

CALIFORNIA COASTAL COMMISSION

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DATE: March 8, 2017

TO: Coastal Commission and Interested Persons

FROM: John Ainsworth, Executive Director
 Sarah Christie, Legislative Director

SUBJECT: LEGISLATIVE REPORT FOR MARCH, 2017

CONTENTS: This report provides summaries and status of bills affecting the Coastal Commission and California's Coastal Program, and coastal-related legislation identified by staff.

Note: Information contained in this report is accurate as of February 22, 2017. Recent amendments are summarized in *italics*. Bill text, votes, committee analyses and current status of any bill may be viewed on the California Legislature's Homepage at <http://leginfo.legislature.ca.gov/>. This report can also be accessed through the Commission's Homepage at www.coastal.ca.gov

 2017 Legislative Calendar

Jan 1	Statutes take effect
Jan 4	Legislature reconvenes
Jan 10	Budget Bill must be submitted by Governor
Jan 15	Last day for committees to hear and report 2015 bills introduced in their house
Jan 20	Last day to submit bill requests to Office of Legislative Counsel
Feb 17	Last day for bills to be introduced
Feb 20	President's Day Observed
March 31	Cesar Chavez Day Observed
April 6	Spring Recess begins upon adjournment
April 17	Legislature reconvenes from Spring Recess
April 28	Last day for policy committees to hear and report fiscal bills
May 12	Last day for policy committees to hear and report non-fiscal bills out of house of origin
May 26	Last day for fiscal committees to hear and report bills to the Floor
May 29	Memorial Day Observed
May 30-June 2	Floor session only
June 2	Last day for each house to pass bills introduced house of origin
June 5	Committee meetings may resume
June 15	Budget Bill must be passed by midnight
July 14	Last day for Policy committees to hear and report fiscal bills
July 21	Last day for policy committees to meet. Summer Recess begins upon adjournment
Aug 21	Legislature reconvenes from summer recess
Sep 1	Last day for fiscal committees to meet and report bills to the Floor
Sep 8	Last day to amend bills on the Floor
Sep 15	Last day for Legislature to pass bills. Interim recess begins upon adjournment
Oct 15	Last day for Governor to sign or veto bill

PRIORITY LEGISLATION

AB 18 (Eduardo Garcia) California Clean Water, Climate, Coastal Protection and Outdoor Access For All Act of 2018

This bill would enact the above titled Bond Act, which, if adopted by the voters at the June 5, 2018 statewide election, would authorize the issuance of State General Obligation Bonds in the amount of \$3.5 billion, to finance specified programs. The sum of \$95 million would be allocated to the State Coastal Conservancy for coastal resource protection purposes and completion of the Coastal Trail; \$30 million would be allocated to the California Climate Resilience Account to assist coastal communities with adaptation measures, and \$600 million, subject to appropriation by the Legislature, would be available to plan, develop and implement climate adaptation projects that protect coastal and rural communities adapt to climate change impacts.

Introduced 12/05/16
Status Assembly Appropriations Committee.

AB 96 (Ting) Budget Act of 2017-18

This bill will make appropriations in support of the State of California for public purposes, including the California Coastal Commission's annual budget.

Introduced 01/10/17
Status Assembly Budget Committee. Subcommittee 3 hearing April 26

AB 184 (Berman) Sea level rise planning: data base

This bill would repeal Section 30968 of the Public Resources Code, deleting the January 1, 2018 sunset date for agencies to regularly submit specified information to the Natural Resources Agency for inclusion in the state's Sea Level Rise Data Base.

Introduced 01/19/17
Status Assembly Natural Resources Committee.

AB 250 (Gonzalez) State Coastal Conservancy: Lower Cost Coastal Accommodations Program

This bill would direct the State Coastal Conservancy to work with State Parks and the Coastal Commission to prepare and implement a Lower Cost Visitor Serving Accommodations plan within and adjacent to the coastal zone. The bill would authorize the Conservancy to identify and test various measures that support the identification, development, improvement and operation of lower cost accommodations by private entities.

Introduced 01/30/17
Status Assembly Natural Resources Committee.

AB 457 (Cunningham) Saline water conversion: Diablo Canyon Nuclear Plant

This is a spot bill declaring the Legislature's intent to enact legislation requiring a feasibility study for utilizing Diablo Canyon's existing desalination facility for local water use.

Introduced 02/13/17
Status Assembly Rules Committee.

AB 494 (Bloom) Land use: accessory dwelling units

This bill makes minor clarifications to Government Code Section 65852.2, related to accessory dwelling units (ADUs). The bill clarifies that ADUs may be rented separately from the main house, defines “tandem parking” and clarifies that a studio, pool house, or other similar structure may be converted to an ADU consistent with the requirements of the section.

Introduced 02/13/17
Status Assembly Rules Committee.

AB 498 (Harper) Fire rings: beaches

This bill states the intent of the Legislature to enact legislation related to public beaches and fire rings.

Introduced 02/13/17
Status Assembly Rules Committee.

AB 554 (Cunningham) Desalination: statewide goal

This bill would establish a statewide goal of desalinating 300,000 acre-feet per year of drinking water by 2025, and 500,000 acre-feet per year by 2030.

Introduced 02/14/17
Status Assembly Rules Committee.

AB 663 (Bloom) Coastal resources: housing

This bill would reinstate the Coastal Act affordable housing policies that were repealed in 1981. The bill would also repeal language precluding the Commission from requiring local governments to include affordable housing policies in their LCPs.

Introduced 02/14/17
Status Assembly Rules Committee.

Commission Position Recommend Support, analysis attached

AB 684 (Stone) California Coastal Commission: ex parte communications: data base

This bill would require the Commission, by July 1, 2018, to develop and implement a searchable, online data base for the reporting of ex parte communications.

Introduced 02/15/17
Status Assembly Rules Committee.

AB 725 (Levine) State beaches and parks: smoking ban

This bill would make it a civil misdemeanor to smoke cigars or cigarettes on state coastal beaches, punishable by fines up to \$250. The bill would authorize the State Parks Director to post signs regarding smoking restrictions, as well as to designate areas within a state park unit that is exempt from the ban.

Introduced 02/15/17
Status Assembly Rules Committee.

AB 1077 (O'Donnell) Off-highway vehicles

This bill would indefinitely extend the authorization for the Department of State Parks' authorization to administer the Off-Highway Motor Vehicle Recreation Program.

Introduced 02/16/17
Status Assembly Rules Committee.

AB 1122 (Limon) Affordable housing

This is an intent bill, related to affordable housing.

Introduced 02/17/17
Status Assembly Rules Committee.

AB 1129 (Stone) California Coastal Commission

This is a spot bill.

Introduced 02/17/17
Status Assembly Rules Committee.

AB 1281 (Limon) Coastal resources: development policy

This is a spot bill.

Introduced 02/17/17
Status Assembly Rules Committee.

AB 1594 (Bloom) Ocean protection: plastic pollution

This bill would require the Ocean Protection Council to complete a study of the primary sources of plastics pollution in the ocean, as determined by an analysis of coastal cleanup efforts in the state. The report would include recommendations to the Legislature regarding possible legislative actions or other measures to reduce plastics pollution in coastal beaches and ocean waters.

Introduced 02/17/17
Status Assembly Rules Committee.

AB 1642 (Caballero) California Coastal Commission: ex parte communications: disclosure

This bill would require the Director of the Coastal Commission to post all written ex parte communication disclosures on the Commission's internet website.

Introduced 02/17/17
Status Assembly Rules Committee.

SB 5 (De Leon) California Drought, Water, Parks, Climate, Coastal Protection and Outdoor Access for All Act of 2018

This bill would enact the above titled Bond Act, which, if adopted by the voters at the June 5, 2018 statewide election, would authorize the issuance of State General Obligation Bonds in the amount of \$3 billion, to finance specified programs. Half of the funding would go toward investments in park, trails and other projects that promote social and environmental equity and enhance disadvantaged communities, and half would be spent on clean drinking water and drought preparedness projects. Of the \$400 million for climate adaptation and resiliency projects, unspecified amounts would be allocated to the Ocean Protection Trust Fund, the San Francisco Bay Area Conservancy Program and the State Coastal Conservancy.

Introduced 12/05/16
Status Senate Natural Resources and Water Committee. Hearing March 14.

SB 35 (Wiener) Planning and zoning: affordable housing

This bill would require local governments to annually submit a report to the Department of Housing and Community Development specifying the number and type of affordable housing units, as defined, that were completed in the preceding year. The bill would also provide for a streamlined local approval process for affordable housing projects that meet specified criteria. These provisions of the bill would not apply to projects proposed on prime ag land, federally recognized wetlands, floodplains, high fire severity zones, hazardous waste sites or the coastal zone.

Introduced 012/05/17
Status Senate Rules Committee

SB 42 (Hill) Public lands: Martins Beach: property acquisition

This bill would make an appropriation of an unspecified amount from the General Fund to the State Lands Commission for the purchase of a public right-of-way to Martins Beach in San Mateo County. This bill requires a 2/3 vote.

Introduced 012/05/17
Status Senate Natural Resources and Water Committee. Hearing March 14

SB 44 (Jackson) Coastal Oil Well Cleanup Act

This bill would require the State Lands Commission to conduct a statewide assessment of improperly abandoned “legacy” oil wells along the coast for which there is no responsible party; identify those with a high priority for remediation; survey and monitor natural oil seeps in state waters, begin remediation efforts in cooperation with the Department of Oil Gas and Geothermal Resources, subject to available resources.

Introduced 12/05/16
Status Senate Natural Resources and Water Committee

SB 96 (Committee on Budget and Fiscal Review) Budget Act of 2017-18

This bill will make appropriations in support of the State of California for public purposes including the California Coastal Commission's annual budget.

Introduced 01/10/17
Status Senate Budget Committee. Subcommittee 2 hearing April 20.

SB 235 (Allen) California Coastal Commission: dedication of real property

This bill would require the Commission, within 10 days of receiving evidence that an Offer to Dedicate (OTD) public access has been recorded, to forward a copy of that recording evidence to the Department of Parks and Recreation, State Coastal Conservancy, and the State Lands Commission.

Introduced 02/06/15
Status Senate Rules Committee

SB 249 (Allen) Off-highway motor vehicle recreation

This bill would extend the existing January 1, 2018 sunset of the Off-Highway Motor Vehicle Recreation Act of 2003 to January 1, 2023; require the department to update the 2008 Soil Conservation Guidelines and Standards; implement a monitoring program to better measure the conditions of habitat, wildlife, soils and vegetation; identify and protect sensitive natural, cultural and archeological resources, and make revisions to gasoline tax calculations and funding restrictions.

Introduced 02/07/17
Status Senate Natural Resources and Water Committee

SB 290 (Jackson) Marine mammals and sea turtles: entanglement and stranding

This bill would require the Department of Fish and Wildlife to establish a network of marine mammal and sea turtle rehabilitation stations for animals impacted by stranding and entanglement. The bill would authorize the Director to enter into agreements with qualified non-profits to provide marine wildlife rehabilitation services consistent with Department guidance.

Introduced 02/09/17
Status Senate Rules Committee

SB 386 (Glazer) State beaches and parks: smoking ban

This bill would make it a civil misdemeanor to smoke cigars or cigarettes on state coastal beaches, punishable by fines up to \$250. The bill would authorize the State Parks Director to post signs regarding smoking restrictions, as well as to designate areas within a state park unit that is exempt from the ban.

Introduced 02/14/17
Status Senate Rules Committee

SB 588 (Hertzberg) Marine resources and preservation

This bill would substantially revise the Marine Resources Legacy Act (aka the “Rigs to Reefs” program) in the Fish and Game Code, related to the regulatory process of offshore oil and gas facilities conversion to artificial reefs. The bill designates the State Lands Commission as the lead agency for environmental review under CEQA for an application to partially remove an offshore structure. The bill requires the Department to determine the cost savings of partial removal compared with full removal, as well as make the determination of whether partial removal provides a net environmental benefit. The bill includes consideration of greenhouse gas emissions as part of the analysis of net environmental benefit. The bill makes changes to the application process, and changes to the timing of the distribution of funds; requires the applicant to provide sufficient funds for all agencies to perform the responsibilities proscribed by the bill, and gives the Ocean Protection Council the responsibility of determining the appropriate weight to be given to adverse impacts to the marine environment versus greenhouse gas emissions. The bill would allow the first applicant to partially remove an offshore platform to pay startup and other costs associated with processing the application as determined by the department.

Introduced 02/17/17
Status Senate Rules Committee

SB 772 (Leyva) State beaches and parks: smoking ban

This bill would make it a civil misdemeanor to smoke cigars or cigarettes on state coastal beaches, punishable by fines up to \$250. The bill would authorize the State Parks Director to post signs regarding smoking restrictions, as well as to designate areas within a state park unit that is exempt from the ban.

Introduced 02/14/17
Status Senate Rules Committee

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BILL ANALYSIS
AB 663 (Bloom)
As Introduced 02/14/17

SUMMARY

AB 663 would Amend PRC Section 30213 reinstate the Commission's original authority to protect, encourage, and where feasible provide opportunities for low and moderate income housing. It would also repeal PRC Section 30500.1, which currently prohibits the Commission from requiring Local Coastal Plans to include housing policies.

PURPOSE OF THE BILL

The purpose of the bill is to restore the Commission's previous authority under Chapter 3 to protect, encourage and where feasible provide affordable housing in the coastal zone.

EXISTING LAW

Public Resources Code Section 30011 prohibits the Commission from enforcing the affordable housing requirements of the Mello Act (Gov. Code § 65590) and Section 30500.1 specifies that the Commission cannot require a Local Coastal Program to include affordable housing policies.

PROGRAM BACKGROUND

From the date of its enactment in 1976 until 1981, the California Coastal Act included broad policy language requiring the provision of affordable housing in the coastal zone for persons of low and moderate income. As originally enacted, Section 30213 of the Coastal Act provided:

“Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and, where feasible, provided.”

Under that authority, the Commission required, as conditions to coastal development permits issued for numerous Orange County residential subdivisions, that 25% to 35% of the permitted units be maintained as affordable housing with re-sale controls to ensure their continued affordability for persons of low to moderate income. This resulted in approximately 5,000 affordable units of affordable housing being created over a period of 5 years statewide.

The Commission's inclusionary housing policies were controversial at the time, and several bills were introduced between 1977-1980 to repeal the Commission's authority; all of which were opposed by the Commission. In 1981, Senator Mello (D-Monterey) introduced SB 626. Despite Commission opposition, the Legislature repealed the Commission's statutory authority to protect and provide affordable housing in the coastal zone. SB 626 (Ch. 1007 Statutes of 1981) amended PRC Section 30213 as follows:

“Lower cost visitor and recreational facilities ~~and housing opportunities for persons of low and moderate income~~ shall be protected, encouraged, and, where feasible, provided.”

And added Section 30500.1 which states:

“No local coastal program shall be required to include housing policies and programs.”

And Section 30607.2 (a) which states:

“Conditions requiring housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, which were incorporated into a coastal development permit issued prior to January 1, 1982, may, at the request of the permittee, be amended or modified by the commission or by a local government having the authority to issue coastal development permits. In approving such amendments or modifications, only those conditions and requirements authorized by Section 65590 of the Government Code may be imposed on the permittee.”

This allowed developers of several previously approved projects to successfully petition the Commission for the removal of earlier permit conditions requiring the provision of affordable units.

SB 626 also added Section 65590 to the Government Code, authorizing the demolition or conversion of existing affordable housing units in the coastal zone, so long as replacement units were constructed within the same city or county, within 3 miles of the coastal zone.

In 2003, Senator Ducheny (D-San Diego) introduced SB 619 (Chapter 793, Statutes of 2003), addressing a variety of affordable housing-related issues across a number of statutes. Specific to the Coastal Act, SB 619 added PRC Sections 30604 (f) and (g) directing the Commission to “encourage housing opportunities for persons of low and moderate income” and preclude the Commission from reducing density bonuses below what is otherwise allowable in the Government Code, unless specific findings are made regarding Chapter 3 policies:

(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.

SB 619 limited the Commission’s ability to reduce residential densities of affordable housing projects, but did not restore the Commission’s authority to protect existing affordable housing or encourage or provide new affordable housing. The Legislative findings in Section 30604(g) in Chapter 7 do not provide the same authority as enforceable policies of Chapter 3. This was made clear when the Commission staff initially interpreted 30604 (f) and (g) as a requirement to “encourage” new affordable housing in ways that included but were not limited to the specific references to density bonuses. The bill’s author intervened, and clarified through two letters to the Commission that she intended her legislation to be

narrowly interpreted, and not used as a justification for any additional actions on the part of the Commission to increase additional affordable housing beyond what might be proposed by applicants.

ANALYSIS

The drafters of the Coastal Act understood that gentrification and loss of affordable housing in the coastal zone would be an unfortunate and unintended consequence of coastal protection. The original language of 30213 was intended to mitigate those impacts. To implement that policy, the Commission adopted three sets of interpretive guidelines between 1977-1981, and approved approximately 5,000 affordable units during that time. The guidelines featured a combination of approaches, including inclusionary deed restricted units, land dedications, and in-lieu fees.

Land development patterns during that time included numerous large subdivisions of vacant land, which afforded the opportunity for hundreds of new, inclusionary units to be built within large-scale market rate subdivisions in Southern California. Today’s land use patterns afford fewer such opportunities. Should this bill become law, the Commission could consider regulations or interpretive guidelines that would clarify how the agency would implement the policy in the context of current land use trends.

SUPPORT

None on file.

OPPOSITION

None on file.

RECOMMENDED POSITION

Staff recommends the Commission **Support** AB 663.