

CALIFORNIA COASTAL COMMISSION

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**Wed-21b**

June 13, 2007

TO: Coastal Commissioners and Interested Public

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

SUBJECT: LEGISLATIVE REPORT FOR JUNE 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.

Note: Information contained in this report is accurate as of 5/31/07. Changes in the status of some bills may have occurred between the date this report was prepared and the presentation date.¹ Current status of any bill may be checked by visiting the California Senate Homepage at www.senate.ca.gov. This report can also be accessed through the Commission's World Wide Web Homepage at www.coastal.ca.gov

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

¹ 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

ACA 8 (De La Torre) Eminent domain

This Constitutional amendment would prohibit the use of eminent domain by a government agency for seizing a private, owner-occupied residence or a small business with fewer than 25 employees, for private use. A constitutional amendment requires a 2/3 vote in each house to be placed on the ballot for a public vote.

Introduced 03/13/07
Status Referred to Assembly Budget Committee.

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, Suspense File.

Commission position Support

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, Suspense File.

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, suspense File.

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, suspense File.

AB 740 (Laird) Vessels: Invasive species

This bill would require inwater 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, suspense File.

AB 828 (Ruskin) Wildlife Conservation

This bill would require the Wildlife Conservation Board, in consultation with DFG, 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, suspense File.

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 In Assembly Transportation Committee, hearing cancelled at request of author.

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, suspense File.

AB 1066 (Laird) Coastal resources; local coastal planning

This bill would require local governments located in whole or in part within the coastal zone, to consider the impacts of sea level rise when amending any appropriate element of their general plan. It would also require the Resources Agency to work with interested parties and public agencies, including the Coastal Commission, to compile and translate existing information on sea level rise, to assist local governments in complying with this statute. Existing language is ambiguous regarding LCP amendments, and the authority of the Coastal Commission when reviewing sea level rise policies.

Introduced 02/23/07
Last Amended 05/07/07
Status Assembly Appropriations Committee.

Commission position Recommend support if amended

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 05/08/07
Status Assembly Appropriations Committee, Suspense File.

Commission position Recommend oppose

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, suspense File.

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
Last Amended 04/25/07
Status Assembly Appropriations Committee, Suspense File

AB 1338 (Huffman) Public resources: local coastal programs: 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 04/11/07
Status Referred to Senate Natural Resource Committee.

Commission Position Support

AB 1396 (Laird) California Coastal Trail

This bill would require the California Department of Transportation 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, Suspense File.

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.

Commission Position Oppose.

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
Last Amended 05/07/07
Status Senate Natural Resources and Wildlife Committee.

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 a parking lot.

Introduced 12/04/06
Status Held in 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 In Assembly.

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 Cupena 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

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 Assembly Judiciary Committee.

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 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 CCC) to evaluate every proposed LNG project.

Introduced 02/21/07
Last Amended 04/16/07
Status Senate Appropriations Committee, Suspense File.

SB 634 (Wiggins) Williamson Act: contracts

This bill would require a local government to make specific findings of agricultural viability before approving any application to subdivide land subject to a Williamson Act contract.

Introduced 02/22/07
Last Amended 05/10/07
Status Senate Appropriations, Suspense File.

Commission Position Recommend support. (Analysis attached)

SB 670 (Correa)

This bill would cap the amount of private real estate transfer fees at 1% of the home sales price, for no longer than 30 years in duration, for expenditure only on projects “within the region.” Real estate transfer fees are increasingly being used by local governments and developers to raise funds for open space acquisitions and conservation/restoration project to offset the impacts of new development.

Introduced 02/23/07
Last Amended 05/01/07
Status Held in Senate Transportation and Housing Committee. Double referred to Judiciary.

SB 742 (Steinberg) OHV

This bill would extend the sunset date on the Off Highway Vehicle Program from January 1, 2008, to 2013; increase the minimum OHV fee collected by DPR for every vehicle to \$10; increase the number of appointees to the OHV Commission and require Senate confirmation for all gubernatorial appointees; add specification regarding how OHV Trust Fund monies can be expended, and make other reforms to the program..

Introduced 02/23/07
Last Amended 05/21/07
Status Senate Appropriations, Suspense File.

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 05/01/07
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, and prohibit any practice before the Commission for the period of one year for violating this section.

Introduced 02/23/07
Last Amended 05/15/07
Status Senate Third Reading

SB 898 (Simitian)

This relevant section of this bill would direct the Department of Boating and Waterways to work with various agencies, including the Coastal Commission, to establish guidelines and incentives for the removal of derelict fishing gear.

Introduced 02/23/07
Last Amended 05/08/07
Status Senate Appropriations Committee, Suspense File.
Commission Position Recommend Support (Analysis attached)

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, Suspense File
Commission Position Support

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 Sarah Christie at (916) 445-6067 with any questions on material contained in this report.

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BILL ANALYSIS
SB 634 (Wiggins)
As Amended, May 10, 2007

SUMMARY

This bill would add Section 66474.5 to the Government Code, requiring local governments to make a series of findings before approving a subdivision of land subject to a Williamson Act contract.

PURPOSE OF THE BILL

The purpose of this bill is to prevent subdivisions of land under Williamson Act contracts that result in parcels which are not large enough to support production agriculture, open space purposes, or both.

EXISTING LAW

Under existing law, cities and counties which chose to voluntarily participate in the Williamson Act must adopt regulations governing how the program will be administered locally, including the minimum parcel size of both prime and non-prime agricultural soils that will qualify for contracts. Williamson Act contracts do not automatically prohibit the subdivision of agricultural lands, unless such a prohibition is enacted by the local jurisdiction.

The Subdivision Map Act requires counties and cities to deny the subdivision of Williamson Act contracted land if the resulting parcels would be too small to sustain their agricultural use, or if the subdivision results in residential development that's not incidental to commercial agricultural use. Parcels are presumed to be too small if they are less than 10 acres for prime agricultural land and 40 acres for non-prime agricultural land. The Map Act allows local officials to establish larger minimum parcel sizes.

LEGISLATIVE HISTORY

None.

ANALYSIS

The Williamson Act conserves agricultural and open space land under a three-part statutory scheme:

- Voluntary contracts. Private property owners sign contracts with counties and cities, enforceably restricting their land to agriculture, open space, and compatible uses for the next 10 years. Williamson Act contracts automatically renew each year so that the term is always 10 years in the future.
- Reduced assessments. The California Constitution allows, and state law requires, county assessors to lower the value of these enforceably restricted properties to reflect the value of their use as agriculture or open space instead of their market value under Prop13.

- State subventions. The State General Fund pays counties and cities about \$40 million year to make up for the property tax revenues lost because of these lowered assessed valuations. Also, the General Fund automatically backfills school districts for their lost Property tax revenues.

While the Subdivision Map Act defines the minimum parcel size allowable for a subdivision of land subject to a Williamson Act contract, there have been many examples throughout the state where these minimum parcel sizes do not suffice to sustain viable open space or agricultural values. The result is that it is possible for contracted lands to be subdivided into parcels that do not support the goals of the program, but nevertheless continue to reap the benefits. In addition to allowing for a net decrease in the very resource it seeks to preserve, public dissatisfaction with this practice has the potential to undermine the entire program, according to the author's office.

Should SB 634 become law, it will require additional findings to be made before a local jurisdiction can approve a subdivision on contracted lands. These findings include:

(1) The proposed subdivision will be consistent with the purposes of that act.

(2) Each resulting parcel of land will be consistent with the contract entered into pursuant to the act.

(3) Each resulting parcel of land will be consistent with the local rules adopted pursuant to Section 51231.

(4) Each resulting parcel will be capable of sustaining a commercial agricultural use, an open-space use, or both.

(5) Each resulting parcel of land will have the agricultural improvements necessary to sustain a commercial agricultural use, an open-space use, or both.

(6) Each resulting parcel of land will meet the productivity and other requirements for inclusion in a contract entered into pursuant to the act and the local rules adopted pursuant to Section 51231.

(7) The approval of the proposed subdivision shall not compromise the long-term commercial agricultural use or open-space use of any of the following:

(A) The land that is the subject of the proposed subdivision.

(B) Any other land within the same agricultural preserve that is subject to a contract entered into pursuant to the act.

(C) Any other agricultural land or open-space land within the same agricultural preserve

. (b) If the legislative body of a city or county makes all of the findings required by subdivision (a), the legislative body shall, to ensure compliance with the purposes of the act, include as conditions in any tentative map, or parcel map for which a tentative map is not required, any reasonable and necessary restrictions on the residential use of any resulting parcel.

SUPPORT/OPPOSITION

Support:

Humboldt County, Sierra Club, California Farm Bureau Federation

Opposition:

California Association of Realtors, California Building Industry Association, California Business Properties Association, California Cattlemen's Association, California Chamber of Commerce, Consulting Engineers and Land Surveyors of California, Humboldt County Williamson Act Contract Holders Association, Resource Landowners Association.

RECOMMENDED POSITION

Staff recommends the Commission **Support** SB 634.

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BILL ANALYSIS
SB 898 (Simitian)
As Amended, May 8, 2007

SUMMARY

SB 898, in relevant part, would amend the Harbors and Navigation Code to require the Department of Boating and Waterways, in consultation with the Department of Fish and Game and the Coastal Commission, to create guidelines and programs for the removal and disposal of derelict fishing gear. The bill also contains provisions relating to the solid waste disposal, which are not a part of this analysis.

PURPOSE OF THE BILL

The purpose of the relevant portion of the bill is to create guidelines and incentives to encourage more removal and responsible disposal of derelict fishing gear.

EXISTING LAW

Although several coastal states, including Washington, Oregon, Alaska and Florida have laws pertaining to derelict gear, and/or programs to address it, the state of California does not. The California Derelict Fishing Gear Removal Pilot Program, working in conjunction with the Sea Doc Association at University of California, Davis is implementing a pilot program to remove derelict fishing gear, funded through a variety of sources including the OPC. In 2006, Sea Doc collected 547 individual pieces of derelict gear, including 102 lobster traps totaling 10 tons. Using volunteer divers, kayakers and boaters, Sea Doc is currently targeting public piers to remove gear in and around these facilities.

On February 8, 2007, the OPC adopted a resolution relating to marine debris, which calls for a targeted reduction in derelict fishing gear.

PROGRAM BACKGROUND

Other than Coastal Clean up day, which removes fishing line, nets and occasional miscellaneous gear, the Commission has no program dedicated to the removal of derelict gear. The Commission is, however, a partner, along with the Gulf of the Farallones National Marine Sanctuary Foundation and the Farallones Marine Sanctuary Association, in a grant application to NFWF/NOAA support cleanup efforts in the Gulf of the Farallones National Marine Sanctuary.

ANALYSIS

Derelict fishing gear includes nets, lines, crab/lobster/shrimp pots and other fishing gear that has been lost or abandoned in the marine environment. Lost or abandoned nets can drift in the ocean for decades, trapping and killing thousands of fish, turtles, marine mammals and birds. Virtually all entanglement ultimately causes death for its victims. This so-called "ghost

fishing” is a leading cause of death in otherwise protected marine mammal species. 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.

In addition, derelict fishing gear can entangle swimmers and divers, and endanger vessels by fouling propellers, rudders and drive shafts.

When viewed with the perspective of the many and varied assaults on the marine environment, including over-fishing, pollution, algal blooms and global climate change-related impacts, the environmental loss due to entanglement is not insignificant. Specific statutory authority to develop guidelines for removal and implement a statewide program will greatly enhance the existing limited efforts to address this significant problem.

SUPPORT/OPPOSITION

Support for SB 898:

Algalita Marine Research Foundation
American Federation of State, County and
Municipal Employees, (AFSCME)
AFL-CIO
Ballona Creek Renaissance
Breast Cancer Fund
California Coastkeeper Alliance
Defenders of Wildlife
Earth Resource Foundation
Earth Share California
Ocean Conservancy
Planning and Conservation League
San Diego Coastkeeper
Santa Monica Baykeeper
Southern California Watershed Alliance
Surfrider Foundation

Opposition to SB 898:

None on File

LEGISLATIVE HISTORY

None

RECOMMENDED POSITION

Staff recommends the Commission **Support SB 898**