

CALIFORNIA COASTAL COMMISSION

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W-21

April 14, 2010

TO: Coastal Commissioners and Interested Public

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

SUBJECT: LEGISLATIVE REPORT FOR APRIL 2010

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 04/09/10. 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

2010 Legislative Calendar

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| Jan 1 | Statutes take effect |
| Jan 4 | Legislature reconvenes |
| Jan 10 | Budget must be submitted by Governor |
| Jan 31 | Last day for each house to pass bills introduced in 2009 |
| Feb 19 | Last day for bills to be introduced |
| March 25 | Spring Recess begins |
| April 5 | Legislature reconvenes |
| April 23 | Last day for Policy Committees to hear and report 1 st House fiscal bills to the Floor |
| May 7 | Last day for Policy Committees to hear and report 1 st House nonfiscal bills to the Floor |
| May 14 | Last day for Policy Committees to meet prior to June 7 |
| May 28 | Last day for Fiscal Committees to hear and report 1 st House fiscal bills to the Floor |
| June 1-4 | Floor Session only. No committees may meet |
| June 4 | Last day to pass bills from house of origin |
| June 7 | Committee meetings may resume |
| June 15 | Budget must be passed by midnight |
| June 24 | Last day for a legislative measure to qualify for the November General Election ballot |
| July 2 | Last day for Policy Committees to hear and report bills to the Floor from the second house |
| July 2 | Summer Recess begins at the end of session if Budget Bill has been enacted |
| Aug 2 | Legislature reconvenes |
| Aug 13 | Last day for Fiscal Committees to meet and report bills to the Floor |

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
Last Amended 01/13/10
Status Assembly Appropriations Committee, Suspense File

AB 226 (Ruskin) Coastal resources: enforcement

This bill would give the Coastal Commission administrative civil liability authority and deposit any resulting revenues into the Coastal Act Services Fund (CASF). This bill would also redirect existing civil penalty revenue from State Coastal Conservancy to the Commission's CASF, subject to appropriation by the Legislature. Amendments taken by the author in Senate Natural Resources Committee 6/23 clarify that a lien filed by the Commission would not be a "super lien" and that the provisions of the bill would not apply to local governments when acting in their legislative or quasi-judicial capacity.

Introduced 02/03/09
Amended 09/03/09
Status **Passage refused, reconsideration granted, Senate Inactive File**
Commission Position **Support**

AB 291 (Saldana) Coastal resources: coastal development permits

This bill would prohibit the issuance of a coastal development permit for any property for which a notice of violation has been received, unless the Executive Director of the Commission determines that an application has been filed that fully resolves the violation. Amendments of 5/11 clarify that the violation runs with the land, not the person, and exclude de minimis violations from the provisions of the bill. Amendments of 8/17 exempt local governments functioning in their quasi-legislative or quasi-adjudicative capacity.

Introduced 02/13/09
Last amended 8/17/09
Status **Passage refused, reconsideration granted, Senate Inactive File**
Commission Position **Support**

AB 925 (Saldana) Recycling: single use beverage container caps

This bill would prohibit the sale of single-use plastic beverage containers without a cap that is not affixed to the container.

Introduced 02/26/09
Last amended 06/30/09
Status Senate Inactive File
Commission position **Support**

AB 2074 (Monning) Natural resources: Andrew Molera State Wilderness

This bill would designate the Andrew Molera State Park Wilderness as a component of the California wilderness preservation system. The bill also would authorize the California Coastal Trail to be located, designed, constructed, or operated within the Andrew Molera State Wilderness.

Introduced 02/18/10
Status Assembly Water, Parks & Wildlife Committee

AB 2503 (Perez) Ocean resources: artificial reefs

This bill would repeal Section 6429.5 of the Public Resources Code, which establishes the Artificial Reef Program administered by the Department of Fish and Game. In its place, it would create the Marine Life Legacy Act, establishing a program of artificial reef research and development, administered by DFG. The act would authorize the department to approve the conversion of an offshore oil platform or production facility into an artificial reef, if specified criteria are satisfied. The act would require the department to consult with and advise the California Coastal Commission and other responsible agencies. It would authorize the department to take title to a decommissioned offshore oil platform or production facility in either state or federal waters, with an accelerated platform decommissioning program. The bill would establish the California Endowment for Marine Preservation, in order to create a permanent source of funding for projects that will conserve, protect, restore, and enhance the open coastal marine resources of the state.

Introduced 02/19/10
Status Assembly Water, Parks & wildlife Committee

AB 2228 (Lieu) Vehicles: overnight parking

This bill that would exempt the city of Los Angeles from requiring a coastal development permit to establish a preferential parking zone in the community of Venice, if the parking restrictions applied to public streets between the hours of 2-5 a.m. the bill would also allow the city to establish ordinances that would allow residents to park during those times, without the need for Coastal Commission approval.

Introduced 02/03/10
Last Amended 04/08/10
Status Assembly Natural Resource Committee
Commission position: Recommend oppose - analysis attached

AB 2598 (Brownlee) Tidelands and submerged lands: seal level action plans

This would require trustees of granted public trust lands to prepare a seal level action plan by July 1, 2011, and submit the plan to the Natural Resources Agency, the Office of Planning and Research, and the State Lands Commission. The plan would include an assessment of the impact of sea level rise on granted public trust lands and strategies to prevent or mitigate damage to development and infrastructure.

Introduced 02/19/10
Last Amended 04/05/10
Status Assembly Natural Resources Committee

AB 2664 (Chesbro) State Lands Commission: violations

This bill would authorize the State Lands Commission to administer a civil penalty for any violation involving the placement of any structure or facility on any lands under the Commission's jurisdiction without a valid lease or permit. The civil penalty could not exceed \$1,000 per day.

Introduced 02/19/10
Status Assembly Natural Resources Committee

AJR 26 (Chesbro) Climate change

This joint resolution request that the U.S. Congress establish a comprehensive framework for climate change adaptation focusing on wildlife, habitats, coasts, watersheds, rivers and other natural resources and ecosystems, and dedicate funding to that effort.

Introduced 09/09/09
Status Senate Natural Resources Committee

ABX6 1 (Nava) Taxation: Oil and Gas Fair Share Act

This bill would impose a tax on any oil producer for the extraction of oil from the earth or water in this state for sale, transport, consumption, storage, profit, or use, at the rate of 10% of the gross value of each barrel of oil. The tax would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would require the board to deposit all revenues, less refunds, collected pursuant to these provisions into the General Fund. This bill requires a 2/3 vote majority for passage in each house.

Introduced 10/26/09
Status First Reading

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. Amendments of 3/11 allow smoking in campgrounds and the Oceano Dunes State Vehicular Recreation Area.

Introduced 12/01/08
Last amended 03/11/10
Status Senate Concurrence

Commission Position Support

SB 21 (Simitian) Fishing gear

This bill would require the Department of Fish and Game to include on all fishing licenses any toll-free telephone numbers, websites or addresses available for the purpose of reporting derelict fishing gear.

Introduced 12/01/08
Last amended 01/25/10
Status Assembly Water, Parks & Wildlife Committee

SCR 56 (Oropeza) Coastal development and Marina del Rey

This measure would request that the County of Los Angeles undertake a comprehensive review of its Local Coastal Program prior to any further LCP amendments or permit approvals.

Introduced 08/20/09
Status Senate Natural Resources and Water Committee

SB 941 (Wyland) Parks and recreation: State park system

This is a spot bill that may be amended to address a coastal issue.

Introduced 02/03/10
Status Senate Rules Committee

SB 959 (Ducheny) Development: expedited permit review

This bill would require the Office of Planning and Research (OPR) to develop a consolidated project information form that may be used by applicants for development projects. The bill would permit applicants to submit the form to OPR for distribution to appropriate agencies, within 3 days of receipt. The bill would require agencies, within 30 days of receipt of the form from OPR, to notify the office, in writing, if a permit from that agency may be required and to send the office the appropriate permit forms. The bill would require the office, within 15 days of receipt of the completed form from an agency, to notify the applicant for a development project, in writing, of any permits required and to send the applicant the appropriate permit application forms received by the office. The bill would require every county or city to provide for coordinated review and decision making and the provision of information regarding the status of all applications and permits for residential, commercial, and industrial developments by a single administrative entity. Amendments of 04/05 declare this to be an urgency statute, requiring a 2/3 vote.

Introduced 02/05/10
Last amended 04/05/10
Status Senate Local Government Committee

SB 1001 (Strickland) State property: San Buenaventura State Beach

This bill would terminate a recorded deed restriction from a vacant parcel of land and an adjacent public pier which limits its use to public recreational purposes. The parcel was given to the City of Ventura by the Department of Parks and Recreation in 1987 on the condition that it would be used exclusively for public park purposes. Removal of the deed restriction would make the property available for non-park uses such as commercial and/or residential facilities.

Introduced 02/09/10
Status Senate Governmental Organization Committee

SB 1006 (Pavley) Natural resources: climate change

This bill would require the Natural Resources Agency, in developing and implementing climate change adaptation strategies and activities, to fully consider and undertake, to the maximum extent practicable, initiatives that protect or enhance natural ecosystem functions in relation to wetlands, beaches, flood plains, watersheds, and greenhouse gas emissions.

Introduced 02/10/10
Status Senate Natural Resources Committee

SB 1034 (Duchenev) Archeological resources: civil penalties

This bill authorizes a state agency to impose an administrative civil penalty against a person who knowingly excavates or damages an archeological resource on public lands. The bill also authorizes forfeiture of the archeological resource(s), and any vehicles and/or equipment used in its excavation.

Introduced 02/12/10
Status Senate Public Safety Committee

SB 1177 (Kehoe) Agriculture: 22nd District Agricultural Association

This bill would require the 22nd Agricultural District in the County of San Diego to establish and maintain a 100-foot greenway buffer zone and public access trail between the San Dieguito River and adjacent wetlands, and proposed new development at the District's property at that location.

Introduced 02/03/10
Status Senate Food and Agriculture Committee

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BILL ANALYSIS
AB 2228 (Lieu)
As Amended, April 8, 2010

SUMMARY

AB 2226 would amend Section 22507.5 of the Vehicle Code to allow the City of Los Angeles to establish a preferential parking district in the community of Venice without the need to obtain a coastal development permit from the California Coastal Commission.

PURPOSE OF THE BILL

The purpose of the bill is to remove the Coastal Commission's jurisdiction over the establishment of a preferential parking district in the Venice neighborhood of the City of Los Angeles.

EXISTING LAW

The definition of "development" as set forth in Section 30106 of the Coastal Act includes: "change in the intensity of use of water, or access thereto..."

Overnight parking districts could adversely affect access to the water because the primary parking supply that supports coastal access (the public streets) would be unavailable for use by the general public when it is being reserved exclusively for local residents. They therefore meet the definition of "development" and generally require a coastal development permit.

Pursuant to Coastal Act Section 30600(b), any development which receives a local coastal development permit from the City of Los Angeles must also obtain a second (or "dual") coastal development permit from the Coastal Commission if the development is within the areas specified in Section 30601 (e.g., within three hundred feet of the beach or sea).

BACKGROUND

The residents of Venice Beach complain that overnight camping and associated illegal activities are disrupting their neighborhoods and endangering public health and safety.

On June 11, 2009, the Coastal Commission heard a series of appeals filed by a number of citizens based on an action by the City of Los Angeles to establish overnight parking districts on public streets in and around the community of Venice Beach. The parking districts would have prohibited non-resident parking in public rights of way from the hours of 2-6 a.m., and authorized the posting of signs to that effect. The City would have provided 4-hour parking spaces in a public parking lot open 24 hours a day for beachgoers who wanted to access the beach legally during those hours.

Coastal Commission staff recommended approval of the City's permits, with the condition that the restricted parking hours be shortened to 2-5 a.m. However, the Commission upheld the appeals and denied the permits, finding that the parking restrictions would adversely affect public access by limiting the public's ability to utilize street parking in the early morning hours for surfing, fishing, walking, jogging, etc. The Commission found specifically that the proposed permit parking program would give the residents preferential access to public parking spaces on public streets in over non-residents without establishing adequate safeguards for visitor parking. Therefore, the proposed overnight permit parking program would adversely impact coastal access by eliminating, or significantly reducing, the primary parking supply for early-morning beachgoers and by giving residents of the parking districts preferential access, and as such, the proposed overnight parking districts would adversely affect coastal access and are not in conformity with the public access policies of the Coastal Act.

Following the denial, the Commission was sued by the Venice Stakeholders Association (VSA) which also named the City. The City subsequently filed a cross-complaint against the Commission. The suit alleges that the Commission does not have jurisdiction over the establishment of overnight parking districts. The Commission, the Attorney General, the VSA and the City have been in settlement discussions regarding a potential settlement to implement a revised parking program.

ANALYSIS

This bill would eliminate the Commission's authority to approve, deny or condition overnight parking districts in the Venice Beach area, and as such, would undermine the Commission's existing, established regulatory jurisdiction. It is also likely to have a negative cumulative impact on coastal access generally, as other jurisdictions will likely seek similar exemption.

Coastal Act Sections 30210, 30211, 30212.5, 30213, 30214, 30220, 30221, 30223 and 30224 protect public recreation and public access. These policies, supported by decades of case law, provide clear direction to the Commission that public access is one of the most fundamental aspects of the Coastal Act, and should be vigorously protected. The Commission has a history of working with local governments and neighborhood associations throughout the state to craft reasonable parking restrictions that give local governments the authority to take enforcement measures against inappropriate overnight activities while still protecting the public's right to legitimate nighttime and early morning beach activities. It has been the Commission's experience that beach going conditions vary from region to region, and it is important to consider each proposal from the perspective of which constituencies will be affected, and craft permit condition accordingly. Thus, it is important for the Commission to retain jurisdiction over the establishment of overnight parking districts, to protect public access against the erosive effects of proliferating parking restrictions.

This bill is also unnecessary, as the parties have had productive settlement discussions. If a settlement is not reached, the issue of the Commission's jurisdiction should be addressed by the court, not the Legislature. Legislation would be more properly considered after the court issues a decision, not before.

Aside from the Coastal Act policy concerns regarding public access, providing CDP exemptions in the Vehicle Code creates a very troubling precedent. Coastal Act procedures and policies, particularly those dealing with Chapter 3 policies, should be addressed solely within the context of the Public Resources Code. For the above reasons, staff recommends the Commission Oppose AB 2228.

SUPPORT/OPPOSITION

Support for AB 2228:

None on file

Opposition to AB 2228:

None on file

RECOMMENDED POSITION

Staff recommends the Commission Oppose AB 2228.

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2228

Introduced by Assembly Member Lieu

February 18, 2010

An act to amend Section 22507.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2228, as amended, Lieu. Vehicles: overnight parking.

Existing law authorizes local authorities, by ordinance or resolution, to, among other things, prohibit or restrict the parking or standing of vehicles on certain streets or highways, or portions thereof, between the hours of 2 a.m. and 6 a.m. *The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, and authorizes the California Coastal Commission to issue permits for, and to regulate, various types of developments within the coastal zone.*

~~This bill would make technical, nonsubstantive changes to that law.~~

This bill would provide that the City of Los Angeles is not required to obtain a permit or approval from the commission to establish an overnight parking restriction on public streets by nonresidents between the hours of 2 a.m. and 5:00 a.m. in the Venice coastal zone. The bill would also authorize the City of Los Angeles to establish a system of permits for purposes of exempting residents of the Venice coastal zone from the parking restrictions.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Los Angeles.

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. Section 22507.5 of the Vehicle Code is amended
2 to read:
3 22507.5. (a) Notwithstanding Section 22507, a local authority
4 may, by ordinance or resolution, prohibit or restrict the parking or
5 standing of vehicles on certain streets or highways, or portions
6 thereof, between the hours of 2 a.m. and 6 a.m., and may, by
7 ordinance or resolution, prohibit or restrict the parking or standing,
8 on a street, or portion thereof, in a residential district, of
9 commercial vehicles having a manufacturer’s gross vehicle weight
10 rating of 10,000 pounds or more. The ordinance or resolution
11 relating to parking between the hours of 2 a.m. and 6 a.m. may
12 provide for a system of permits for the purpose of exempting from
13 the prohibition or restriction of the ordinance or resolution, disabled
14 persons, residents, and guests of residents of residential areas,
15 including, but not limited to, high-density and multiple-family
16 dwelling areas, lacking adequate offstreet parking facilities. The
17 ordinance or resolution relating to the parking or standing of
18 commercial vehicles in a residential district, however, shall not be
19 effective with respect to ~~any~~ a commercial vehicle, or trailer
20 component thereof, making pickups or deliveries of goods, wares,
21 and merchandise from or to ~~any~~ a building or structure located on
22 the restricted streets or highways or for the purpose of delivering
23 materials to be used in the actual and bona fide repair, alteration,
24 remodeling, or construction of a building or structure upon the
25 restricted streets or highways for which a building permit has
26 previously been obtained.
27 (b) Subdivision (a) of this section is applicable to vehicles
28 specified in subdivision (a) of Section 31303, except that an
29 ordinance or resolution adopted pursuant to subdivision (a) of this
30 section shall not permit the parking of those vehicles ~~that are~~ *which*
31 *is* otherwise prohibited under this code.
32 (c) For the purpose of implementing this section, a local
33 authority may, by ordinance, define the term “residential district”
34 in accordance with its zoning ordinance. The ordinance is not
35 effective unless the legislative body of the local authority holds a

1 public hearing on the proposed ordinance prior to its adoption,
2 with notice of the public hearing given in accordance with Section
3 65090 of the Government Code.

4 *(d) (1) Notwithstanding any other law, the City of Los Angeles,*
5 *regulating overnight parking pursuant to this section, shall not be*
6 *required to obtain a permit or approval from the California Coastal*
7 *Commission to establish an overnight parking restriction on public*
8 *streets by nonresidents between the hours of 2 a.m. and 5:00 a.m.*
9 *in the Venice coastal zone.*

10 *(2) An ordinance or resolution adopted by the City of Los*
11 *Angeles pursuant to this section may provide for a system of*
12 *permits for the purpose of exempting residents of the Venice coastal*
13 *zone from the prohibition or restriction of the ordinance or*
14 *resolution.*

15 *SEC. 2. The Legislature finds and declares that a special law*
16 *is necessary and that a general law cannot be made applicable*
17 *within the meaning of Section 16 of Article IV of the California*
18 *Constitution because for many years the residential neighborhoods*
19 *of Venice, located in the City of Los Angeles, have been clogged*
20 *with overnight parking by nonresident vehicles, causing crime,*
21 *litter, public urination and defecation, late-night noise, public*
22 *inebriation, and leakage and dumping of raw sewage into yards,*
23 *alleys, and storm drains.*

O