

**CALIFORNIA COASTAL COMMISSION**

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January 7, 2015

TO: Coastal Commission and Interested Persons

FROM: Legislative Unit and Legal Division

SUBJECT: **LEGISLATIVE REPORT: NEW LAWS MEMO: 2014 Chaptered Legislation**

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The 2014 California Legislative session resulted in three pieces of chaptered legislation that directly amended the Coastal Act, and one bill that places additional responsibilities on the Commission through another statute. AB 288 (Chapter 866, Statutes 2014) adds Public Resources Code Section 30315.5, requiring the Coastal Commission to post its on-line agendas in Spanish as well as English. AB 474 (Chapter 125, Statutes 2014), amends Public Resource Code Section 30324 requiring the Commission to revise its standard ex-parte disclosure forms to so that ex-parte communication disclosures include the names of all individuals participating in the meeting, and a copy of all written and graphic material presented during the meeting. SB 861 (Chapter 35, Statutes 2014) adds Public Resources Code Section 30821 authorizing the Commission to administratively impose penalties for access-related violations of the Coastal Act, and requiring the Commission to submit a report to the Legislature on implementation by 12/31/18. The Budget bill also established the Climate Resilience Account in the Coastal Trust Fund. Twenty percent of the monies in the fund will go to the Commission for local grants related to sea level rise planning. AB 2516 (Chapter 522, Statutes 2014) requires the Commission to provide bi-annual updates to the Natural Resources Agency regarding the status of Local Coastal Programs.

The following summaries include excerpts of the three bills as enacted.

**1) AB 288 (Levine) Coastal Resources - Chapter 866, Statutes of 2014**

This bill adds Section 30315.5 to the Public Resources Code, requiring the Commission to make its public meeting notice (agendas) available in Spanish. It also allows the Commission to make the notice available in any other language.

SEC. 1. Section 30315.5 is added to the Public Resources Code.

Section 30315.5

Notwithstanding any other law, the commission shall make the notice of any public meeting or hearing of the commission available in both English and Spanish, and may also make the notice available in any other language.

Implementation: The Commission has contracted with a Spanish translation service to provide translations of monthly agendas. The Commission staff has adjusted its internal agenda deadlines to accommodate the additional steps required by the new process.

**2) AB 474 (Stone) California Coastal Commission: ex-parte communications: disclosure forms - Chapter 125, Statutes of 2014.**

Section 30324 of the Public Resources Code is amended to read:

30324. (a) No commission member, nor any interested person, shall conduct an ex parte communication unless the commission member fully discloses and makes public the ex parte communication by providing a full report of the communication to the executive director within seven days after the communication or, if the communication occurs within seven days of the next commission hearing, to the commission on the record of the proceeding at that hearing.

(b) (1) The commission shall adopt standard disclosure forms for reporting ex parte communications which shall include, but not be limited to, all of the following information:

(A) The date, time, and location of the communication.

(B) (i) The identity of the person or persons initiating and the person or persons receiving the communication.

(ii) The identity of the person on whose behalf the communication was made.

(iii) The identity of all persons present during the communication.

(C) A complete, comprehensive description of the content of the ex parte communication, including a complete set of all text and graphic material that was part of the communication.

(2) The executive director shall place in the public record any report of an ex parte communication.

(c) Communications shall cease to be ex parte communications when fully disclosed and placed in the commission's official record.

Implementation: The Commission has revised its standard ex-parte disclosure forms to reflect the new requirements.

**3) SB 861 (Committee on Budget and Fiscal Review) Public Resources: trailer bill - Chapter 35, Statutes of 2014.**

In relevant part, this bill adds Section 30821 to the Public Resources Code.

Section 30821 is added to the Public Resources Code:

30821. (a) In addition to any other penalties imposed pursuant to this division, a person, including a landowner, who is in violation of the public access provisions of this division is subject to an administrative civil penalty that may be imposed by the commission in an amount not to exceed 75 percent of the amount of the maximum penalty authorized pursuant to subdivision (b) of Section 30820 for each violation. The administrative civil penalty may be assessed for each day the violation persists, but for no more than five years.

(b) All penalties imposed pursuant to subdivision (a) shall be imposed by majority vote of the commissioners present in a duly noticed public hearing in compliance with the requirements of Section 30810, 30811, or 30812.

(c) In determining the amount of civil liability, the commission shall take into account the factors set forth in subdivision (c) of Section 30820.

(d) A person shall not be subject to both monetary civil liability imposed under this section and monetary civil liability imposed by the superior court for the same act or failure to act. If a person who is assessed a penalty under this section fails to pay the administrative penalty, otherwise fails to comply with a restoration or cease and desist order issued by the commission in connection with the penalty action, or challenges any of these actions by the commission in a court of law, the commission may maintain an action or otherwise engage in judicial proceedings to enforce those requirements and the court may grant any relief as provided under this chapter.

(e) If a person fails to pay a penalty imposed by the commission pursuant to this section, the commission may record a lien on the property in the amount of the penalty assessed by the commission. This lien shall have the force, effect, and priority of a judgment lien.

(f) In enacting this section, it is the intent of the Legislature to ensure that unintentional, minor violations of this division that only cause de minimis harm will not lead to the imposition of administrative penalties if the violator has acted expeditiously to correct the violation.

(g) "Person," for the purpose of this section, does not include a local government, a special district, or an agency thereof, when acting in a legislative or adjudicative capacity.

(h) Administrative penalties pursuant to subdivision (a) shall not be assessed if the property owner corrects the violation consistent with this division within 30 days of receiving written notification from the commission regarding the violation, and if the alleged violator can correct the violation without undertaking additional development that requires a permit under this division. This 30-day timeframe for corrective action does not apply to previous violations of permit conditions incurred by a property owner.

(i) The commission shall prepare and submit, pursuant to Section 9795 of the Government Code, a report to the Legislature by January 15, 2019, that includes all of the following:

(1) The number of new violations reported annually to the commission from January 1, 2015, to December 31, 2018, inclusive.

(2) The number of violations resolved from January 1, 2015, to December 31, 2018, inclusive.

(3) The number of administrative penalties issued pursuant to this section, the dollar amount of the penalties, and a description of the violations from January 1, 2015, to December 31, 2018, inclusive.

(j) Revenues derived pursuant to this section shall be deposited into the Violation Remediation Account of the Coastal Conservancy Fund and expended pursuant to Section 30823.

Implementation: The Commission is implementing 30821 in the following ways:

- Staff is conducting an internal assessment of existing cases to determine which ones include a public access component.
- Staff is including a reference to 30821 in Notice of Violation (NOV) letters for newly discovered cases that involve access violations.
- Enforcement staff will update the Commission on implementation status at a subsequent hearing.

#### **4) AB 2516 (Gordon) Coastal Resources - Chapter 522, Statutes of 2014**

Relevant to the Coastal Commission, this bill adds Sections 30964 and 30965 to the Public Resources Code, requiring the Commission to submit information regarding the status of Local Coastal Programs with respect to their sea level rise to the Resources Agency by July 15, 2015, and bi-annually thereafter.

Section 30964 is added to the Public Resources Code.

30964. (a) No later than July 1, 2015, the entities listed in Section 30965 shall submit to the Natural Resources Agency sea level rise planning information and, beginning January 1, 2016, any new or updated sea level rise planning information on a biannual basis, in a format determined by the agency. The Natural Resources Agency shall make a determination as to which sea level rise planning information is necessary for inclusion in the database and may include any of the following:

- (1) Purpose.
- (2) The person or entity charged with developing the sea level rise planning information and other contributors or collaborators.
- (3) Whether the sea level rise planning information is required to be developed by local, state, or federal law.
- (4) Geographic scope of the sea level rise planning information.
- (5) If the sea level rise planning information is an assessment, whether it is a risk or vulnerability assessment.
- (6) Whether the sea level rise planning information has governance, environmental, economic, social equity, or public education objectives, or any combination thereof.
- (7) The types of resources and infrastructure items on which the sea level rise planning information focuses. Types of resources and infrastructure items include, but are not limited to, wetlands, piers, and residential, commercial, industrial, and transportation structures.
- (8) Source of funding for the sea level rise planning information.
- (9) Cost of the sea level rise planning information.
- (10) Any scientific considerations or science-based facts that are involved in the sea level rise planning information.
- (11) Relevant maps.
- (12) Links to other Internet Web site materials that provide further information.

(b) The California Coastal Commission shall provide the Natural Resources Agency with information regarding which cities, counties, and cities and counties located in the coastal zone, as defined in Section 30103, have implemented a local coastal program, including all of the following information:

- (1) When the local coastal program was created.
- (2) All dates on which the local coastal program was updated, if updated.
- (3) Whether the local coastal program addresses sea level rise.
- (4) Cities, counties, and cities and counties that do not have a local coastal program in place.

Section 30965 is added to the Public Resources Code.

30965. (a) The following public agencies and private entities shall provide sea level rise planning information described in Section 30964 that is under the control or the jurisdiction of the public agency or private entity, as applicable, to the Natural Resources Agency by July 1, 2015, and, beginning January 1, 2016, shall continue to provide updated information to the Natural Resources Agency on a biannual basis:

- (1) Airports within the California coastal zone or San Francisco Bay area.
- (2) California Coastal Commission.
- (3) State Energy Resources Conservation and Development Commission.
- (4) Ports located in the California coastal zone or San Francisco Bay area.
- (5) Department of Transportation.
- (6) Investor-owned utilities located in the California coastal zone or the San Francisco Bay area.
- (7) Publicly owned electric and natural gas utilities located in the California coastal zone or San Francisco Bay area.
- (8) Regional water quality control boards.
- (9) San Francisco Bay Conservation and Development Commission.
- (10) State Coastal Conservancy.
- (11) State Lands Commission.
- (12) State Water Resources Control Board.

(b) This section does not require sea level rise planning information to be developed, adopted, or updated by a public agency or private entity listed in subdivision (a).

(c) The Ocean Protection Council, when necessary, shall request the information required by this section.

30966. The Natural Resources Agency, in developing the Planning for Sea Level Rise Database, shall organize the database by geographic regions, provide an entry for each city, county, and city and county within the coastal zone and San Francisco Bay area, and include information described in Section 30964 under each entry. The Natural Resources Agency shall organize the database in a manner it determines best to provide the public with clear, useful, and readily accessible information.

Implementation: The Commission will provide the specified information to the according in the required timeframe.