

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE (415) 904-5200
 FAX (415) 904-5400
 TDD (415) 597-5885



W-30

February 4, 2009

TO: Coastal Commissioners and Interested Public

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

SUBJECT: LEGISLATIVE REPORT FOR February 2009, and
 NEW LAWS MEMO for 2008 Legislative Year

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 01/20/09. 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

2009 Legislative Calendar

Jan 1	Statutes take effect
Jan 5	Legislature reconvenes
Jan 10	Budget must be submitted by Governor
Jan 30	Last day to submit bills to Legislative Counsel
Feb 27	Last day for bills to be introduced
April 2	Spring Recess begins
April 13	Legislature reconvenes
May 1	Last day for Policy Committees to hear and report 1 st House fiscal bills to the Floor
May 15	Last day for Policy Committees to hear and report 1 st House nonfiscal bills to the Floor
May 22	Last day for Policy Committees to meet prior to June 8
May 29	Last day for Fiscal Committees to hear and report 1 st House fiscal bills to the Floor
June 1-5	Floor Session only. No committees may meet
June 5	Last day to pass bills from house of origin
June 8	Committee meetings may resume
June 15	Budget must be passed by midnight
July 10	Last day for Policy Committees to hear and report bills to the Floor from the second house
July 17	Summer Recess begins at the end of session if Budget Bill has been enacted
Aug 17	Legislature reconvenes
Aug 28	Last day for Fiscal Committees to meet and report bills to the Floor
Aug 31-Sept 11	Floor session only. No committees may meet
Sept 4	Last day to amend bills on the Floor
Sept 11	Last day for any bill to be passed. Interim Recess begins on adjournment of session
Oct 11	Last day for Governor to sign or veto bills passed by the Legislature before Sept. 11

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

AB 68 (Brownlee) Solid waste: single-use carry out bags

This bill would prohibit stores from providing single-use carryout bags to customers after July 10, 2010, unless the store charges a fee of not less than \$0.25 for the bag. The fees collected would be deposited into the Bag Pollution Fund, which the bill would establish, on a quarterly basis. Funds would be expended, after appropriation by the Legislature, to implement programs that educate consumers and reduce the use of plastic bags, and to reduce and mitigate the effects of plastic bag litter.

Introduced 12/12/08
Status First Reading

AB 87 (Davis) Single use carryout bags: environmental effects

This bill would prohibit stores from providing single-use carryout bags to customers after July 10, 2010, unless the store charges a fee of not less than \$0.25 for the bag. The fees collected would be deposited into the Bag Pollution Fund, which the bill would establish, on a quarterly basis. Funds would be expended, after appropriation by the Legislature, to implement programs that educate consumers and reduce the use of plastic bags, and to reduce and mitigate the effects of plastic bag litter.

Introduced 01/05/09
Status Assembly Rules

SB 4 (Oropeza) State beaches and parks: smoking

This bill would prohibit smoking of any tobacco product on a state coastal beach on in any unit of the State Parks system. The bill authorizes the Department of Parks and Recreation, or any other relevant state agency, to develop and post signs to provide notice of the smoking prohibition.

Introduced 12/01/08
Status Senate Rules

SB 21 (Simitian) Fishing gear

This bill would require the Department of Fish and Game to make recommendations to the Fish and Game Commission regarding a sustainable funding source for the recovery of derelict fishing gear and the prevention of the loss of fishing gear. The bill would require any persons and/or vessels who lose fishing gear at sea to report the loss within 48 hours. The bill would require all fishing licenses issued by the Department to include information and telephone numbers related to the new requirement. The bill would also require the Department to establish a data base of all known and reported sites of derelict/lost fishing gear, and to establish performance targets for their removal.

Introduced 12/01/08
Status Senate Rules

SB 42 (Corbett) Coastal resources: seawater intake

This bill would prohibit a state agency from approving any new power plant or industrial facility, including desalination facilities, that utilizes open ocean intake, or any expansion of an existing facility that uses an open ocean intake, for once-through cooling (OTC). It would also require existing facilities with once-through cooling technology to cease operation or switch to an alternative method of cooling by December 31, 2014. The bill would also establish a fee of \$0.000015 per gallon of sea water for facilities that continue to use OTC between January 1, 2011 and December 31, 2014. Fees would be deposited in the Marine Life Restoration Account, which the bill would create, within the Coastal Conservancy's Coastal Trust Fund.

Introduced 01/06/09
Status Senate Rules

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



February 4, 2009

TO: Coastal Commissioners and Interested Persons

FROM: Legal Division and Legislative Unit

SUBJECT: **2008 Chaptered Legislation**

The 2008 California Legislative session produced two pieces of chaptered legislation that directly amended the Coastal Act. AB 1338 and SB 1498 took effect January 1, 2009. The Coastal Act has been amended and reprinted to reflect these recent amendments, which are detailed below.

A. COASTAL ACT AMENDMENTS

1) AB 1338 (Committee on Budget) Public Resources, Chapter 760

The relevant portion of this bill amends Section 30620 of the Coastal Act and adds section 30620.1 to the Coastal Act, creating the Coastal Act Services Fund, and authorizing the Commission to deposit all permit fees into this account. Funds accruing in this account, upon appropriation by the Legislature, may be expended to enforce and implement the Coastal Act. \$500,000 of these funds will be allocated to the State Coastal Conservancy.

Section 30620

Section 30620 of the Public Resources Code is amended to read:

30620. (a) By January 30, 1977, the commission shall, consistent with this chapter, prepare interim procedures for the submission, review, and appeal of coastal development permit applications and of claims of exemption. These procedures shall include, but are not limited to, all of the following:

(1) Application and appeal forms.

(2) Reasonable provisions for notification to the commission and other interested persons of any action taken by a local government pursuant to this chapter, in sufficient detail to ensure that a preliminary review of that action for conformity with this chapter can be made.

(3) Interpretive guidelines designed to assist local governments, the commission, and persons subject to this chapter in determining how the policies of this division shall be applied in the coastal zone prior to the certification of local coastal programs. However, the guidelines shall not supersede, enlarge, or diminish the powers or authority of the commission or any other public agency.

(b) Not later than May 1, 1977, the commission shall, after public hearing, adopt permanent procedures that include the components specified in subdivision (a) and shall transmit a copy of those procedures to each local government within the coastal zone and make them readily

available to the public. The commission may thereafter, from time to time, and, except in cases of emergency, after public hearing, modify or adopt additional procedures or guidelines that the commission determines to be necessary to better carry out the purposes of this division.

(c) (1) The commission may require a reasonable filing fee and the reimbursement of expenses for the processing by the commission of any application for a coastal development permit under this division and, except for local coastal program submittals, for any other filing, including, but not limited to, a request for revocation, categorical exclusion, or boundary adjustment, submitted for review by the commission.

(2) Any coastal development permit fees collected by the commission under paragraph (1) shall be deposited in the ~~Coastal Access Account, which is hereby created in the State Coastal Conservancy Fund. The money in the account shall be available, upon appropriation by the Legislature in the annual Budget Act, to the State Coastal Conservancy for grants to public agencies and private nonprofit entities or organizations for the development, maintenance, and operation of new or existing facilities that provide public access to the shoreline of the sea, as defined in Section 30115. Any grant funds that are not expended for those purposes shall revert to the account. Nothing in this paragraph authorizes an increase in fees or creates any new authority on the part of the commission~~ Coastal Act Services Fund established pursuant to Section 30620.1. This paragraph does not authorize an increase in fees or create any new authority on the part of the commission.

(d) With respect to an appeal of an action taken by a local government pursuant to Section 30602 or 30603, the executive director shall, within five working days of receipt of an appeal from a person other than a member of the commission or a public agency, determine whether the appeal is patently frivolous. If the executive director determines that an appeal is patently frivolous, the appeal shall not be filed unless a filing fee in the amount of three hundred dollars (\$300) is deposited with the commission within five working days of the receipt of the executive director's determination. If the commission subsequently finds that the appeal raises a substantial issue, the filing fee shall be refunded.

Section 30620.1

Section 30620.1 is added to the Public Resources Code, to read:

30620.1. (a) The Coastal Act Services Fund is hereby created in the State Treasury, to be administered by the commission. The moneys in the fund, upon appropriation by the Legislature in the annual Budget Act, shall be expended by the commission in accordance with this chapter to enforce the California Coastal Act and to provide services to local government, permit applicants, public agencies, and the public participating in the implementation of this division.

(b) Five hundred thousand dollars (\$500,000), adjusted annually by the application of the California Consumer Price Index for Urban Consumers as determined by the Department of Industrial Relations pursuant to Section 2212 of the Revenue and Taxation Code, shall be transferred annually from the Coastal Act Services Fund to the Coastal Access Account established pursuant to Section 30620.2.

Implementation: As of January 1, 2009, any permit fees collected by the Commission accruing in excess of \$500,000 shall be deposited in the new fund, and available to the Commission following appropriation by the Legislature. The Conservancy will continue to receive permit fees up to the total amount of \$500,000.

2) SB 1498 (Judiciary Committee) Code Maintenance, Chapter 179

The legislature made some technical corrections to sections 30253, 30327.5, and 30327.6. The subsections in 30253 are now identified by letter rather than by number. The changes to 30327.5 and 30327.6 make grammatical changes. The text below shows changes in strikeout and underline:

Section 30253

New development shall do all of the following:

- ~~(1)~~ (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- ~~(2)~~ (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- ~~(3)~~ (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.
- ~~(4)~~ (d) Minimize energy consumption and vehicle miles traveled.
- ~~(5)~~ (e) Where appropriate, protect special communities and neighborhoods ~~which~~ that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30327.5

- (a) An interested person shall not give, convey, or make available gifts aggregating more than ten dollars (\$10) in a calendar month to a commissioner or a member of the commission's staff.
- (b) A commissioner or member of the commission's staff shall not accept gifts aggregating more than ten dollars (\$10) in a calendar month from an interested person.
- (c) For purposes of this section, "interested person" shall have the same meaning as the term is defined in Section 30323.
- (d) For purposes of this section, "gift" means, except as provided in subdivision (e), a payment, as defined in Section 82044 of the Government Code, that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. A person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of

consideration has the burden of proving that the consideration received is of equal or greater value.

(e) For purposes of this section, "gift" does not include any of the following:

(1) A gift that is not used and that, within 30 days after receipt, is either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.

(2) A gift from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of one of those individuals. However, a gift from one of those people shall be considered a gift if the donor is acting as an agent or intermediary for a person not covered in this paragraph.

(3) A cost associated with the provision of evidentiary material provided to the commission and its staff.

(4) An educational or training activity that has received prior approval from the commission.

(5) A field trip or site inspection that is made available on equal terms and conditions to all commissioners and appropriate staff.

(6) A reception or purely social event that is not offered in connection with or is not intended to influence a decision or action of the commission and that is open to all commissioners, members of the staff, and members of the public and press.

Section 30327.6

(a) (1) Except as provided in paragraph (2), a person who for compensation attempts to influence or affect the outcome of a commission decision or action and who violates Section 30327.5 may, in addition to any other applicable penalty, be barred from any activity seeking to influence or affect the outcome of a commission decision or action for a period of up to one year from the date of the finding of the violation. Each violation shall be grounds for the person being barred from any activity seeking to influence or affect a commission decision or action for an additional year from the date of conviction.

(2) This section does not prohibit an individual from representing himself or herself in seeking to influence or affect the outcome of a commission decision or action if that individual is acting solely on his or her own personal behalf and not on behalf of another person or entity.

(b) A person who violates Section 30327.5 shall, in addition to any other applicable penalty, be subject to a civil fine not to exceed five hundred dollars (\$500) for each violation.