

CALIFORNIA COASTAL COMMISSION

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



W 6d

January 11, 2017

TO: Coastal Commission and Interested Persons

FROM: Legislative Unit and Legal Division

SUBJECT: **LEGISLATIVE REPORT: NEW LAWS MEMO: 2016 Chaptered Legislation**

The 2016 California Legislative session resulted in two pieces of chaptered legislation that directly amend the Coastal Act (AB 2616 and SB 1473), and three bills (AB 2299, AB 2406 and SB 1069), that are relevant to the Commission in that they limit discretionary review over specified types of secondary dwelling units at the local level. Another bill, AB 2180 (Ting) specifically excluded the Coastal Commission from new deadlines that apply to other public agencies functioning as responsible agencies under CEQA for residential and mixed use projects.

This memo discusses how the new statutes affect Coastal Act implementation and outlines how the Commission will comply with the new statutes. The following summaries include relevant excerpts of the Coastal Act bills as enacted, with new language in *italics*. Full text of each measure is available through the links below.

1) **SB 1473 (Natural Resources and Water Committee) Water Resources - Chapter 597, Statutes of 2016**

This omnibus committee bill makes several changes throughout the Public Resources Code and the Fish and Game Code. Relevant to the Coastal Commission, it amends Section 30315(a) to clarify that the Commission may not allow more than 45 *working* days to elapse between meetings, and Section 30621(a) to clarify that an application or an appeal must set for hearing by the Commission no more than 49 *working* days after filing.

- Implementation: Under 30315(a) as amended, the Commission may now consider adopting an annual meeting calendar that establishes 11 meetings over the course of a year without disrupting the practice of meeting on the second week of the month, provided that no more than 45 working days elapse between meeting dates. Previously, 45 *calendar* days between meetings did not allow for the Commission to meet 11 times per year without disrupting that well-established schedule.

Alternatively, the Commission could cancel a previously scheduled meeting date mid-year, provided that no more than 45 working days elapse between the last day of the previous meeting and the first day of the next meeting, and no appeals surpass the 49 working day limit between those two meetings. The commission may also choose to continue meeting monthly with no change.

Senate Bill No. 1473

CHAPTER 597

An act to amend Sections 200, 460, 1053.5, 2076.5, and 7120 of, to amend the heading of Article 1 (commencing with Section 200) of Chapter 2 of Division 1 of, to amend the heading of Chapter 2 (commencing with Section 200) of Division 1 of, to amend and renumber Section 206 of, to add Chapter 3.5 (commencing with Section 399) to Division 1 of, to add Article 1.5 (commencing with Section 7110) to Chapter 1 of Part 2 of Division 6 of, to repeal Sections 202, 204, 205.1, 207, 210, 211, 215, 217.5, 217.6, 218, 220, and 300 of, to repeal Article 1.5 (commencing with Section 240) of Chapter 2 of Division 1 of, and to repeal and add Article 2 (commencing with Section 250) of Chapter 2 of Division 1 of, the Fish and Game Code, to amend Section 11343.4 of the Government Code, to amend Section 131052 of the Health and Safety Code, to amend Sections 5080.18, 30315, and 30621 of the Public Resources Code, and to repeal Chapter 1700 of the Statutes of 1967, relating to natural resources.

[Approved by Governor September 23, 2016. Filed with Secretary of State
September 23, 2016.]

The people of the State of California do enact as follows: ...

SEC. 29.

Section 30315 of the *Public Resources Code* is amended to read:

30315.

(a) The commission shall meet at least 11 times annually at a place convenient to the public. Each meeting shall occur not more than 45 *working* days after the previous meeting. All meetings of the commission shall be open to the public.

(b) A majority of the total appointed membership of the commission shall constitute a quorum. An action taken by the commission under this division requires a majority vote of the members present at the meeting of the commission, with a quorum being present, unless otherwise specifically provided for in this division.

SEC. 30.

Section 30621 of the *Public Resources Code* is amended to read:

30621.

(a) The commission shall provide for a *de novo* public hearing on applications for coastal development permits and any appeals brought pursuant to this division and shall give to any affected person a written public notice of the nature of the proceeding and of the time and place of the public hearing. Notice shall also be given to any person who requests, in writing, such notification. A hearing on any coastal development permit application or an appeal shall be set no later than 49 *working* days after the date on which the application or appeal is filed with the commission.

2) AB 2616 (Burke) California Coastal Commission: membership: environmental justice - Chapter 578, Statutes of 2016

This bill amends the Coastal Act to specifically cross-reference the non-discrimination and environmental justice provisions of Government Code Sections 11135 and 65040.12 respectively, and authorizes the Commission to consider environmental justice and the equitable distribution of environmental benefits in its permit actions. The bill also amends Section 30301 to specify that the Governor must appoint one of four commissioners who lives in, represents and works with communities most burdened by high levels of pollution and environmental justice issues.

- Implementation: Under new Section 30313 the Commission will continue to its long-standing non-discriminatory practices in all programmatic, grant making, contracting and personnel actions.
- Under new Section 30604(h), the Commission and local governments may now consider environmental justice or the equitable distribution of environmental benefits throughout the state consistent with other Coastal Act policies when acting on permits and appeals. “Environmental justice” is defined as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” For those permit items that raise issues of environmental justice or equitable distribution of environmental benefits, the Commission may now consider requiring permit conditions to address demonstrated inequities, and make additional findings for approval or denial of projects based on environmental justice impacts.
- No implementation necessary under Section 30301(f). The Governor will appoint or designate at least one representative who resides in and works directly with communities with diverse racial and ethnic populations and communities with low-income populations, burdened disproportionately by high levels of pollution and issues of environmental justice. This appointment will be made no later than the fourth appointment available after January 1, 2017.

Assembly Bill No. 2616

CHAPTER 578

An act to amend Sections 30301 and 30604 of, and to add Sections 30013 and 30107.3 to, the Public Resources Code, relating to coastal resources.

[Approved by Governor September 24, 2016. Filed with Secretary of State
September 24, 2016.]

The people of the State of California do enact as follows:

SECTION 1.

Section 30013 is added to the Public Resources Code, to read:

30013.

The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division. As required by Section 11135 of the Government Code, no person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination, under any program or activity that is conducted, operated, or administered pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

SEC. 2.

Section 30107.3 is added to the Public Resources Code, to read:

30107.3.

“Environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

SEC. 3.

Section 30301 of the *Public Resources Code* is amended to read:

30301.

The commission shall consist of the following 15 members:

- (a) The Secretary of the Natural Resources Agency.
- (b) The Secretary of Transportation.
- (c) The Chairperson of the State Lands Commission.
- (d) Six representatives of the public from the state at large. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint two of these members.
- (e) Six representatives selected from six coastal regions. The Governor shall select one member from the north coast region and one member from the south central coast region. The Speaker of the Assembly shall select one member from the central coast region and one member from the San Diego coast region. The Senate Committee on Rules shall select one member from the north central coast region and one member from the south coast region. For purposes of this division, these regions are defined as follows:
 - (1) The north coast region consists of the Counties of Del Norte, Humboldt, and Mendocino.

(2) The north central coast region consists of the Counties of Sonoma and Marin and the City and County of San Francisco.

(3) The central coast region consists of the Counties of San Mateo, Santa Cruz, and Monterey.

(4) The south central coast region consists of the Counties of San Luis Obispo, Santa Barbara, and Ventura.

(5) The south coast region consists of the Counties of Los Angeles and Orange.

(6) The San Diego coast region consists of the County of San Diego.

(f) Of the representatives appointed by the Governor pursuant to subdivision (d) or (e), one of the representatives shall reside in, and work directly with, communities in the state that are disproportionately burdened by, and vulnerable to, high levels of pollution and issues of environmental justice, including, but not limited to, communities with diverse racial and ethnic populations and communities with low-income populations. The Governor shall appoint a representative qualified pursuant to this subdivision to a vacant position from the appointments available pursuant to either subdivision (d) or (e) no later than the fourth appointment available after January 1, 2017.

SEC. 4.

Section 30604 of the *Public Resources Code* is amended to read:

30604.

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding that sets forth the basis for that conclusion.

(b) After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the certified local coastal program.

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

(d) No development or any portion thereof that is outside the coastal zone shall be subject to the coastal development permit requirements of this division, nor shall anything in this division authorize the denial of a coastal development permit by the commission on the grounds the

proposed development within the coastal zone will have an adverse environmental effect outside the coastal zone.

(e) No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property, or property adjacent to the property, on which the proposed development is to be located, unless the public agency has been specifically authorized to acquire the property and there are funds available, or funds that could reasonably be expected to be made available within one year, for the acquisition. If a permit has been denied for that reason and the property has not been acquired by a public agency within a reasonable period of time, a permit may not be denied for the development on grounds that the property, or adjacent property, is to be acquired by a public agency when the application for such a development is resubmitted.

(f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency, or the commission on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

(h) When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

3) AB 2299 (Bloom) Land use: housing: second units - Chapter 735, Statutes of 2016.

AB 2299 revises Government Code Section 65852.2 regarding local government review and approval of accessory dwelling units (formerly called “second units”). Prior law allowed local governments to enact ordinances regarding second units if those ordinances met specified criteria. Local governments that did not enact such ordinances were required to approve applications for second units that satisfied certain statutory requirements. Prior law provided that applications for second units were subject to ministerial review without a public hearing.

AB 2299 modifies some definitions, adds provisions protecting historic structures and adds a number of the statutory criteria that must be included in a local ordinance for accessory dwelling units (ADUs): the maximum size of an ADU is the smaller of either 1200 square feet or 50% of the living area of dwelling unit to which it is attached; no more than one parking space per ADU bedroom may be required; and a direct passageway from the street to the new unit cannot be required. Local ordinances that do not conform to the requirements of AB 2299 will become null and void. Section 65852.2 continues to provide that it does not alter or supersede the Coastal Act.

This bill was double joined to **SB 1069 (Wieckowski)** (Chapter 720, Statutes of 2016) as both bills made different amendments to the same section of the Government Code Section 65852.2, which allows local agencies to adopt ordinances that allow for ministerial approval of accessory units in single family and multi-family zoning, provided that specific standards are met. AB 2299 addressed policies that shall and shall not be included in a local ordinance, while SB 1069 addressed additional development standards that local agencies shall implement irrespective of whether or not an ordinance has been adopted. Sections of each bill became operative and inoperative upon the Governor's signature.

- Implementation: Local governments with certified LCPs should continue to submit ordinances implementing second unit policies and procedures to the Coastal Commission as LCP amendments to ensure that CDPs for ADUs comply with Coastal Act requirements. In areas where the Commission retains permitting jurisdiction, the Commission will continue to review applications for ADUs for compliance with the Chapter 3 policies of the Coastal Act.

4) SB 1069 (Wieckowski) Land use: zoning - Chapter 720, Statutes of 2016

This bill was double-joined with AB 2299. Unlike AB 2299, this bill does not address what local governments must include in an ordinance addressing accessory dwelling units. Instead, this bill places restrictions directly on local governments' discretionary authority to require additional parking spaces for a subset of accessory dwelling units as defined, regardless of whether or not an ordinance is in place.

Relevant to the Commission, this bill adds Government Code Section 65852.2 (e). This section prohibits a local agency, whether or not it has adopted an ordinance, from requiring additional parking spaces for an accessory dwelling unit located within ½ mile of public transit, within a significant historic district, as part of an existing primary residence, or when there is a car-share vehicle within one block of an accessory dwelling unit. Additionally, this bill requires that accessory dwelling units within an existing single family residence (a.k.a. "junior accessory dwelling units, see AB 2406, below) must be processed as ministerial permits.

- Implementation: Unlike AB 2299, the provisions of this bill apply directly to local regulation of secondary dwelling units, rather than through the adoption of an ordinance. The Commission will advise local governments with certified LCPs to update their plans to reflect these new policies.

5) AB 2406 (Thurmond) Housing: junior accessory dwelling units - Chapter 755, Statutes of 2016

This bill adds Government Code Section 65852.22 authorizing a local agency to adopt an ordinance to allow the construction of junior accessory dwelling units with ministerial approval. As defined, junior accessory dwelling units must be constructed entirely within the exterior walls of an existing structure, cannot be more than 500 square feet, must contain an efficiency kitchen, and include an existing bedroom. Any local ordinance adopted pursuant to this bill would also exempt those units from water or sewer hookup fees, additional fire attenuation requirements, and may not impose additional parking requirements.

- Implementation: Development activities and impacts will likely be similar to modest interior remodels. To minimize conflicts with other LCP policies, the Commission will advise local governments with certified Local Coastal Programs to incorporate any new ordinance adopted pursuant to this new law into their LCP. In areas where the Commission retains permitting jurisdiction, the Commission will advise local governments to refer applicants to contact the Commission directly. The Commission will consider any proposed projects in the context of this section, as well as Chapter 3 of the Coastal Act, and will likely consider such applications to qualify for CDP exemptions or waivers.

6) AB 2180 (Ting) Land use: development project review – Chapter 566, Statutes of 2016

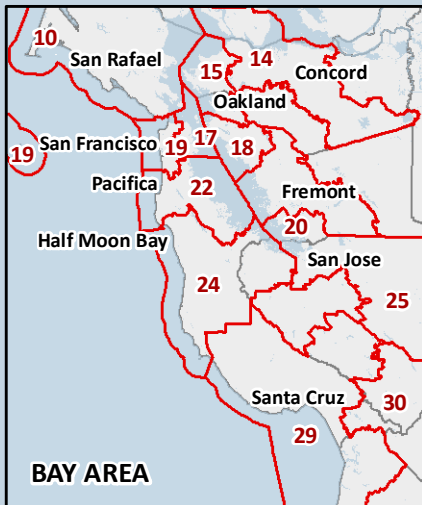
This bill amends the Permit Streamlining Act to reduce the length of time for responsible agencies other than the Coastal Commission to act on an application for residential and certain mixed-use developments from 180 days to 90 days from the date of approval by a lead agency, or receipt of a completed application, whichever is longer. The Coastal Commission normally qualifies as a responsible agency.

###

California Coastal Assembly Districts 2017

ASSEMBLY MEMBERS

Jim Wood (D) AD 2
 Marc Levine (D) AD 10
 *Tim Grayson (D) AD 14
 Tony Thurmond (D) AD 15
 David Chiu (D) AD 17
 Rob Bonta (D) AD 18
 Phil Ting (D) AD 19
 Bill Quirk (D) AD 20
 Kevin Mullin (D) AD 22
 *Marc Berman (D) AD 24
 Kansan Chu (D) AD 25
 Mark Stone (D) AD 29
 *Anna Caballero (D) AD 30
 *Jordan Cunningham (R) AD 35
 *Monique Limon (D) AD 37
 Jacqui Irwin (D) AD 44
 Richard Bloom (D) AD 50
 Autumn Burke (D) AD 62
 *Al Muratsuchi (D) AD 66
 *Patrick O'Donnell (D) AD 70
 Travis Allen (R) AD 72
 William Brough (R) AD 73
 Matthew Harper (R) AD 74
 Rocky Chavez (R) AD 76
 *Todd Gloria (D) AD 78
 Lorena Gonzalez (D) AD 80
 *Elected 11/8/16



California Coastal Senate Districts 2017

SENATORS

Mike McGuire (D) SD 2
 *Bill Dodd (D) SD 3
 *Nancy Skinner (D) SD 9
 Bob Wieckowski (D) SD 10
 *Scott Wiener (D) SD 11
 Jerry Hill (D) SD 13
 Bill Monning (D) SD 17
 Hannah-Beth Jackson (D) SD 19
 Ben Allen (D) SD 26
 *Henry Stern (D) SD 27
 Ricardo Lara (D) SD 33
 Janet Nguyen (R) SD 34
 *Steven Bradford (D) SD 35
 Patricia Bates (R) SD 36
 John Moorlach (R) SD 37
 *Toni Atkins (D) SD 39
 Ben Hueso (D) SD 40
 *Elected 11/8/16

