts, are not designed to capture nurdles.*

1 *The typical mesh in a catch basin insert is five millimeters while*  
2 *the nurdles diameter is one to two millimeters.*

3 ~~(d)~~

4 (m) A coordinated effort among state agencies is necessary to  
5 create a comprehensive response to reduce the harmful effects of  
6 marine debris.

7 ~~(e)~~

8 (n) Increased control over industrial discharges will reduce the  
9 amount of plastics entering the aquatic environment.

10 ~~(f)~~

11 (o) Eliminating marine debris from the world's oceans is a  
12 universal goal for government, industry, businesses, and  
13 individuals.

14 ~~SEC. 2. Section 30237 is added to the Public Resources Code,~~  
15 ~~to read:~~

16 ~~30237. The commission shall, to the extent feasible and within~~  
17 ~~its existing resources, take actions it deems appropriate to address~~  
18 ~~the issue of marine debris, including, but not limited to, all of the~~  
19 ~~following:~~

20 ~~(a) Increase public awareness of the issue of marine debris~~  
21 ~~through public outreach and education.~~

22 ~~(b) Improve coordination and collaboration among public~~  
23 ~~agencies, including local governments, to reduce marine debris.~~

24 ~~(c) (1) Convene a multiagency task force for the purpose of~~  
25 ~~implementing a statewide marine debris reduction effort.~~  
26 ~~Representatives on the task force shall include the Executive~~  
27 ~~Director of the commission, or a designee; the Director of Fish~~  
28 ~~and Game, or a designee; the Director of Conservation; a member~~  
29 ~~of, or the Executive Director of, the State Water Resources Control~~  
30 ~~Board as determined by that board; a member of, or the Executive~~  
31 ~~Director of, the California Integrated Waste Management Board,~~  
32 ~~as determined by that board; the Director of Boating and~~  
33 ~~Waterways; a member of, or the Executive Officer of, the State~~  
34 ~~Coastal Conservancy, as determined by the conservancy; and a~~  
35 ~~member of, or the Executive Director of, the San Francisco Bay~~  
36 ~~Conservation and Development Commission, as determined by~~  
37 ~~that commission.~~

38 ~~(2) Commencing in 2008, the task force shall submit a~~  
39 ~~semiannual written report to the Ocean Protection Council,~~  
40 ~~summarizing all of the progress made by public agencies and~~

1 organizations in addressing marine debris, and suggested actions  
2 to improve state efforts. The report's findings and  
3 recommendations shall be presented to the Ocean Protection  
4 Council as part of a noticed public meeting of the council.

5 (d) Seek funding from public and nongovernmental sources to  
6 support actions that further the purpose of this section to reduce  
7 the introduction of debris into the marine environment.

8 ~~SEC. 3.~~

9 SEC. 2. Chapter 5.2 (commencing with Section 13367) is added  
10 to Division 7 of the Water Code, to read:

11  
12 CHAPTER 5.2. PLASTIC DEBRIS ERADICATION PROGRAM

13  
14 13367. (a) For purposes of this chapter, "preproduction  
15 plastic" includes plastic pellets, plastic resin products, powdered  
16 coloring for plastics, plastic additives, plastic materials, and plastic  
17 fragments.

18 (b) The state board and the regional boards shall implement a  
19 program to control discharges of preproduction plastic from point  
20 and nonpoint sources. ~~The~~

21 (c) *The program* control measures shall, at a minimum, include  
22 waste discharge, monitoring, and reporting requirements ~~for all~~  
23 *facilities handling that target facilities that handle preproduction*  
24 *plastic and nonpoint sources involved in the transfer of*  
25 *preproduction plastics.*

26 (e)

27 (d) The program shall, at a minimum, require plastic  
28 manufacturing, handling, and transportation facilities to implement  
29 best management practices to control discharges of preproduction  
30 plastics. ~~Nothing in this chapter limits the authority of the state~~  
31 ~~board and the regional boards to establish requirements in addition~~  
32 ~~to best management practices for the elimination of discharges of~~  
33 ~~preproduction plastic.~~

34 (d) ~~The state board and the regional boards shall establish and~~  
35 ~~implement a monitoring and reporting program designed to achieve~~  
36 ~~zero discharge of preproduction plastic from facilities handling~~  
37 ~~preproduction plastics.~~

38 (e) *At a minimum, the best management practices shall include*  
39 *all of the following:*

1     (1) Zero loss containment systems shall be installed at all storm  
2     drains that are down-gradient of areas where preproduction plastic  
3     is present or transferred. A zero loss containment system is defined  
4     as a device or series of devices that traps all particles retained by  
5     a one millimeter mesh screen and has a design treatment capacity  
6     of not less than the peak flowrate resulting from a one-year,  
7     one-hour storm in the subdrainage area.

8     (2) At all points of transfer, preproduction plastic shall be  
9     received in completely sealed containers. The container shall be  
10    watertight and durable enough so as not to rupture under typical  
11    loading and unloading activities.

12    (3) At all points of preproduction plastic storage and transfer,  
13    preproduction plastic shall be stored in a manner that prevents  
14    discharge. Storage containers must be sealed, watertight, and  
15    durable enough so as not to rupture under typical loading and  
16    unloading activities.

17    (4) At all points of storage and transfer of preproduction plastic,  
18    capture devices shall be in place under all transfer valves and  
19    devices used in loading, unloading, or other transfer of  
20    preproduction plastic.

21    (5) A facility shall have a vacuum system available for quick  
22    cleanup of fugitive preproduction plastic.

23    (f) The state board shall establish criteria for submittal for the  
24    no exposure certification requirement by plastic manufacturing  
25    and process facilities subject to the national pollutant discharge  
26    elimination system permitting requirements pursuant to Section  
27    122.26 of Title 40 of the Code of Federal Regulations and the no  
28    exposure certification requirements pursuant to Section 122.26(g)  
29    of Title 40 of the Code of Federal Regulations.

30    (1) The criteria shall include specific procedures, controls, and  
31    best management practices necessary to achieve the zero discharge  
32    of preproduction plastic from facilities manufacturing and  
33    processing preproduction plastics.

34    (2) The no exposure certification shall be required annually.

35    (3) "No exposure" means that all industrial materials and  
36    activities are protected by a storm resistant shelter to prevent  
37    exposure to rain, snow, snowmelt, or runoff. Industrial materials  
38    and activities include, but are not limited to, material handling  
39    equipment or activities, industrial machinery, raw materials,  
40    intermediate products, byproducts, and final products, or waste

1 *products. Material handling activities include storage, loading*  
2 *and unloading, transportation, or conveyance, of a raw material,*  
3 *intermediate product, byproduct, final product, or waste product.*

4 *(g) If a plastic manufacturing and processing facility is given*  
5 *a no exposure certification and all manufacturing, loading,*  
6 *unloading, and storage activities occur within the certified no*  
7 *exposure facility, the facility is not required to implement the best*  
8 *management practices pursuant to subdivision (d), unless required*  
9 *by the state board or regional boards.*

10 ~~(e)~~

11 *(h) The state board shall establish a fee schedule sufficient to*  
12 *pay for the costs of implementing this chapter.*

13 ~~(f)~~

14 *(i) The state board and the regional boards shall implement this*  
15 *chapter by January 1, 2009.*

16 *(j) Nothing in this chapter limits the authority of the state board*  
17 *or the regional boards to establish requirements in addition to the*  
18 *best management practices for the elimination of discharges of*  
19 *preproduction plastic.*



AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1066**

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**Introduced by Assembly Member Laird**

February 23, 2007

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An act to add *Section 12807.7 to the Government Code, and to add Section 30523.5 to the Public Resources Code, relating to coastal resources.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1066, as amended, Laird. Coastal resources: local coastal programs.

(1) Existing law requires local governments lying, in whole or in part, within the coastal zone to prepare a local coastal program for submission for certification to the California Coastal Commission, in accordance with specified requirements.

This bill would require local governments, when preparing, adopting, and updating a local coastal program for certification by the commission to consider the impacts of ~~climate change~~ *sea level rise based on the best available information*. The commission would be required to assist local governments in obtaining state and federal grant funds to help defray the costs associated with understanding, ~~mitigating, and adapting to planning for~~ *climate change impacts in their local coastal programs*. Because the bill would increase the duties of local governments, it would thereby impose a state-mandated local program.

*The bill would require the Resources Agency, in coordination with the Environmental Protection Agency and the Governor's Office of Planning and Research, to assist coastal land use and resource protection agencies and organizations in planning for sea level rise*

*impacts on the California coast by gathering information on sea level rise and making that information available.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) The California coast has witnessed persistent sea level rise  
4 along its southern and central coast section and in San Francisco  
5 Bay over the past century. Over 1,000 miles of open ocean coast  
6 are potentially at risk from the impacts associated with global  
7 warming.

8 (b) Assembly Bill 32 of the 2005–06 Regular Session established  
9 the California Global Warming Solution Act of 2006. Assembly  
10 Bill 32 states that global warming poses a serious threat to the  
11 economic well-being, public health, natural resources, and the  
12 environment of California. The potential adverse impacts of global  
13 warming include the exacerbation of air quality problems, a  
14 reduction in the quality and supply of water to the state from the  
15 Sierra Nevada snowpack, a rise in sea levels resulting in the  
16 displacement of thousands of coastal businesses and residences,  
17 damage to marine ecosystems and the natural environment, and  
18 an increase in the incidences of infectious diseases, asthma, and  
19 other human health-related problems.

20 (c) A recent study sponsored by the California Environmental  
21 Protection Agency and conducted by the National Center for  
22 Atmospheric Research (NCAR) surveyed federal, state, and local  
23 coastal managers in California *regarding perceptions of sea level*  
24 *rise and related climate change impacts.* The survey indicates that  
25 coastal managers are aware of and concerned with the potential  
26 impacts associated with climate change *on the coast, such as sea*

1 *level rise and coastal erosion and beach loss from winter storms,*  
2 *but that the majority of coastal managers are not addressing these*  
3 *impacts in their planning and development decisions on the coast*  
4 *to date.*

5 (d) According to the NCAR study, “The sobering conclusion  
6 is that California is inadequately preparing for the impacts of  
7 climate change on coastal areas at this time. Local governments  
8 will need substantial support from state and federal agencies if the  
9 level of preparedness for climate change and other  
10 inundation-related risks is to be elevated in the future.”

11 *SEC. 2. Section 12807.7 is added to the Government Code, to*  
12 *read:*

13 *12807.7. (a) The Resources Agency, in coordination with the*  
14 *Environmental Protection Agency and the Governor’s Office of*  
15 *Planning and Research, shall assist coastal land use and resource*  
16 *protection agencies and organizations in planning for sea level*  
17 *rise impacts on the California coast by doing all of the following:*

18 *(1) Completing a survey of science-based information currently*  
19 *available that can assist in providing a projection of future sea*  
20 *level rise along the coast.*

21 *(2) Translating and communicating that sea level rise*  
22 *information into a useful format for coastal managers.*

23 *(3) Identifying critical data gaps and information needs for*  
24 *coastal managers.*

25 *(4) Establishing an information exchange program that provides*  
26 *exchange of information among coastal managers about their*  
27 *responses to sea level rise and related impacts.*

28 *(b) The Resources Agency shall work with other state agencies,*  
29 *including, but not limited to, the State Coastal Conservancy, the*  
30 *Ocean Protection Council, and the Energy Commission to*  
31 *implement and identify funding to meet the requirements of*  
32 *subdivision (a).*

33 ~~SEC. 2.~~

34 *SEC. 3. Section 30523.5 is added to the Public Resources Code,*  
35 *to read:*

36 *30523.5. (a) A local government, when preparing, adopting,*  
37 *and updating a local coastal program for certification by the*  
38 *commission, shall consider the impacts of ~~climate change~~. *sea**  
39 *level rise based on the best available information. Local*  
40 *governments may obtain information on sea level rise impacts*

1 *from several sources, including, but not limited to, all of the*  
2 *following:*

3 *(1) The Resources Agency pursuant to Section 12807.7 of the*  
4 *Government Code.*

5 *(2) The California Climate Change Center, a research program*  
6 *jointly managed by the Energy Commission, Scripps Institute of*  
7 *Oceanography, and the University of California.*

8 *(3) The Climate Action Team established by the Governor under*  
9 *Executive Order S-3-05.*

10 *(4) The U.S. Geological Survey.*

11 *(5) The National Oceanic and Atmospheric Administration.*

12 (b) The commission shall assist local governments in obtaining  
13 state and federal grant funds to help defray the costs associated  
14 ~~with understanding, mitigating, and adapting to climate change~~  
15 ~~impacts in the local coastal program.~~ *with understanding and*  
16 *planning for climate change impacts.*

17 SEC. 3. If the Commission on State Mandates determines that  
18 this act contains costs mandated by the state, reimbursement to  
19 local agencies and school districts for those costs shall be made  
20 pursuant to Part 7 (commencing with Section 17500) of Division  
21 4 of Title 2 of the Government Code.

AMENDED IN SENATE APRIL 16, 2007

**SENATE BILL**

**No. 412**

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**Introduced by Senator Simitian**

February 21, 2007

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*An act to add Chapter 6.5 (commencing with Section 25571) to Division 15 of the Public Resources Code, relating to energy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 412, as amended, Simitian. State Energy Resources Conservation and Development Commission: liquefied natural gas terminals.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission and requires the commission to prepare a biennial integrated energy policy report. The act requires the commission to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide.

~~This bill would state the intent of the Legislature to enact legislation regarding the siting and construction of liquified natural gas facilities on or off the coast of California.~~

*This bill would enact the Liquefied Natural Gas Terminal Evaluation Act and would require the commission to make a liquefied natural gas (LNG) needs assessment study that assesses demand and supply for natural gas and alternatives to natural gas to meet energy demands, and to determine the number of LNG terminals, if any, needed to meet the state's projected natural gas demand. The act would require the LNG needs assessment study to be completed no later than November 1, 2008, and incorporated into the commission's biennial integrated energy policy report. The commission would be required to hold public*

*hearings to consider the results of the LNG needs assessment study and to provide an opportunity for public comment. All costs of the LNG needs assessment study for the implementation of these requirements, including costs for any temporary personnel or consultants, would be funded from fees charged to persons or entities applying for permits to build and operate a LNG terminal.*

*The bill would prohibit the commission from issuing a certificate to build and operate a LNG terminal unless the proposed facility meets certain criteria, findings, and determinations.*

*The commission would be required by February 1, 2008, to create a matrix on its Internet Web site and to require an applicant for a certificate to build and operate a LNG terminal to provide the commission with updated information at least once every month.*

*The bill would require the Governor to disapprove an applicant for a license pursuant to the Governor's authority under the federal Deepwater Port Act of 1974, to construct and operate a liquefied natural gas terminal unless the project meets this act's requirements. The bill would prohibit the Governor from allowing a permit to build or operate a LNG terminal or to connect to infrastructure located within the state unless the commission certifies that this act's requirements have been met.*

*The bill would provide that these requirements are applicable to every LNG terminal to be constructed or operating in California, irrespective of whether an application has been submitted for the construction or operation of the terminal to any federal, state, or local entity prior to January 1, 2008.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-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:
- 3     (a) It is the policy of the state to meet California's energy growth
- 4     by optimizing energy conservation and resource efficiency and by
- 5     reducing per capita demand to ensure a clean, safe, and reliable
- 6     supply of energy for California.
- 7     (b) It is the policy of the state to be sensitive to the impact of
- 8     the state's energy policy on global climate change and
- 9     environmental impacts in host countries that export natural gas.

1 (c) It is the policy of the state to accelerate the use of renewable  
2 energy resources wherever feasible and to ensure a diverse and  
3 affordable portfolio of fuel sources to minimize the opportunity  
4 for supply interruptions.

5 (d) The state has a critical role in decisions regarding the siting  
6 and design of new onshore and offshore infrastructure for the  
7 importation of liquefied natural gas that results in impacts to public  
8 health, safety, and the environment.

9 (e) Laws and regulations enacted by the state to address  
10 consumer, community, public health, safety, and environmental  
11 impacts of new onshore and offshore imported liquefied natural  
12 gas infrastructure, where more protective, should not be preempted  
13 by weaker, less protective federal laws and regulations.

14 (f) Decisions regarding the importation of liquefied natural gas  
15 should be based on a comprehensive review of current and  
16 projected natural gas supply and demand in California, and  
17 alternative sources of supply.

18 (g) Construction and operation of liquefied natural gas onshore  
19 and offshore infrastructure could commence after completion of  
20 a rigorous evaluation that analyzes the need for additional supplies  
21 of natural gas and the relative merits of pending and future  
22 proposals with respect to business, consumer, community, public  
23 health, safety, and environmental impacts.

24 SEC. 2. Chapter 6.5 (commencing with Section 25571) is added  
25 to Division 15 of the Public Resources Code, to read:

26  
27 CHAPTER 6.5. LIQUEFIED NATURAL GAS TERMINAL EVALUATION  
28 ACT  
29

30 25571. This chapter shall be known and may be cited as the  
31 Liquefied Natural Gas Terminal Evaluation Act.

32 25571.1. For purposes of this chapter, the following definitions  
33 apply:

34 (a) "Applicant" means a person who files a request for  
35 certification, pursuant to Chapter 6 (commencing with Section  
36 25500) to build and operate on LNG terminal in this state.

37 (b) "Feasible" means capable of being accomplished in a  
38 successful manner within a reasonable period of time, taking into  
39 account all of the following:

1     (1) *Economic, environmental, social, technological, safety, and*  
2     *reliability factors.*

3     (2) *Gas supply and demand forecasts.*

4     (3) *Alternative sources of natural gas.*

5     (c) *“Liquefied natural gas” or “LNG” means natural gas cooled*  
6     *to minus 259 degrees Fahrenheit so that it forms a liquid at*  
7     *approximately atmospheric pressure.*

8     (d) *“Liquefied natural gas terminal,” “terminal,” or “LNG*  
9     *terminal,” means facilities designed to receive liquefied natural*  
10    *gas from oceangoing vessels, including those facilities required*  
11    *for storage and regasification of the liquefied natural gas and*  
12    *those pipelines and facilities necessary for the transmission of the*  
13    *regasified natural gas to the point of interconnection with existing*  
14    *pipelines.*

15    (e) *“Person” means an individual, organization, partnership,*  
16    *or other business association or corporation, the federal*  
17    *government, the state government, any local government, and any*  
18    *agency or instrumentality of any of those entities.*

19    25571.2. (a) *The commission shall make a study of the need*  
20    *for liquefied natural gas terminals to meet the state’s energy*  
21    *demands. This study shall be known as the LNG Needs Assessment*  
22    *Study and shall assess all of the following:*

23    (1) *The future demand for natural gas in the state.*

24    (2) *The future supply of natural gas in the state available from*  
25    *domestic production and imported into the state through interstate*  
26    *pipelines, supply available from domestic production within the*  
27    *state, and supply available from foreign production and imported*  
28    *into the state through international pipelines from Mexico and*  
29    *Canada, including any liquefied natural gas terminal proposed to*  
30    *be built outside the state that would be the source for natural gas*  
31    *imported into the state.*

32    (3) *All supplemental sources of natural gas and natural gas*  
33    *alternatives that can reasonably be expected to be available to*  
34    *meet the projected demand for natural gas, including, but not*  
35    *limited to, conservation and energy efficiency programs, steps to*  
36    *increase production and importation of natural gas from other*  
37    *states, Mexico, and Canada, steps to increase available supply*  
38    *from federally owned or federally regulated supplies, and steps to*  
39    *increase energy supplies available from renewable energy*  
40    *resources, including solar, wind, geothermal, and biomass.*



1     ***(b) The LNG Needs Assessment Study shall determine the***  
2     ***projected quantity of additional natural gas necessary for the***  
3     ***state's expected future demand and whether it is economically***  
4     ***feasible to meet the state's future natural gas needs without***  
5     ***constructing one or more liquefied natural gas terminals.***

6     ***(1) The LNG Needs Assessment Study shall be commenced by***  
7     ***January 1, 2008, and shall be completed no later than November***  
8     ***1, 2008, and shall be incorporated into the integrated energy policy***  
9     ***report prepared pursuant to Section 25302.***

10    ***(c) The commission shall hold at least two public hearings to***  
11    ***consider the results of the LNG Needs Assessment Study and to***  
12    ***provide an opportunity for public comment. At least one public***  
13    ***hearing shall be held in any city or county that is the proposed***  
14    ***site for which an application for a certificate has been filed with***  
15    ***the commission to build and operate a liquefied natural gas***  
16    ***terminal. If the terminal is not proposed to be located within a city***  
17    ***or county, the hearings shall be in the city or county nearest the***  
18    ***proposed location.***

19    ***(d) All costs incurred by the commission for the implementation***  
20    ***of this chapter, including costs for any temporary personnel or***  
21    ***consultants, shall be funded by fees charged to persons or entities***  
22    ***applying for a certificate to build and operate a liquefied natural***  
23    ***gas terminal.***

24    ***(e) The commission shall make public all information required***  
25    ***for the LNG Needs Assessment Study using the commissions'***  
26    ***Internet Web site, except as follows:***

27    ***(1) If an applicant for a certificate that has been filed with the***  
28    ***commission to build and operate a liquefied natural gas terminal***  
29    ***claims that any data or information that the commission requires***  
30    ***pursuant to this section is proprietary, the applicant shall submit***  
31    ***to the commission a summary of that required data and***  
32    ***information, along with an explanation as to the proprietary nature***  
33    ***of the required data and information.***

34    ***(2) On or before 30 days after receiving a claim that data or***  
35    ***information is propriety pursuant to paragraph (1), the commission***  
36    ***shall determine whether the data and information is proprietary.***  
37    ***If the commission determines that the data and information is***  
38    ***proprietary, the summary description of that data and information***  
39    ***shall be provided on the commissions' Internet Web site. If the***  
40    ***commission determines that the data and information is not***

1 *proprietary, and the applicant refuses to provide the full data and*  
2 *information, the commission shall stop all review of the project*  
3 *and notify any other agency authorized to review the project to*  
4 *stop that review.*

5 *(3) An applicant may appeal the decision of the commission on*  
6 *the proprietary nature of the data and information subject to this*  
7 *subdivision to the Superior Court in Sacramento County within*  
8 *30 days after a decision by the commission determining that the*  
9 *information requested is not proprietary in nature. The court shall*  
10 *review the commissions, decision on a de novo basis.*

11 *25571.3. (a) The commission, in consultation with the Public*  
12 *Utilities Commission, the California Coastal Commission, the*  
13 *State Air Resources Board, the State Water Resources Control*  
14 *Board, and the Department of Fish and Game shall evaluate each*  
15 *proposed LNG project for which a certificate has been filed with*  
16 *the commission to build and operate a liquefied natural gas*  
17 *terminal to determine whether the project meets all of the*  
18 *requirements specified in subdivision (b). The commission shall*  
19 *request the Office of Homeland Security, the Federal Energy*  
20 *Regulatory Commission, the Department of Defense and its*  
21 *component armed services, and the United States Coast Guard,*  
22 *to also evaluate each proposed LNG project to determine whether*  
23 *the project meets the requirements specified in subdivision (b).*

24 *(b) The commission shall not issue a certificate to build and*  
25 *operate a liquefied natural gas terminal in the state unless the*  
26 *commission determines the proposed facility meets all of the*  
27 *following requirements:*

28 *(1) The facility is necessary to meet the future energy needs of*  
29 *California.*

30 *(2) The supply of natural gas identified for use by the project*  
31 *is reliable and sustainable.*

32 *(3) The State Air Resources Board determines that the project*  
33 *is carbon neutral.*

34 *(4) The State Water Resources Control Board finds that the*  
35 *project will not result in decreases in water quality.*

36 *(5) The California Coastal Commission finds that the project*  
37 *will not negatively impact the coastal zone, including view sheds.*

38 *(6) The project requires a coast keeper to be appointed either*  
39 *separately or by identifying an existing local entity or agency to*  
40 *monitor compliance with environmental laws and regulations.*

1     (7) *The coast keeper is funded by the project applicant at a level*  
2 *set by the Department of Finance.*

3     (8) *The California Coastal Commission certifies that the project*  
4 *is in compliance with the Marine Mammal Protection Act (Chapter*  
5 *31 (commencing with Section 1361) of Title 16 of the United States*  
6 *Code).*

7     (9) *The project meets design criteria to mitigate long-term*  
8 *coastal impact should the project stop operating for any reason.*

9     (10) *The project meets postclosure requirements, including the*  
10 *financial assurances established by the commission.*

11     (11) *The project reserves 20 percent of capacity for open source*  
12 *supply of natural gas.*

13     (12) *Natural gas supply contracts for the project are transparent*  
14 *and available for review by the public.*

15     (13) *If the commission determines that any of the requirements*  
16 *specified in paragraphs (1) to (12), inclusive, are not feasible, the*  
17 *project applicant demonstrate that it is using the best available*  
18 *technology at the time the application is filed.*

19     (14) *The applicant files with the commission a memorandum of*  
20 *understanding with the Department of Defense indicating that the*  
21 *applicant has consulted with the Department of Defense and has*  
22 *reached agreement with the Department of Defense on means to*  
23 *mitigate impacts on Department of Defense operations with regard*  
24 *to impacts upon national security, including potential impacts on*  
25 *the land, sea, and airspace identified by the Department of Defense,*  
26 *any of its component armed services, or the United States Coast*  
27 *Guard, for conducting operations, training, or for the development*  
28 *and testing of weapons, sensors, and tactics.*

29     (15) *The applicant enters into a contract with the state to*  
30 *provide cost reimbursement for monitoring, compliance, safety,*  
31 *environmental training, and emergency response requirements.*

32     (16) *The Secretary for Environmental Protection certifies that*  
33 *the project contains reasonable mitigation measures to offset*  
34 *impacts to low-income and minority communities that would be*  
35 *affected by the project.*

36     (17) *The commission determines, based on the record, that*  
37 *among the available technologies for producing natural gas*  
38 *through a liquefied natural gas process, a particular technology*  
39 *chosen for a particular site will have the minimum adverse public*

1 *health, safety, and environmental impacts among the technologies*  
2 *available at the time an application is received by the commission.*

3 *25571.4. (a) On or before February 1, 2008, the commission*  
4 *shall create a matrix on its Internet Web site that meets all of the*  
5 *following requirements:*

6 *(1) The matrix shall be in a format that allows the public to*  
7 *contrast and compare the progress of each applicant for a*  
8 *certificate to build and operate a liquefied natural gas terminal*  
9 *in attaining each of the criteria required pursuant to this chapter.*

10 *(2) The matrix shall be updated monthly.*

11 *(3) The commission shall post a new application for a certificate*  
12 *to build and operate an LNG terminal in the state to the matrix*  
13 *within 30 days after the date the commission receives an*  
14 *application.*

15 *(b) (1) Each applicant for a certificate to build and operate an*  
16 *LNG terminal in the state shall provide the commission updated*  
17 *information at least once every month regarding each of the*  
18 *required criteria.*

19 *(2) If an applicant does not provide the information specified*  
20 *in paragraph (1), all agencies involved in the required review of*  
21 *the project may discontinue the review until that information is*  
22 *provided.*

23 *25571.5. This chapter does not limit any existing authority of*  
24 *state government pursuant to Division 13 (commencing with*  
25 *Section 21000) as that division read on January 1, 2008.*

26 *25571.6. (a) In furtherance of, and in conformance with, the*  
27 *Deepwater Port Act of 1974 (33 U.S.C. Sec. 1501 et seq.), as*  
28 *amended, the Governor pursuant to Section 1508 of Title 33 of the*  
29 *United States Code shall disapprove an application for a license*  
30 *to build and operate a liquefied natural gas terminal unless the*  
31 *project meets the requirements specified in subdivision (b) of*  
32 *Section 25571.3.*

33 *(b) The Governor may not allow a permit to construct or operate*  
34 *an LNG terminal or to connect to infrastructure located within*  
35 *the state unless the commission certifies that the project meets the*  
36 *requirements specified in subdivision (b) of 25571.3.*

37 *25571.7. (a) The requirements of this chapter are applicable*  
38 *to every LNG terminal to be constructed or operating in the state,*  
39 *irrespective of whether an application has been submitted for the*

1 *construction or operation of the terminal to any federal, state, or*  
2 *local entity prior to January 1, 2008.*

3 *(b) Nothing in this chapter shall be construed as an absolute*  
4 *prohibition on the construction of a LNG terminal on or off the*  
5 *California coast. It is the intent of the state to facilitate a*  
6 *comprehensive and efficient review of applications for liquefied*  
7 *natural gas terminals and their related infrastructure in the state.*

8 ~~SECTION 1. The Legislature finds and declares all of the~~  
9 ~~following:~~

10 ~~(a) It is the policy of the state to meet California's energy growth~~  
11 ~~by optimizing energy conservation and resource efficiency and by~~  
12 ~~reducing per capita demand to ensure a clean, safe, and reliable~~  
13 ~~supply of energy for California.~~

14 ~~(b) It is the policy of the state to be sensitive to the impact of~~  
15 ~~the state's energy policy on global climate change and~~  
16 ~~environmental impacts in host countries that export natural gas.~~

17 ~~(c) It is the policy of the state to accelerate the use of renewable~~  
18 ~~energy resources wherever feasible and to ensure a diverse and~~  
19 ~~affordable portfolio of fuel sources to minimize the opportunity~~  
20 ~~for supply interruptions.~~

21 ~~(d) The state has a role in decisions regarding the siting and~~  
22 ~~design of new onshore and offshore infrastructure for the~~  
23 ~~importation of liquefied natural gas that results in impacts to public~~  
24 ~~health, safety, and the environment.~~

25 ~~(e) Laws and regulations enacted by the state to address~~  
26 ~~consumer, community, public health, safety, and environmental~~  
27 ~~impacts of new onshore and offshore imported liquefied natural~~  
28 ~~gas infrastructure, where more protective, should not be preempted~~  
29 ~~by weaker, less protective federal laws and regulations.~~

30 ~~(f) Decisions regarding the importation of liquefied natural gas~~  
31 ~~should be based on a comprehensive review of current and~~  
32 ~~projected natural gas supply and demand in California, and~~  
33 ~~alternative sources of supply.~~

34 ~~(g) Construction and operation of liquefied natural gas onshore~~  
35 ~~and offshore infrastructure may commence after completion of a~~  
36 ~~rigorous evaluation that analyzes the need for liquefied natural gas~~  
37 ~~and the relative merits of pending and future proposals with respect~~  
38 ~~to business, consumer, community, public health, safety, and~~  
39 ~~environmental impacts.~~

1     ~~(h) Based upon the Tenth Amendment to the United States~~  
2     ~~Constitution, federal law neither abrogates a state's property rights~~  
3     ~~within its tide and submerged lands nor provides the power of~~  
4     ~~eminent domain to the Federal Energy Regulatory Commission~~  
5     ~~with respect to the siting liquefied natural gas facilities.~~

6     ~~(i) Nothing in this bill should be construed as an absolute~~  
7     ~~prohibition on the construction of LNG facilities on or off the~~  
8     ~~California coast. It is the intent of the State of California to~~  
9     ~~facilitate a comprehensive and efficient review of applications for~~  
10    ~~liquefied natural gas terminals and their related infrastructure in~~  
11    ~~the state.~~

12    ~~SEC. 2. It is the intent of the Legislature to enact legislation~~  
13    ~~regarding the siting and construction of LNG facilities on or off~~  
14    ~~the state's coast.~~