

CALIFORNIA COASTAL COMMISSION

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



W 15

January 12, 2011

TO: Coastal Commissioners and Interested Persons

FROM: Legal Division and Legislative Unit

SUBJECT: NEW LAWS MEMO: 2010 Chaptered Legislation

The 2010 California Legislative session did not produce any chaptered legislation that directly amended the Coastal Act. The Governor did sign two bills that may affect the coastal program indirectly. AB 2125 (Chapter 544, Statutes of 2010) relates to the Ocean Protection Council's role in marine spatial planning. AB 2503 (Chapter 687, Statutes of 2010) authorizes the state to permit an offshore oil production facility to remain in place as an artificial reef, if certain standards and criteria are met. The following summaries include excerpts of the two bills as enacted.

1) AB 2125 (Ruskin) Public Resources: Marine spatial planning Chapter 544, Statutes of 2010

The relevant portion of this bill adds Sections 35620 and 35621 to the Public Resources Code, directing state agencies with coastal/marine planning, management or regulatory responsibilities to cooperate with the Ocean Protection Council's efforts to gather and share scientific information and tools relevant to coastal and marine spatial planning, and authorizes the OPC to provide grants to public agencies and nonprofit groups to facilitate their participate in marine spatial planning efforts.

Section 35620:

SEC. 2. Section 35620 is added to the Public Resources Code, to read:

35620. (a) Consistent with this chapter, and subject to the availability of funding, the council shall support state agencies' use and sharing of scientific and geospatial information for coastal- and ocean-relevant decisionmaking, including marine spatial planning, by taking all of the following actions:

(1) Assess the needs of California's public agencies with respect to their abilities to gather, manage, use, and share information and decision-support tools relevant to ecosystem-based management in the coastal and ocean environment.

(2) Subject to a determination of need in paragraph (1) and in consultation with the relevant coastal or ocean management agency, increase the amount of baseline scientific and geospatial information that is available to public agencies in a publicly accessible, electronic, and geospatial format with respect to the following aspects of coastal and ocean ecosystems:

(A) Ecosystem health, structure, functioning, productivity, resilience, and vulnerability to threats.

- (B) The effects of climate change.
- (C) The cumulative effects of human-caused and natural sources of stress.
- (D) Existing and predicted patterns of human activities, including activities that present conflicting or compatible demands on coastal and ocean ecosystems or those that require the use of a precautionary approach.
- (E) Social, economic, and cultural values, including the value of coastal and ocean ecosystems for providing ecosystem services.
- (F) Distinguishing ecological characteristics, including habitat heterogeneity, species abundance, and biodiversity.
- (G) Other physical, biological, economic, social, and cultural information that the council determines is relevant to marine spatial planning.

(3) Support public agencies' collaborative management and use of scientific and geospatial information relevant to ecosystem-based management.

(4) Help identify decision-support tools relevant to ecosystem-based management, and, where appropriate, support the adaptation of those tools or the creation of new tools to serve the state's needs.

(b) Subject to available funding, and consistent with their individual mandates, each agency, board, department, or commission of the state with ocean or coastal management interests or regulatory authority shall cooperate with the council to achieve all of the goals described in subdivision (a).

SEC. 3. Section 35621 is added to the Public Resources Code, to read:

35621. Consistent with the council's authority and responsibility under this chapter to coordinate activities of state agencies with ocean or coastal management interests or regulatory authority, to improve the effectiveness of state efforts to protect ocean resources, and to establish policies to coordinate the collection and sharing of scientific data related to coastal and ocean resources among agencies, the council may award grants, enter into interagency agreements, and provide assistance to public agencies and nonprofit organizations to support this effort, including grants to improve geospatial data collection, interagency data sharing and collaboration, and tools for visualizing and analyzing these data. In allocating grants and assistance, the council shall give preference to public agencies that are meeting the goals described in Section 35620.

Implementation: To the extent that the Commission undertakes any activities, studies or programs that further the Ocean Protection Council's direction to coordinate such information, the Commission will share any relevant data, tools or related information with the OPC. The Commission may decide to seek funding from the OPC to pursue related activities that may further the Commission's goals and priorities.

2) AB 2503 (Perez) Ocean resources: marine resources and conservation Chapter 455, Statutes of 2010.

The relevant sections of this bill repeal Section 6429.5 of the Public Resources Code (the Artificial Reef Program), add Chapter 5.5 to the Fish and Game Code, and amend Section 71500 of the Public Resources Code, relating to ocean resources. Known as the Marine Life Legacy Act, it establishes a program of artificial reef research and development, administered by the Department of Fish and Game. The act would authorize the department to conditionally approve the conversion of an offshore oil platform or production facility into an artificial reef, following CEQA review and consistent with specified criteria. The act would require the Ocean Protection Council to consult

with and advise the California Coastal Commission and other responsible agencies in determining criteria for evaluating the environmental benefit of any proposed conversions. 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 act sets up a sliding scale by which to determine the applicable fee for decommissioning an offshore rig in place. Any fees collected will be apportioned as follows: 2% to the Coastal Commission, 2% to the Fish and Game Preservation Fund, 1% to the affected local government, 10% to the General Fund and the remainder to the California Endowment for Marine Preservation, which the act creates. The act also specifies the appointment structure for the governing Board of Directors of the Endowment, and sets forth standards for grant eligibility.

Section 6605:

SECTION 1. Chapter 5.5 (commencing with Section 6600) is added to Part 1 of Division 6 of the Fish and Game Code, to read:

CHAPTER 5.5. CALIFORNIA MARINE RESOURCES LEGACY ACT

Article 1. General Provisions

6605. (a) Nothing in this chapter is intended, and it shall not be construed, to limit or affect the authority or duties of any state or local agency, including, but not limited to, the commission, the council, and the California Coastal Commission.

(b) Nothing in this chapter shall be construed to do any of the following:

(1) Relieve the applicant or prior owner or operator of an offshore oil structure from any continuing liability under any of the following, if the liability is associated with seepage or release of oil from an offshore oil structure that was decommissioned pursuant to an order of, or any action taken by, and in accordance with, any applicable rule or regulation of, any federal or state agency:

(A) Any state statute or regulation regarding liability for the spilling of oil.

(B) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701 et seq.).

(C) Any other provision of law.

(2) Establish any new liability on the part of the state.

(3) Require any agency with jurisdiction to approve the partial removal of an offshore oil structure.

(4) Promote, encourage, or facilitate offshore oil exploration, development, and production within California's open coastal waters.

(5) Require the United States Department of the Interior or the commission to modify, amend, or alter an existing oil and gas lease to approve partial removal of an offshore oil structure.

(6) Alter any existing law or applicable rule or regulation of any federal or state agency that establishes liability for damages arising with respect to artificial reefs or reef materials, including, but not limited to, components of decommissioned oil structures.

(7) Alter any existing law or policy that protects natural reefs.

(8) Approve any particular method of abandonment.

(c) Any partial removal of an offshore oil structure pursuant to this chapter shall not be used or counted as mitigation for any environmental impacts or natural resource damages...

Section 6618:

6618. (a) The cost savings from the partial removal of an offshore oil structure, as determined pursuant to Section 6614, shall be apportioned and transmitted as described in this section.

(b) Upon receipt of conditional approval pursuant to Section 6617, the owner or operator of the structure shall apportion and directly transmit a portion of the total amount of the cost savings to the entities in subdivision (c) as follows:

(1) Fifty-five percent, if transmitted before January 1, 2017.

(2) Sixty-five percent, if transmitted on or after January 1, 2017, and before January 1, 2023.

(3) Eighty percent, if transmitted on or after January 1, 2023.

(c) Of the total amount of the cost savings to be transmitted pursuant to subdivision (b), the applicant shall directly transmit the following amounts to the following entities:

(1) Eighty-five percent shall be deposited into the California Endowment for Marine Preservation established pursuant to Division 37 (commencing with Section 71500) of the Public Resources Code.

(2) Ten percent shall be deposited into the General Fund.

(3) Two percent shall be deposited into the Fish and Game Preservation Fund for expenditure, upon appropriation by the Legislature, by the department to pay any costs imposed by this chapter that are not otherwise provided for pursuant to subdivision (b) of Section 6612 and subdivision (e) of Section 6616. Any moneys remaining in the Fish and Game Preservation Fund, after providing for these costs, shall be used, upon appropriation by the Legislature, first to reimburse the payment of the startup costs described in subdivision (c) of Section 6612, and thereafter to conserve, protect, restore, and enhance the coastal and marine resources of the state consistent with the mission of the department.

(4) Two percent shall be deposited into the Coastal Act Services Fund, established pursuant to Section 30620.1 of the Public Resources Code, and shall be allocated to support state agency work involving research, planning, and regulatory review associated with the application and enforcement of coastal management policies in state and federal waters pursuant to state and federal quasi-judicial authority over offshore oil and gas development.

(5) One percent shall be deposited with the board of supervisors of the county immediately adjacent to the location of the facility prior to its decommissioning. The amount paid to the county shall be managed pursuant to paragraph (1) of subdivision (d) of Section 6817 of the Public Resources Code.

Implementation: This statutory change does not diminish or in any way constrain the Commission's existing authority under the Coastal Act or the Coastal Zone Management Act. The Commission retains full regulatory and consistency review authority over any proposals to leave existing offshore oil facilities in place. The Coastal Act remains the legal standard of review for any Commission action.