

**CALIFORNIA COASTAL COMMISSION**

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**W6c**

**DATE:** April 11, 2018

**TO:** Coastal Commission and Interested Persons

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

**SUBJECT:** LEGISLATIVE REPORT FOR APRIL, 2018

**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 04/04/2018. 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](http://www.coastal.ca.gov)

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 2018 Legislative Calendar

Jan 1	Statutes take effect.
Jan 3	Legislature reconvenes.
Jan 10	Budget Bill must be submitted by Governor.
Jan 12	Last day for committees to hear and report 2017 bills introduced in their house.
Jan 15	Martin Luther King, Jr. Day
Jan 19	Last day to submit bill requests to Office of Legislative Counsel. Last day for committees to hear and report 2017 Floor bills introduced in their house.
Jan 31	Last day for each house to pass 2017 bills introduced in that house.
Feb 16	Last day for bills to be introduced.
March 22	Spring Recess begins upon adjournment.
March 30	Cesar Chavez Day observed.
April 2	Legislature reconvenes from Spring Recess.
April 27	Last day for policy committees to hear and report fiscal bills.
May 11	Last day for policy committees to hear and report non-fiscal bills introduced in their house.
May 18	Last day for policy committees to meet prior to June 4.
May 25	Last day for fiscal committees to hear and report to the Floor bills introduced in their house.
May 29-June 1	Floor session only
June 1	Last day for each house to pass bills introduced in that house.
June 4	Committee meetings may resume.
June 15	Budget Bill must be passed by midnight.
June 29	Last day for policy committees to hear and report fiscal bills.
July 6	Last day for policy committees to meet. Summer Recess begins upon adjournment.
Aug 6	Legislature reconvenes from Summer Recess.
Aug 17	Last day for fiscal committees to meet and report bills.
Aug 20-31	Floor session only
Aug 24	Last day to amend bills on the Floor.
Aug 31	Last day for Legislature to pass bills. Interim Recess begins upon adjournment.
Sept 30	Last day for Governor to sign or veto bill.

**PRIORITY LEGISLATION**

**California Proposition 68: Parks, Environment and Water Bond**

This measure was placed on the June 5 statewide ballot pursuant to the passage of SB 5 (DeLeon). Proposition 68 would provide \$4 billion in general obligation bonds for a variety of climate resilience, water quality, water supply, parks, environmental restoration, acquisition and lower cost recreation projects. A total of \$226 million would be available to the State Coastal Conservancy for specified coastal, river parkway, climate resiliency and restoration projects, including \$30 million for lower cost visitor serving projects.

**Commission Position      Support**

**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 \$3.47 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; \$100 million to the Natural Resources Agency to fund lower-cost, visitor-serving projects on coastal public lands or coastal lands owned by non-profits; \$635 million to plan, develop and implement climate adaptation projects that protect coastal and rural communities adapt to climate change impacts, subject to appropriation by the Legislature. *Amendments of 08/30 increased the overall amount of the bond from \$3.1 to \$3.4 billion, and allocated \$40 million to the Climate Resilience Account,*

Introduced                      12/05/16  
Last Amended                  08/30/17  
Status                              Senate Appropriations Committee.

**AJR 29 (Limon) Oil and gas: offshore drilling: operations: leases**

This resolution would provide that the Legislature strongly and unequivocally supports the current federal prohibition on new oil and gas drilling in federal waters offshore California, opposes the Trump administration’s proposal to remove safety and environmental protections related to offshore drilling operations, and opposes the Trump administration’s proposed leasing plan that would expand lease areas off California. The resolution would also urge the United States Secretary of the Interior to remove California from that proposed leasing plan, and would request that the Bureau of Ocean Energy Management hold more than one public hearing on the plan in California.

Introduced                      01/16/18  
Last Amended                  01/30/18  
Status                              Chaptered

**HR 70 (Baker) Relative to offshore drilling**

This resolution makes findings about California’s historic opposition to offshore oil drilling the impacts of the 1969 Santa Barbara oil spill, and the importance of California’s coastal economy. The measure urges President Trump and Interior Secretary Zinke to exempt waters off California’s coast from new oil and gas leasing plans.

Introduced 01/12/18  
Status Pending Referral in the Assembly.

**AB 388 (Mullin) Greenhouse Gas Reduction Fund: wetland restoration projects**

This bill will authorize the use of GGRF moneys for the beneficial reuse of dredged materials for wetland restoration projects, provided that the investment furthers the purposes of the California Global Warming Solutions Act of 2006 (AB 32). *Amendments of 06/22 make minor, technical changes.*

Introduced 02/09/17  
Last Amended 06/22/17  
Status Senate Natural Resources and Water Committee. Held under submission.

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

This bill would require the Public Utilities Commission to contract with an independent third party to study of the feasibility of utilizing Diablo Canyon’s existing desalination facility for local water use as part of the decommissioning process.

Introduced 02/13/17  
Last Amended 05/26/17  
Status Senate 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. *Amendments of 03/27 make non-substantive changes to the findings portion of the bill.*

Introduced 02/14/17  
Last Amended 03/27/17  
Status Assembly Appropriations Committee. Held under submission.

**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. *Amendments of 04/19 add a 5 year sunset provision.*

Introduced 02/14/17  
Last Amended 04/19/17  
Status Assembly Inactive File.

**Commission Position Support**

**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 an online data base for the reporting of ex parte communications. The bill would require that the database be publicly searchable, and that all ex-parte communications must be posted on line within 7 days of the communication. Communications taking place less than 7 days prior to the hearing must be posted on line prior to the beginning of the hearing at which the matter is to be discussed. *Amendments of 06/29 require the Commission to provide training and technical support to Commissioners upon request; and provide that if an Commissioner is unable to post an ex parte communication on the database due to a problem with the Server within 2 days of the hearing, the Commissioner shall verbally disclose the ex parte on the matter from the dais, and state the reason for not posting the ex parte. The communication must be posted on the database as soon as the technical issue is resolved. Amendments of 07/18 change “meeting” to “hearing” for the purpose of disclosing an ex parte communication. The practical effect of this amendment is that ex parte communications can take place during commission meetings, provided that they are disclosed prior to the opening of the hearing item.*

Introduced                    02/15/17  
Last Amended                07/18/17  
Status                         Senate Appropriations Committee. Held under submission.

**AB 816 (Kiley) Webcasts of public meetings and workshops**

This bill would require all boards and commissions within the Natural Resources Agency and the Environmental Protection Agency provide a live webcast of all public meetings in a manner that allows for listeners and viewers to provide public comment. The bill does not apply to meetings held at “non-agency” sites as defined: “A location other than agency headquarters or state government buildings or facilities where the primary operations of the agency...take place.”

Introduced                    02/15/17  
Status                         Senate Natural Resources and Water Committee. Held under submission.

**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. Amendments of 04/05 extend the sunset date to *January 1, 2019, unless a specified report is not received by the Legislature by January 1, 2018, in which case the act would be repealed on July 1, 2018.*

Introduced                    02/16/17  
Last Amended                04/05/17  
Status                         Assembly Appropriations Committee. Held Under Submission.

**AB 1097 (Levine) State beaches and parks**

This bill would make it an infraction, punishable by a fine of \$50, for anyone to smoke a tobacco product or dispose of a cigar or cigarette on a state coastal beach or a unit of the state park system. The bill would require the director to post signs in state park units to that effect, and also allows the director to designate areas exempt from the prohibition.

Introduced 02/16/17  
Last Amended 01/03/18  
Status Senate Rules Committee.

**AB 1129 (Stone) California Coastal Commission**

This bill would require that shoreline protective devices and would amend PRC 30235 to define “existing structure” as structures built prior to January 1, 1977, and to specify that shoreline protective devices must be approved consistent with Coastal Act policies protecting public access, shoreline ecology, natural landforms and other impacts on coastal resources. The bill would specify that emergency permits issued for shoreline protective devices are intended to allow the minimum amount of temporary development necessary to address the emergency situation. The bill would also amend PRC 30821 to allow for the imposition of administrative penalties for unpermitted shoreline protective devices.

Introduced 02/17/17  
Last Amended 02/09/17  
Status Assembly Inactive File.

**Commission Position Support**

**AB 1151 (Gloria) Vaquita-harmful fish and fish products**

This bill would make it unlawful to sell, offer for sale, trade or distribute fish or fish products whose capture methods are harmful to the critically endangered vaquita, the world’s smallest and most rare cetacean, found only in the northern Gulf of Mexico. This bill would prohibit the sale of fish species which are caught through the use of gill nets in vaquita habitat. *Amendments of 05/30 would require the Department of Fish and Wildlife to adopt regulations to enforce the prohibition by January 1, 2019, and prohibit the Department from taking any enforcement actions pursuant to the regulations prior to July 1, 2019.*

Introduced 02/17/17  
Last Amended 05/30/17  
Status Senate Inactive File.

**Commission Position Support**

**AB 1281 (Limon) State parks: climate change: study**

This bill would require the Department of Parks and Recreation to conduct a study that includes recommendations for actions needed to address the impacts of climate change at state parks by July 1, 2018.

Introduced 02/17/17  
Last Amended 03/30/17  
Status Assembly Appropriations Committee. Held under submission.

**AB 1196 (Harper) California Coastal Act: Port of Newport Beach**

Amendments of 03/22 would designate the City of Newport Beach city harbor as a port, and authorize the preparation of a Port Master Plan. This bill is identical to AB 2464 (Harper) as introduced 2/14/18.

Introduced 02/14/18  
Last Amended 03/22/18  
Status Senate Rules Committee  
**Commission Position Recommend Oppose, analysis attached**

**AB 1594 (Bloom) Ocean protection: plastic pollution**

This bill would require the Ocean Protection Council on or before March 1, 2018, to complete existing data on 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. The bill would also require the Council to report to the Legislature on the status of the OPC's 13-point plan to prevent and reduce marine debris, as outlined by the Council's 2007 resolution.

*Amendments of 06/26 strike the previous provisions and state that it is the intent of the Legislature to increase the diversion of single-use food packaging in order to reduce a primary source of litter and marine debris.*

Introduced 02/17/17  
Last Amended 06/26/17  
Status Senate Environmental Quality 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.

**AB 1775 (Limon/Muratsuchi) State lands: leasing: oil and gas**

This bill would prohibit the State Lands Commission and local trustees of state tidelands from entering into any new leases for offshore oil and/or gas production. The prohibition would also extend to any lease renewal, extension or modification of an existing lease that would authorize the exploration, development or production of oil or natural gas seaward of the mean high tide line. *Amendments of 3/22 would extend the prohibition to local trustees of granted tidelands, and make other technical clarifications.*

Introduced 01/04/18  
Last Amended 03/22/18  
Status Assembly Natural Resources Committee (04/09)

**AB 1782 (Muratsuchi) Surfing**

This bill would establish surfing as the state’s official sport.

Introduced 01/08/17  
Status Assembly Governmental Organization Committee

**AB 1884 (Calderon) Single use plastic straws**

This bill would prohibit food facilities, as defined, from providing a single-use plastic straw to customers unless specifically requested. Amendments of 02/05 move the language from the Health and Safety Code to the Public Resources Code. The effect of this is eliminating criminal penalties.

Introduced 01/17/18  
Last Amended 02/05/18  
Status Assembly Natural Resources Committee

**AB 2162 (Chiu) Housing and development: supportive housing**

This bill would establish that “supportive housing” is allowed “by right” in commercial zones and areas where “multiple dwelling uses” are permitted, subject to certain restrictions. Supportive housing is affordable rental housing with access to intensive services that promote housing stability.

Introduced 02/12/18  
Status Assembly Local Government Committee (4/18)

**AB 2191 (O’Donnell) White shark population monitoring and beach safety program**

This bill would direct the Ocean Protection Council to develop white shark monitoring and beach safety program for the purpose of awarding grants to local agencies and academic institutions to monitor and track white shark movements off the coast of California.

Introduced 02/12/18  
Status Assembly Water Parks and Wildlife Committee (4/10)

**AB 2379 (Bloom) Waste management: polyester microfiber**

This bill would require that any article of clothing made of fabric that is more than 50% polyester bear a label stating that the garment sheds plastic microfibers when washed and recommends hand washing.

Introduced 02/14/18  
Status Assembly Natural Resources Committee (4/9)

**AB 2464 (Harper) Port of Newport Beach**

This bill would include the City of Newport Beach to prepare a Port Master Plan for their harbor. This bill is identical at AB 1196, as amended 3/22/19.

Introduced 02/14/18  
Status Assembly Natural Resources Committee



**AB 2528 (Bloom) Climate adaptation**

This bill would define “habitat resiliency areas” as watersheds that are ecologically connected in regions that support, or have the potential to support, wild native fish populations; watersheds serving reservoir systems of 3,000,000 acre-feet or greater; coastal estuaries over five acres in size; and mountain meadows that that serve as natural reservoirs for cold, clean water. The bill would include habitat resiliency areas as a sector in the State’s Safeguarding California Plan.

Introduced 02/14/18  
Status Assembly Natural Resources Committee

**AB 2614 (Carrillo) Outdoor experiences: disadvantaged youth**

This bill would require the Natural Resources Agency to establish a grant program for innovative transportation programs that underserved students with access to outdoor experiences and education. The bill would require the agency to consult with the Department of Parks and Recreation, the Coastal Commission and the Coastal Conservancy before establishing guidelines for the program.

Introduced 02/15/18  
Status Assembly Water Parks and Wildlife Committee (4/10)

**Commission Position Recommend Support, analysis attached**

**AB 2754 (Levine) California Coastal Act: development**

This bill would amend the definition of “development” in Public Resources Code Section 30106 to exclude “routine and ongoing” agricultural activities as defined in subdivision (b) of Section 786.1 of the California Code of Regulations, unless the Commission makes a finding that the activity has a substantial impact on protected coastal resources.

Introduced 02/16/18  
Last Amended 04/4/18  
Status Assembly Natural Resources Committee (4/18)

**Commission Position Recommend Oppose, analysis attached**

**AB 2779 (Stone) Recycling: single-use plastic container caps**

This bill would prohibit the sale of any single-use plastic beverage container unless the cap is tethered or otherwise affixed to the container. The effective date of the prohibition has not yet been determined.

Introduced 02/16/18  
Status Assembly Natural Resources Committee (4/9)

**AB 2797 (Bloom) Planning and zoning: density bonuses**

This bill would state that no project in the coastal zone utilizing density bonus incentives or concessions, including waivers, parking ratios or reduction of development standards, could be denied pursuant to Section 30251 of the Coastal Act, relating to scenic and visual qualities.

Introduced 02/16/18  
Status Assembly Housing and Community Development Committee (4/11)



**[AB 2864 \(Limon\) California Coastal Commission: coastal zone resources: oil spills](#)**

This bill would specify that the Coastal Commission shall be a trustee agency for coastal zone resources affected by oil spills and related responses. *Amendments of 04/02 move the language from the Public Resources Code to the Lempert-Keene-Seastrand Act in the Government Code, eliminates the designation of the Coastal Commission as a trustee agency, and instead require the OSPR Administrator to request the Coastal Commission and BCDC provide a written assessment of extent and value of damages to coastal resources. The bill would require the commissions' findings into any final Natural Resources Damage Assessment.*

Introduced 02/16/18  
Last Amended 04/02/18  
Status Assembly Natural Resources Committee (4/9)  
**Commission Position [Recommend Support, analysis attached](#)**

**[AB 2919 \(Frazier\) Transportation: permits](#)**

This bill would require the Coastal Commission, the State Water Resources Control Board, and the Department of Fish and Wildlife to approve and complete CalTrans permits within a 2-year timeframe, or else the permit will be deemed approved.

Introduced 02/16/18  
Last Amended 03/19/18  
Status Assembly Transportation Committee (4/16)

**[SR 73 \(McGuire\) Relative to new Offshore Oil and Gas Leasing Program](#)**

This resolution makes extensive findings regarding the importance of California's coastal economy, California's leadership in renewable energy and greenhouse gas reductions, and the public's support for coastal protection. The measure expresses the Senate's opposition to the administration's proposed 5-year Outer Continental Shelf National leasing plan, and urges the President of the United States and the Congress to permanently protect the Pacific coast from new oil and gas leasing.

Introduced 01/12/18  
Last Amended 01/25/18  
Status Passed Senate, Enrolled.

**[SB 188 \(Jackson\) State lands: leasing; oil and gas](#)**

This bill would prohibit the State Lands Commission from entering into any new lease or other conveyance that authorizes the exploration, development or production of oil and natural gas on state tidelands. The bill would prohibit the commission from entering into any lease renewals, modifications or extensions that authorize the lessee to engage in new or additional exploration, development, or production of oil and natural gas. Amendments of 06/08 make minor, technical changes.

Introduced 01/25/17  
Last Amended 06/08/17  
Status Assembly Appropriations Committee. Held under submission.

**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. *Amendments of 06/19 specify that only platforms located deeper than 100’ are eligible.*

Introduced                    02/17/17  
Last Amended                06/19/17  
Status                         Assembly Natural Resources Committee.

**SB 827 (Wiener) Planning and zoning: transit-rich housing bonus**

This bill would amend the state density bonus law (Planning and Zoning Code) to provide specified exemptions from local building codes, General Plans and LCPs for “transit-rich housing projects.” Transit-rich housing projects are defined as a residential development project with all units no less than ½ mile from a major transit stop, or no more than ¼ mile from a fixed route bus service with intervals of no more than 15 minutes during peak commute hours. The “transit-rich bonus” would exempt the project from all of the following:

- Maximum controls on residential density or floor area
- Minimum automobile parking requirements
- Any design standard that restricts the applicant’s ability to construct the maximum number of units consistent with any applicable building code.

Projects within ¼ mile of a high quality transit corridor, or one block from a major transit stop could build as high as 85 feet. Qualified projects that don’t meet that criteria could build as high 45-55 feet, depending on specific circumstances. *Amendments of 03/01 require the applicant to provide relocation benefit assistance to persons who are displaced by the project.*

Introduced                    01/03/18  
Last Amended                03/01/18  
Status                         Senate Transportation and Housing Committee

**SB 834 (Jackson/Lara) State lands: leasing: oil and gas**

This bill would prohibit the State Lands Commission and local trustees of state tidelands from entering into any new leases for offshore oil and/or gas production. The probation would also extend to any lease renewal, extension or modification of an existing lease that would authorize the exploration, development or production of oil or natural gas seaward of the mean high tide line. This bill is a reintroduction of SB 188 from the previous year.

Introduced 01/04/18  
Status Senate Natural Resources and Water Committee (4/16)

**SB 835 (Glazer) Parks: smoking ban**

This bill would make it an infraction, punishable by a fine of \$25 to smoke a tobacco product or dispose of a cigar or cigarette in a State Park. The bill would also require the Department to post signs in State Park units to inform the public of the smoking prohibition. *Amendments of 3/20 would clarify that the bill does not apply to the good faith practice of a religious belief or ceremony.*

Introduced 02/04/18  
Last Amended 03/20/18  
Status Senate Appropriations Committee

**SB 836 (Glazer) State beaches: smoking ban**

This bill would make it an infraction, punishable by a fine of \$25 to smoke a tobacco product or dispose of a cigar or cigarette on a state coastal beach. The bill would also require the Department of Parks and Recreation to post signs in State Park units to inform the public of the smoking prohibition. *Amendments of 3/20 would clarify that the bill does not apply to the good faith practice of a religious belief or ceremony.*

Introduced 01/04/18  
Last Amended 03/20/18  
Status Senate Appropriations Committee

**SB 953 (Anderson) Off-highway motor vehicles**

This bill states that it is the intent of the Legislature to clarify operating rules for off-highway motor vehicles.

Introduced 01/30/18  
Status Senate Rules Committee

**SB 984 (Skinner) State boards and commissions: representation: women**

This bill would require the composition of all state boards and commissions to be comprised of a minimum of 50% women. The bill would also require the Secretary of State to disclose on its website the gender composition of each state board and commission.

Introduced 02/05/18  
Status Senate Governmental Organization Committee (4/10)

**SB 1015 (Allen) California Climate Resiliency Program**

This bill would establish the California Climate Resiliency Program, and create the California Climate Change Resiliency Fund to fund the planning and implementation of projects that increase the resiliency of natural and working lands as well as urban areas that are adapting to climate change. The fund would receive moneys from the Greenhouse Gas Reduction Fund, and the program would be developed and implemented by the Wildlife Conservation Board.

Introduced 02/07/18  
Status Senate Environmental Quality Committee (4/18)

**SB 1029 (McGuire) North Coast Rail Authority: right of way: Great Redwood Trail Agency**

This bill would effectively dissolve the existing North Coast Rail Authority, which currently maintains jurisdiction over a largely inoperable rail road right of way in Sonoma and Mendocino. The bill would require a successor agency to conduct a freight rail study for the southern portion of the right-of-way. The bill would also create the Great Redwood Trail Agency to create and maintain a public trail on or adjacent to the northern portion of the right of way, as well as the option to contract for services to operate an excursion and/or freight service.

Introduced 02/08/18  
Last Amended 03/15/18  
Status Senate Transportation and Housing Committee

**SB 1090 (Monning) Nuclear power plant decommissioning**

This bill would require the Public Utilities Commission to fully fund the cost of the community impact mitigation settlement and employee retention program proposed by PG&E, related to the decommissioning of the Diablo Canyon Nuclear Power Plant in San Luis Obispo County.

Introduced 02/12/18  
Last Amended 03/15/18  
Status Senate Rules Committee

**SB 1301 (Beall) Environmental permitting**

This bill would require the Coastal Commission, BCDC, the SWRCB and CDFW to issue a quarterly report that discloses the average processing time for all projects. The bill would also require these agencies to expedite the permitting process for any project that maintains human life or safety through flood risk associated with dam failure.

Introduced 02/16/18  
Status Senate Natural Resources and Water Committee (4/16)

**SB 1365 (Hueso) Coastal Conservancy: grants to nonprofits**

This bill would require that the State Coastal Conservancy prioritize any mitigation funds received after January 1, 2019, for grants to non-profit organizations that offer scientific, educational, cultural or heritage programs that focus on coast and ocean stewardship.

Introduced                    02/16/18  
Last Amended                04/02/18  
Status                         Senate Natural Resources and Water Committee (4/24)

**SB 1493 (Committee on Natural Resources) Omnibus bill**

This bill makes numerous technical amendments across a variety of statutes. Relative to the Coastal Commission, it clarifies that the Coastal Commission shall use “working” days to calculate deadlines related to various submittals, consistent with other sections of the Coastal Act.

Introduced                    02/21/18  
Status                         Senate Natural Resources and Water Committee (4/16)

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**CALIFORNIA COASTAL COMMISSION**

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**BILL ANALYSIS****AB 1196 (Harper)**

As Amended 03/22/18

**SUMMARY**

This bill would amend Section 30700 of the Public Resources Code to add the City of Newport Beach's municipal harbor to the list of industrial deep water ports (Los Angeles, Long Beach, San Diego and Port Hueneme) that are currently eligible to prepare and implement a Port Master Plan (PMP). This bill would effectively create the "Port of Newport Beach" for the purpose of establishing eligibility for the City to create a PMP. Once certified, a PMP for the Port/City of Newport Beach would eliminate the need for the City to obtain a coastal development permit (CDP) from the Commission for development activities within the boundaries of the harbor.

**PURPOSE OF THE BILL**

The author's stated reason for the bill is to increase the City's control over harbor development projects and activities seaward of the mean high tide line, such as piers, docks, and dredging. Ceding the Commission's CDP authority to the City would allow the City to authorize and undertake its own development activities seaward of the mean high tide line, as well as permit the activity of private applicants in state waters. It would also allow the city to collect permit fees for a new class of activities.

**EXISTING LAW**

Chapter 8 of the Coastal Act, Articles 1-3, contains the general provisions and findings, policies, and Port Master Plan implementation procedures for the four coastal ports and the Humboldt Bay Harbor.

Coastal Act Section 30700 states:

"For purposes of this division, notwithstanding any other provisions of this division except as specifically stated in this chapter, this chapter shall govern those portions of the Ports of Hueneme, Long Beach, Los Angeles, and San Diego Unified Port District located within the coastal zone, but excluding any wetland, estuary, or existing recreation area indicated in Part IV of the coastal plan."

Coastal Act Section 30701 (b) states:

"The location of the commercial port districts within the State of California, including the Humboldt Bay Harbor, Recreation, and Conservation District, are well established, and for many years such areas have been devoted to transportation and commercial, industrial, and manufacturing uses consistent with federal, state and local regulations. Coastal planning requires no change in the number or location of the established commercial port districts. Existing ports, including the Humboldt Bay Harbor, Recreation, and Conservation District, shall be encouraged to modernize and construct necessary facilities within their boundaries in order to minimize or eliminate the necessity for future dredging and filling to create new ports in new areas of the state."

Coastal Act Section 30708 (c) states:

“All port-related developments shall be located, designed, and constructed so as to... Give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities.”

## **PROGRAM BACKGROUND**

The Coastal Act provides the authority for Ports to prepare Port Master Plans, just as it authorizes University campuses to prepare Long Range Development Plans (LRDPs) and requires all local governments to prepare Local Coastal Programs (LCPs). Each type of plan is specific to the type of entity that implements it. Once a local government has a certified LCP, or a Port has a certified PMP, it assumes permitting authority from the Coastal Commission for coastal development within their geographic jurisdiction.

In January of 2017, the Coastal Commission certified the City of Newport Beach’s LCP. This was a major accomplishment for the city and the Commission after working together for several years, and the City is now issuing coastal development permits for local applicants.

Under an LCP, the local government’s jurisdiction ends at the mean high tide line, where the Coastal Commission’s retained jurisdiction begins. State tidelands and state waters are public trust resources, held in trust for the public by the state. It is therefore appropriate for the state to retain oversight and jurisdiction over these state resources. Even after an LCP is certified, local governments and private entities must still obtain a coastal development permit from the Commission to dredge channels and harbors, dispose of dredge materials, modify piers or docks, or conduct any type of fill. Individuals with private docks may also need to get a lease from the State Lands Commission, for any extension or construction of a dock. This is the case for every city and harbor in the coastal zone from Imperial Beach to Crescent City. Newport Beach is not unique in this respect.

In 2016, prior to the certification of Newport’s LCP, the Commission worked with the city to streamline the permitting process for small dredging projects in the harbor that impact eelgrass, an important marine habitat. This was a major efficiency improvement for both the City and the Commission that is working well. At that time, the Commission and the City also discussed the possibility of permitting routine dock work harbor-wide through a “master CDP.” This option would have provided the city with permitting authority similar to what it now seeks through this bill. However, the city ultimately elected not to pursue a master CDP given relatively low demand.

## **ANALYSIS**

This bill would allow the City to prepare a Port Master Plan under which they could undertake future development activities in state waters and on state tidelands without the need for a coastal development permit from the Commission. This would remove Newport Harbor from the Coastal Commission’s original permit jurisdiction, and set a precedent for other coastal municipalities to seek similar authority, thereby diminishing the State’s oversight of activities directly affecting the State’s public trust resources.



The Coastal Act authorizes the governing bodies of the Ports of Los Angeles, Long Beach, San Diego and Port Hueneme to prepare PMPs under which they issue their own coastal development permits and undertake their own development activities, consistent with the approved PMP. The governing bodies of all four ports have prepared and are implementing approved Port Master Plans.

Unlike local governments, Port Governing Bodies are public entities that control all of the land owned or leased by the port. Most of the land under the jurisdiction of the ports is public tidelands, granted in trust to the port governing bodies. Under a PMP, ports issue CDPs for their own projects, as well as permits for third party lessors. Ports also issue “exclusions” which are analogous to Coastal Act exemptions. Permits for specified developments and exemptions are appealable to the Commission, but the regulations governing PMPs are more permissive than the regulations governing local governments. For instance, under an LCP, all development between the first public road and the sea is appealable to the Commission, whereas only certain classes of activities are appealable under a PMP, regardless of their geographic location.

While both ports and harbors include significant waterfront infrastructure, they serve very different needs. Ports primarily undertake intensely industrial development necessary for the provision of port-related activities and services necessary for the loading, unloading, transport and processing of commercial goods, and to facilitate their efficient transport by seagoing vessel and rail. Port Master must give these types of activities the highest priority.

Municipal harbors, by contrast, typically consist of a patchwork of public and private interests, including recreational opportunities such as boat launches, docks, piers, boat slips, offshore moorings and a variety of visitor-serving commercial services. Port facilities primarily serve heavy industrial uses, while municipal harbors are hubs for public recreational and commercial activities. The exception is the Port of San Diego, which also includes some lands designated for visitor-serving and hotel development. However, this has led to conflicts and in some cases, protracted litigation between the Port and the Commission, over Coastal Act policies prioritizing lower-cost opportunities, scenic views and public access.

Given the Coastal Act mandate to maximize public access and recreational opportunities (PRC Section 30001.5), protect lower-cost visitor-serving opportunities (PRC Section 30213), and maintain the health of marine ecosystems (PRC Section 30230), it is essential for public agencies to carefully balance private and public interests whenever planning new waterfront development. Coastal Commission oversight of waterfront areas is particularly critical, due to the heightened implications for public access, coastal recreation and lower-cost visitor-serving facilities, protection of important biological resources, placement of fill in state waters, and disposal of vital dredge spoils. These are all matters of significant statewide public interest, and should not be wholly delegated to local governments. This was part of the state/local balance struck by the Legislature in 1976, and which remains the fulcrum for California’s entire coastal management program. Hence, PMPs are not the appropriate vehicle for cities and counties undertaking development activities in their municipal harbors.

The City already has the authority to conduct ongoing dredging activities within a defined area of the harbor under a Commission-issued CDP. The City has the option to amend that permit to address additional needs as necessary, or pursue a Public Works Plan to cover additional activities if they choose to seek additional streamlining measures.

**SUPPORT**

City of Newport Beach

**OPPOSITION**

None on file

**RECOMMENDED POSITION**

Staff recommends the Commission **Oppose** AB 1196.

AMENDED IN SENATE MARCH 22, 2018

AMENDED IN SENATE JUNE 14, 2017

AMENDED IN SENATE MAY 25, 2017

AMENDED IN ASSEMBLY MARCH 30, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1196**

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**Introduced by Assembly Member Harper**  
**(Coauthors: Assembly Members Gallagher and Mathis)**  
**(Coauthor: Assembly Member Quirk-Silva)**  
(Coauthor: Senator Moorlach)

February 17, 2017

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An act to amend Section ~~15144~~ of the Education Code, and to amend Section ~~53508.6~~ of the Government Code, relating to school bonds. *30700 of the Public Resources Code, relating to ports.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1196, as amended, Harper. ~~School bonds: term of bonds: furnishing and equipping classrooms.~~ *California Coastal Act of 1976: Port of Newport Beach.*

*The California Coastal Act of 1976 establishes the California Coastal Commission and prescribes the membership and functions and duties of the commission with regard to the regulation and protection of coastal resources. The act specifies that after a port master plan for the Port of Hueneme, Long Beach, Los Angeles, or San Diego Unified Port District located within the coastal zone, as provided, is certified by the commission, the permit authority of the commission is thereafter delegated to the appropriate port governing body, except as specified.*

*Existing law requires certain cities and counties to incorporate the master plan in its local coastal program.*

*This bill would additionally apply this port master plan provision to the Port of Newport Beach located within the coastal zone, except as provided. By imposing duties on local officials, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~(1) Existing law authorizes the governing board of a school district or community college district to order an election and submit to the electors of the district whether the bonds of the district should be issued and sold, and sets forth requirements in that regard, including specifying that the term of a bond shall not exceed 25 years from the date of the bond or bond series.~~

~~This bill would specify that a bond issued for projects that include the furnishing and equipping of classrooms shall have a weighted average maturity that does not exceed 120% of the average reasonably expected economic life of the financed project.~~

~~(2) Existing law, additionally and alternatively to the authority described above, authorizes the issuance of bonds or refunding bonds by a school district or community college district secured by the levy of ad valorem taxes, and, pursuant to those provisions, authorizes a school district or community college district to issue bonds that do not allow for the compounding of interest and that have a maturity greater than 30 years, but no greater than 40 years, in accordance with specified requirements.~~

~~This bill, notwithstanding those provisions, would specify that a bond issued for projects that include the furnishing and equipping of classrooms shall have a weighted average maturity that does not exceed 120% of the average reasonably expected economic life of the financed project.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

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

1     SECTION 1. Section 30700 of the Public Resources Code is  
2 amended to read:

3     30700. For purposes of this division, notwithstanding any other  
4 provisions of this division except as specifically stated in this  
5 chapter, this chapter shall govern those portions of the Ports of  
6 Hueneme, Long Beach, Los Angeles, and Newport Beach, and the  
7 San Diego Unified Port District located within the coastal zone,  
8 but excluding any wetland, estuary, or existing recreation area  
9 indicated in Part IV of the coastal plan.

10     SEC. 2. If the Commission on State Mandates determines that  
11 this act contains costs mandated by the state, reimbursement to  
12 local agencies and school districts for those costs shall be made  
13 pursuant to Part 7 (commencing with Section 17500) of Division  
14 4 of Title 2 of the Government Code.

15     SECTION 1. Section 15144 of the Education Code is amended  
16 to read:

17     15144. (a) The number of years the whole or any part of the  
18 bonds are to run shall not exceed 25 years from the date of the  
19 bonds or the date of any series thereof.

20     (b) Notwithstanding subdivision (a), a bond issued for projects  
21 that include the furnishing and equipping of classrooms, including,  
22 but not limited to, purchasing electronic equipment, shall have a  
23 weighted average maturity that does not exceed 120 percent of the  
24 average reasonably expected economic life of the financed project.

25     SEC. 2. Section 53508.6 of the Government Code is amended  
26 to read:

27     53508.6. (a) Notwithstanding any other law, a school district  
28 or community college district may, pursuant to this article, issue  
29 bonds that do not allow for the compounding of interest and that  
30 have a maturity greater than 30 years, but not greater than 40 years,  
31 if the school district or community college district does both of  
32 the following:

33     (1) Complies with the requirements of subdivisions (b) and (c)  
34 of Section 15146 of the Education Code.

35     (2) Makes a finding that the useful life of the facility financed  
36 with the bonds that do not allow for the compounding of interest  
37 and that have a maturity greater than 30 years, but not greater than  
38 40 years, equals or exceeds the maturity date of those bonds.

1     ~~(b) Notwithstanding subdivision (a), a bond issued for projects~~  
2     ~~that include the furnishing and equipping of classrooms, including,~~  
3     ~~but not limited to, purchasing electronic equipment, shall have a~~  
4     ~~weighted average maturity that does not exceed 120 percent of the~~  
5     ~~average reasonably expected economic life of the financed project.~~

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**BILL ANALYSIS****AB 2614 (Carrillo)**

As Introduced 02/15/18

**SUMMARY**

This bill would require the Natural Resources Agency to identify and compile a list of schools that offer bus transportation services to non-profit organizations that provide students with meaningful outdoor experiences. The bill would also require the agency, in consultation with the California Coastal Commission, the Department of Parks and Recreation, and the State Coastal Conservancy, to develop a grant program for non-profits and state agencies to defray transportation costs associated with outdoor programs for disadvantaged youths.

**PURPOSE OF THE BILL**

The reason for the bill is to improve access for California's youth to meaningful outdoor experiences, through improved transportation and funding.

**EXISTING LAW**

Coastal Act Section 30001.5(c) states, in relevant part, regarding public access:

“The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

...

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

...

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.”

Coastal Act Section 30012 states, in relevant part, regarding public education:

“(a) The Legislature finds that an educated and informed citizenry is essential to the well-being of a participatory democracy and is necessary to protect California's finite natural resources, including the quality of its environment. The Legislature further finds that through education, individuals can be made aware of and encouraged to accept their share of the responsibility for protecting and improving the natural environment...”



Coastal Act Section 30013 states, regarding environmental justice:

“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.”

### **PROGRAM BACKGROUND**

One of the highest priorities of the California Coastal Act of 1976 is public access to the coast. Section 30001.5(c) of the Coastal Act declares that it is a basic goal of the State to “maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.”

Yet, it’s an increasing challenge to fully realize the Coastal Act’s vision of coastal access for all the people. Changing demographics, socioeconomic forces, judicial decisions, and policy choices throughout society have shaped development patterns and population shifts that create both intentional and unintentional barriers to public access, not only to the coast but to natural areas more broadly. Though 80% of California’s population lives within 60 miles from the coast, the population living within 1 mile of the coast is disproportionately more white, more affluent, and older than populations farther inland.

Consistent with the principles of environmental justice, the Coastal Commission is committed to expanding access to the coast for all, with a particular emphasis on historically underserved communities.

### **ANALYSIS**

Many young people in California’s underserved communities have little to no access to outdoor recreational experiences. This is especially pervasive among communities of color where children in “parks-poor” areas have limited means of travel to and from outdoor areas. In the coastal zone, it’s a painful irony that many underserved families often live within a few miles from the ocean, but they rarely or never visit the beach due to economic and societal barriers.

In recognition of this fact, Proposition 68, the Parks, Environment and Water Bond of 2018, commits roughly half of the \$4 billion general obligation bonds to underserved communities; the largest such investment in state history.

The Coastal Commission’s Whale Tail Grant Program, funded by the sale of Whale Tail License plates and voluntary tax check-off contributions on state tax returns, provides targeted and

competitive grants to schools, non-profits and public agencies that facilitate coastal education, stewardship, beach field trips and marine science programs with an emphasis on underserved communities. Grant requests consistently exceed available funds. In 2017, the Commission received 102 applications totaling \$3,045,664, and awarded 27 competitive grants totaling \$522,220, as well as 15 targeted grants totaling \$345,780.

Diminished access to the outdoors has well-documented impacts on child development. Nature Deficit Disorder, a phrase first coined by Richard Louv in his 2005 book, “Last Child in the Woods,” describes a wide range of behavioral problems associated with sedentary, isolated, urban lifestyles. Conversely access to the outdoors has numerous benefits for children, such as combatting obesity, improved attention rates, reduced anxiety and improved social skills. Additionally, students with access to outdoor experiences generally perform better in school, and exhibit higher levels of academic engagement.

Less tangible but equally important is the fact that people are inspired to care about things and places they feel some form of connection to. If generations of Californians are raised without access to creeks and trees and wildlife and beaches and rivers and mountains, they will not prioritize their protection. It’s imperative that California make an effort to reduce access inequities to natural resources for children from underserved communities.

Moreover, this bill is aligned with the Commission’s mandate to maximize public access, as well as the agency’s ongoing efforts to address issues of social equity, specifically environmental justice. Under the leadership of the Natural Resources Agency, the Commission would gladly contribute to the effort to create a targeted, statewide grant program promoting outdoor access for underserved communities described in this bill.

However, the bill does not create nor identify a funding source for the proposed grant program. The Environmental License Plate Fund (ELPF) has been oversubscribed in past years, and the Whale Tail grant program is already unable to meet existing demand. Long-term funding sustainability would be required in order to achieve the intended effect of this bill.

**SUPPORT**

None on file.

**OPPOSITION**

None on file.

**RECOMMENDED POSITION**

Staff recommends the Commission **Support** AB 2614.

**ASSEMBLY BILL**

**No. 2614**

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**Introduced by Assembly Member Carrillo  
(Coauthor: Assembly Member Eduardo Garcia)**

February 15, 2018

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An act to add Chapter 3.4 (commencing with Section 5660) to Division 5 of the Public Resources Code, relating to outdoor experiences.

LEGISLATIVE COUNSEL'S DIGEST

AB 2614, as introduced, Carrillo. Outdoor experiences: disadvantaged youth.

Existing law establishes in state government the Natural Resources Agency, consisting of various departments, including the Department of Parks and Recreation, California Coastal Commission, and the State Coastal Conservancy.

Existing law, the State Urban Parks and Healthy Communities Act, requires the Director of the Department of Parks and Recreation to develop a competitive grant program to assist state parks, specified state conservancies, urbanized and heavily urbanized local agencies, and community-based organizations within those jurisdictions to provide outdoor educational opportunities to children.

This bill would require the Natural Resources Agency to survey school districts to identify school districts that offer bus transportation services from a school of the school district to a nonprofit organization that provides services to pupils of that school district. The bill would require the agency, based on the survey, to compile a list of schools within a school district that offer those bus transportation services, as specified. The bill would require the agency, upon request, to provide the list to

a nonprofit organization or state agency that provides outdoor experiences to disadvantaged youth. The bill would require the agency to develop a grant program for innovative transportation projects that provide disadvantaged youth with access to outdoor experiences, as specified. The bill would require the agency, before developing guidelines for the grant program, to consult with the Department of Parks and Recreation, the California Coastal Commission, and the State Coastal Conservancy.

This bill would make a finding that providing children with access to outdoor experiences increases school performance, builds civic behavior, and improves the overall well-being of California’s citizens and communities.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Chapter 3.4 (commencing with Section 5660) is  
2 added to Division 5 of the Public Resources Code, to read:

3  
4 CHAPTER 3.4. ENHANCING DISADVANTAGED YOUTH ACCESS  
5 TO OUTDOOR EXPERIENCES  
6

7 5660. The Legislature finds and declares that providing children  
8 with access to outdoor experiences increases school performance,  
9 builds civic behavior, and improves the overall well-being of  
10 California’s residents and communities. These experiences are  
11 also important to the continuing stewardship of our natural  
12 resources.

13 5661. (a) The Natural Resources Agency shall survey school  
14 districts to identify school districts that offer bus transportation  
15 services from a school of the school district to a nonprofit  
16 organization that provides services to pupils of that school district.

17 (b) The Natural Resources Agency, based on the information  
18 obtained pursuant to subdivision (a), shall compile a list of schools  
19 within a school district that offer bus transportation services  
20 described in subdivision (a). The list shall include, but not be  
21 limited to, the school district’s name, the name and location of the  
22 school within the school district that is providing the bus  
23 transportation service, contact information of the school, and a

1 description of the nonprofit organization’s general cost for bus  
2 transportation from that school, including whether the  
3 transportation service is provided at the actual or a reduced cost.  
4 The Natural Resources Agency, upon request, shall provide the  
5 list to a nonprofit organization or state agency that, through a  
6 program, provide outdoor experiences to disadvantaged youth.

7 5662. (a) The Natural Resources Agency shall develop a grant  
8 program for innovative transportation projects that provide  
9 disadvantaged youth with access to outdoor experiences. The  
10 program shall include, but is not limited to, both of the following:

11 (1) Grants that provide funding to a nonprofit organization or  
12 a state agency to cover the cost of transportation services from a  
13 school on the list created pursuant to subdivision (b) of Section  
14 5661 in furtherance of providing new and expanded outdoor  
15 experiences to disadvantaged youth.

16 (2) Grants to provide a rebate to a nonprofit organization or  
17 state agency to assist the nonprofit organization or state agency in  
18 purchasing a low-emission bus that is primarily used to provide  
19 transportation services from a school on the list created pursuant  
20 to subdivision (b) of Section 5661 in connection with programs  
21 that provide new and expanded outdoor experiences to  
22 disadvantaged youth.

23 (b) On or before July 1, 2019, the Natural Resources Agency  
24 shall develop guidelines for the grant program described in  
25 subdivision (a). Before developing the guidelines, the Natural  
26 Resources Agency shall consult with the Department of Parks and  
27 Recreation, California Coastal Commission, and the State Coastal  
28 Conservancy.

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**BILL ANALYSIS****AB 2754 (Levine)**

As Amended 04/04/18

**SUMMARY**

This bill would amend the definition of development in the Coastal Act (PRC Section 30106) to exclude “routine agricultural practices” as defined in regulations implementing the California Endangered Species Act, unless the Coastal Commission or a local government with a certified LCP makes findings that the activity has a substantial impact on coastal resources. The list includes:

- cultivation and tillage of the soil
- crop rotation and fallowing
- dairying
- the production, cultivation, growing, replanting and harvesting of any agricultural commodity including viticulture, vermiculture, apiculture, or horticulture
- the raising of livestock, fur bearing animals, fish, or poultry
- any practices performed by a farmer on a farm as incident to or in conjunction with those farming operations, including the preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market

**PURPOSE OF THE BILL**

The purpose of the bill is to exempt the listed agricultural activities from the need to obtain a coastal development permit (CDP).

**EXISTING LAW**

The Coastal Act defines development broadly to include not only typical land development activities such as placement of physical structures, but also changes in the intensity of use of land or water and discharges of waste, among other activities. Public Resources Code Section 30106 currently exempts the removal or harvesting of major vegetation for agricultural purposes from the definition of development.

Public Resources Code Section 30624.7 provides for the Commission to issue de minimis waivers for development activities, if the Executive Director determines that there is no potential adverse effect on coastal resources. Section 30624.9 provides for local governments with certified Local Coastal Programs (LCPs) to waive public hearing requirements for minor developments with no adverse effect on coastal resources or public access.

Public Resources Code Section 30610 (e), authorizes local governments to propose a list of activities that shall be exempt from CDP requirements, if approved by a 2/3 vote of the Commission. Most coastal counties and some coastal cities have a list of Categorical Exclusions (CatEx) for various agricultural activities.

## **PROGRAM BACKGROUND**

Coastal development permits are the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the Chapter 3 policies of the Coastal Act. After the Commission certifies a Local Coastal Program (LCP), coastal development permit authority is delegated to the local government and CDP applications are then reviewed and acted on by cities and counties. A limited subset of local permits actions remains appealable to the Commission.

Categorical Exclusions are already in effect in most coastal counties. These “Cat Ex’s” include numerous activities that can be undertaken without a CDP. The lists vary from county to county, but they include activities such as the raising and tilling of crops, and structures such as fencing for farm purposes, limited paving, ag wells, unlit signs, barns, stables, greenhouses, etc. The list of counties with agricultural CatEx’s includes:

- Del Norte County
- Humboldt County
- Marin County
- Monterey County
- San Luis Obispo County
- Santa Barbara County
- Santa Cruz County
- San Mateo County
- Sonoma County
- Ventura County

## **ANALYSIS**

This bill raises three fundamental issues: Whether there is a demonstrated need to reduce regulation of agricultural activities in the coastal zone, whether doing so would provide adequate protection for coastal resources, and how the bill would function operationally if enacted.

### Is This Bill Necessary?

Under existing law and long-standing practice, routine, ongoing agricultural activities do not currently require a CDP. Routine activities such as planting, harvesting and fallowing crops, pruning or replacing trees or vines, rotating pastures for grazing management, repair and replacement of existing fence lines, increasing or decreasing livestock numbers on established pastures or rangelands, and other similar activities are already considered exempt from the Coastal Act.

Most of the active agricultural activities in the coastal zone occur in the unincorporated areas of the coastal counties, all of which have certified LCPs (with the exception of San Diego County, which has a very small geographic area). Every LCP has adopted a specific approach to the permitting requirements for agricultural activities. For instance, Ventura County’s LCP ag policies differentiate between the North Coast, (where policies are in place to conserve soils and prevent erosion through best management grading practices and encourage appropriately sited aquaculture), and the Central Coast, (where the emphasis is on preserving the urban/rural boundary). In addition, most LCPs have different standards for allowable agricultural activities based on parcel size, allowing some limited agricultural uses, such as keeping limited numbers of



poultry or livestock in non-agricultural zoning. This context is important, as some activities may cause little or no impact in one area, while still requiring some oversight or conditional approval in others. This nuance would be lost in a blanket (or assumed) exemption.

Most counties already have a CatEx list of exempt activities. As intended under the Coastal Act, these requirements vary from jurisdiction to jurisdiction, reflecting differences in geography, historic practices and priorities. For instance, San Mateo County exempts water wells, water impoundments, fencing and greenhouses, but specifically states that biomedical livestock facilities are not excluded. Marin County exempts barns, storage and equipment buildings, water storage tanks, and fencing for agricultural purposes so long as they are not solid fences.

These CatEx permit-exempt activities, in conjunction with more refined LCP policies, provide ample direction and flexibility for appropriately determining, at the local level, whether or not a specific activity requires a CDP, an administrative permit or a waiver, or requires no review at all. Although agricultural operators may prefer a blanket exemption for a larger class of activities, truly routine, ongoing agricultural practices are not currently require coastal development permits, and thus, should not be hindered by existing regulatory review.

#### Implementation Issues

This bill would exempt an extensive list of agricultural activities from the Coastal Act definition of development, unless the Commission made a finding that the activity would cause “a substantial impact to protected coastal resources.”

It isn't clear whether this means the Commission or local governments would be required to make such a finding for each individual proposed project, or for the listed activity as a whole. If it is the former, It is unclear how this would be preferable to current practice, as in order to make such a finding, the Commission or local government would likely require an amount of information equivalent to a permit application. But because it wouldn't be a permit application per se, Permit Streamlining Act deadlines would not apply, which may result in additional delays. It's also not clear how LCP conflicts would be resolved under this new approach. As indicated above, most agricultural areas in the coastal zone are subject to existing LCPs, and the Commission cannot unilaterally make changes to these LCPs. Changing the definition of development does not automatically change LCP implementation policies.

If it is the latter, and the Commission and local governments are expected to make a general, statewide findings for each of the listed activities regarding whether or not they could cause significant harm, it isn't clear how this would be accomplished. The impacts associated with the list of exempt activities will vary greatly from situation to situation. It's impossible to make a finding by decree that an entire class of activities, such as “horticulture” or “the raising of livestock” have no substantial impact on the environment. Making such a determination as a general rule would also interfere with existing LCP policies and existing CatEx's, all of which are well established, context specific and the legal standard of review. It is not clear how or whether a general determination would affect all of these existing provisions. As a hypothetical, if the Commission or a local government were to determine that “dairying” has a substantial impact and therefore requires a CDP because of impacts associated with manure management,

water quality, ESHA and visual resources, this could conflict with existing CatEx's excluding barns and fencing from CDP requirements.

In addition, this bill creates a new Coastal Act standard of review for the listed activities. "Substantial impact" and "protected coastal resources" are not defined in the Coastal Act currently or in the bill. Chapter 3 of the Coastal Act protects coastal resources, but in certified jurisdictions this language could be construed to apply only to specifically designated or mapped resources. Although lacking definition, the standard of "substantial impact" would often provide less protection than the Coastal Act requires. For example, Coastal Act section 30231 requires that the biological productivity and water quality of coastal waters, streams, and wetlands be maintained and where feasible restored, not simply that development avoid a substantial impact. Similarly, Coastal Act section 30240 prohibits non-resource-dependent development in ESHA regardless of whether that development would arguably cause a substantial impact. Development in areas adjacent to ESHA must be prevent impacts which would significantly degrade those areas.

Presumably the bill would only apply to agricultural activities that are legally underway currently. However, that is not specified in the bill. The bill's definition of "routine and ongoing" is literally the list of activities themselves, creating the strange circumstance whereby the activities are, by definition, routine and ongoing, regardless of when they first began, what environmental impacts they may be having, and whether or not they are legally permitted. Under this definition, a new vineyard, poultry farm, dairy, hog farm, or aquaculture facility would be *assumed* to be exempt from a CDP, even if it was in a previously unused area. In reality, the definition of "routine and ongoing" is a nuanced determination that is fact-specific, and can require a significant amount of research and documentation if it is not immediately obvious.

The broad list of activities in itself is problematic, as it was intended to apply to the Department of Fish and Wildlife's review of incidental take permits under the California Endangered Species Act, which is a very different purpose than reviewing activities for Coastal Act consistency. Assuming exemption for these activities unless specified otherwise has the potential to conflict with many of the State's 93 certified LCP segments, many of which have already adopted permit exemptions and specific permit requirements. For instance:

- Marin County's recently updated LCP specifically requires a CDP for vineyards
- Los Angeles County's LCP prohibits new vineyards in the Santa Monica Mountains
- Santa Cruz County's LCP specifically requires CDPs for biomedical livestock facilities
- Monterey County's LCP requires a permit and a biological survey for grazing near riparian areas
- Sonoma County's LCP exempts livestock activities, except for the building of structures in certain sensitive resource areas. This bill would eliminate that nuance.
- Santa Barbara County requires a CDP for commercial animal raising and/or ag processing in Rural Residential zoning.
- Ventura County's extensive list of Categorical Exclusions applies only to parcels of land greater than 5 acres.
- San Mateo County's LCP allows the keeping of chickens and ducks in single-family zoning, but prohibits the keeping of roosters.

- Malibu’s LCP prohibits the conversion of “vacant land” on slopes over 3:1 to new crops, orchards, vineyards or other agricultural use. It also specifies that existing legally established agricultural uses shall be allowed to continue.

This is only a very limited list of examples. The actual conflicts that this bill would create within the state’s certified LCPs could number well into the hundreds. This bill would undermine these carefully crafted LCP policies by creating a statewide expectation that the listed activities are exempt unless deemed otherwise. This could actually make agricultural operators more vulnerable to potential enforcement actions, while also creating more confusion for the courts in terms of which standards apply in the case of an enforcement action. For instance, enforcement actions have been taken in the past against land owners who mow or otherwise remove ESHA without a permit in preparation for future non-agricultural development activities, while claiming the mowing itself is agricultural in nature.

The bill would also raise numerous questions in terms of Coastal Act policies. For instance:

- Public Resources Code 30222.5 identifies Aquaculture as a coastal priority use. The Commission has developed a significant body of expertise and criteria around the management, monitoring and mitigation for aquaculture facilities. Potentially exempting the “raising of fish” as defined by a different set of regulations creates internal inconsistencies within the Coastal Act that would call into question this critical coastal land use.
- The proposed exemption for the “growing and harvesting of any agricultural commodity” may or may not apply to cannabis. Currently, cities and counties throughout the coastal zone are undertaking LCP amendments and updates to address this new agricultural activity in a wide variety of ways that minimize conflicts with surrounding communities, natural resources, and established agricultural activities, all of which is highly community-specific. This bill could undermine that effort.
- The exemption of “dairying,” read in conjunction with the exemption of “any practices performed by a farmer on a farm as incident to or in conjunction with those farming operations” could potentially allow for significant new structures and infrastructure in highly scenic areas, as well as habitat impacts in environmentally sensitive locations.

The bill also creates conflicts with the existing list of Categorical Exclusions already in effect in most coastal counties. These “Cat Ex’s” were adopted pursuant to PRC 30610 (e), and approved by a 2/3 vote of the Commission. Agricultural Cat Ex’s include numerous activities that can be undertaken without a CDP. The lists vary from county to county, but they include activities and structures such as farm fencing, limited paving, ag wells, water impoundments, tilling and raising of crops, unlit signs, barns, stables, greenhouses, etc.

Any development not falling within the CatEx exclusion remains subject to the Coastal Act, and/or the provisions of the subsequently adopted LCP. Under this bill, it is not clear whether the Coastal Commission would now have to make a finding of “no substantial impact” for activities that may be currently exempt under these local Cat Ex’s. For instance, if the Commission makes

a finding that a barn being proposed as part of a “dairying” operation causes a substantial impact, that finding may end up conflicting with an existing categorical exemption for barns. In such a circumstance, it isn’t clear which standard would apply.

Lastly, it is unclear whether this bill would take effect at the local level unless and until any certified LCP was amended to incorporate the policy. Coastal Act amendments don’t typically affect LCP implementation immediately. The Commission is unable to unilaterally change certified LCPs under the law, and it is far from certain whether local governments would choose to amend their LCPs to confer new authority to the Commission to make determinations about the applicability of agricultural CDPs.

### Would This Bill Harm Coastal Resources?

The list of activities presumed to be exempt is so comprehensive it is difficult to come up with any activities or practices that would not be exempted, other than the conversion of rangeland to more intensified uses. If enacted, this would have the effect of presuming agriculture as an industry is generally exempt from the Coastal Act. This would be the first Coastal Act amendment since 1976 to confer such an exemption. As has been the case with the California Environmental Quality Act (CEQA), this would likely set an adverse precedent opening the door for future bills seeking exemptions for other industries, types of activities or individual projects. Cumulatively, this would weaken Coastal Act protections and lead to a statewide loss of coastal resources.

This approach conflicts with the two fundamental, organizational premises of the Act itself which are that the natural resources of the coastal zone should enjoy a higher standard of protection than elsewhere in the state; and that local governments should determine how best to implement the law within their jurisdictions through Local Coastal Programs (LCPs) that reflect their specific geography and needs.

Legislative findings in the preamble to the Coastal Act state:

- (a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.
- (b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation. (PRC Section 30001)

Public Resources Code Section 30500 (c) states:

The precise content of each local coastal program shall be determined by the local government, consistent with Section [30501](#), in full consultation with the commission and with full public participation.

This bill would undermine both of those fundamental organizational principles, subordinating the Coastal Act to a set of regulations drafted and adopted by another state agency with no consideration of the Coastal Act, and no input from the Coastal Commission. In doing so, it would set a precedent for other special interest groups in the future to lobby the Legislature for other Coastal Act exemptions, to the ultimate unravelling of coastal protection.

A presumption of exemption will undoubtedly result in fewer requests for review of listed activities. Given the wide range of impacts to sensitive habitat, wetlands, wildlife, scenic views, water quality and public access that could result from unregulated agricultural practices throughout the coastal zone, it is difficult to imagine this bill not having an adverse impact on coastal resources.

This bill fails to account for the myriad programmatic questions it raises, and at its core, is antithetical to the intent and practical application of the Coastal Act. It would inevitably lead to increased litigation and workload issues for the Commission, and increased enforcement actions against unpermitted agricultural activities. Attempting to define “routine and ongoing in statute” or selecting a list of specific activities as outside the definition of development is too rigid to allow for the local variability of the LCP program, and the specific, place-based, contextualized nature of California's coastal management program. Given the number of options currently available through LCPs for CDP exemptions, waivers, administrative permits and other streamlining measures, not to mention targeted LCP amendments, ample opportunities to support and facilitate sustainable agricultural activities are already in place.

**SUPPORT**

California Farm Bureau Federation

**OPPOSITION**

None on file.

**RECOMMENDED POSITION**

Staff recommends the Commission **Oppose** AB 2754.

AMENDED IN ASSEMBLY APRIL 4, 2018  
AMENDED IN ASSEMBLY MARCH 19, 2018  
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2754**

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**Introduced by Assembly Member Levine**

February 16, 2018

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An act to amend Section 30106 of the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2754, as amended, Levine. California Coastal Act of 1976: coastal development.

The California Coastal Act of 1976 establishes the California Coastal Commission and requires the commission to implement and administer a coastal development permit process within the coastal zone, as defined. For purposes of the act, "development" is defined to mean, on land or in water, among other things, placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, as described; and any other division of land, as specified.

This bill would provide that "development" does not include ongoing and routine agricultural practices, as described, unless the commission *or a local government with development review authority pursuant to a certified local coastal program, as specified*, makes a finding that the activity has a substantial impact on protected coastal resources.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 30106 of the Public Resources Code is  
2 amended to read:

3 30106. (a) (1) “Development” means, on land, in or under  
4 water, the placement or erection of any solid material or structure;  
5 discharge or disposal of any dredged material or of any gaseous,  
6 liquid, solid, or thermal waste; grading, removing, dredging,  
7 mining, or extraction of any materials; change in the density or  
8 intensity of use of land, including, but not limited to, subdivision  
9 pursuant to the Subdivision Map Act (commencing with Section  
10 66410 of the Government Code), and any other division of land,  
11 including lot splits, except where the land division is brought about  
12 in connection with the purchase of that land by a public agency  
13 for public recreational use; change in the intensity of use of water,  
14 or of access to that water; construction, reconstruction, demolition,  
15 or alteration of the size of any structure, including any facility of  
16 any private, public, or municipal utility; and the removal or  
17 harvesting of major vegetation other than for agricultural purposes,  
18 kelp harvesting, and timber operations which are in accordance  
19 with a timber harvesting plan submitted pursuant to the provisions  
20 of the Z’berg-Nejedly Forest Practice Act of 1973 (commencing  
21 with Section 4511).

22 (2) “Development” does not include routine and ongoing  
23 agricultural activities, as defined in subdivision (b) of Section  
24 786.1 of Title 14 of the California Code of Regulations, unless the  
25 commission *or a local government with development review*  
26 *authority pursuant to a certified local coastal program, as specified*  
27 *in subdivision (d) of Section 30600, makes a finding that the*  
28 *activity has a substantial impact on protected coastal resources.*

29 (b) As used in this section, “structure” includes, but is not  
30 limited to, any building, road, pipe, flume, conduit, siphon,  
31 aqueduct, telephone line, and electrical power transmission and  
32 distribution line.

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**CALIFORNIA COASTAL COMMISSION**

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**BILL ANALYSIS****AB 2864 (Limón)**

As Amended 04/02/18

**SUMMARY**

Assembly Bill 2864 would amend Government Code Section 8670.7 to require the Oil Spill Prevention and Response (OSPR) administrator to request that the California Coastal Commission or the San Francisco Bay Conservation and Development Commission (BCDC), as applicable by jurisdiction, provide a written assessment of the extent and value of damage to coastal resources in the event of a coastal oil spill. The bill would require the applicable commission's findings to be integrated into the natural resource damage assessment (NRDA), and would require the administrator to consult with the applicable commission on potential restoration and mitigation measures.

**PURPOSE OF THE BILL**

The purpose of the bill is to enhance the assessment of an mitigation for coastal resources damaged as a result of oil spills affecting the California coast.

**EXISTING LAW**

Oil spill response is governed primarily under the Oil Pollution Act of 1990 (OPA 90), 33 U.S.C. 2701 *et seq.* The purpose of OPA 90 is to make the environment and the public whole for injuries to natural resources and services resulting from an incident involving the discharge of oil. This purpose is achieved by meeting two objectives: (1) the return of the injured natural resources and services to baseline, and (2) monetary compensation for interim losses of such natural resources and services from the date of the incident until recovery. To fulfill these objectives, OPA 90 prescribes the NRDA process. The NRDA is an administrative process that coordinates multiple federal and state agencies as well as various non-governmental parties in the assessment, financial recovery, and restoration of injuries resulting from an oil spill.

When an oil spill occurs, the NRDA process is carried out by a council of federal and, potentially, state agencies that are designated to be the "trustee" agencies for that particular spill. Oil Pollution Act Section 2706 provides for the designation of federal and, if designated by the governor of a state, state and local officials to act on behalf of the public as trustees for natural resources. The trustees are authorized to act on behalf of the public under state and/or federal law to: (1) assess natural resource damages caused by the spill, (2) initiate civil actions and recover damages from the responsible party; (3) plan projects that restore damaged natural resources, and (4) fund and implement these projects using civil damages recovered from the responsible party or parties.

At the federal level, the Code of Federal Regulations designates the Department of Commerce, the Department of the Interior, and the various federal land management agencies as eligible trustees for their respective administered resources. In the case of a marine or coastal oil spill, the National Oceanic and Atmospheric Administration (NOAA) and the United States Fish and



Wildlife Service (USFWS) most commonly operate as the federal trustee agencies under this authority.

At the state level, in 2007, Governor Schwarzenegger exercised his authority under OPA 90 to designate the California Natural Resources Agency Secretary Mike Chrisman as the trustee for all natural resources. Secretary Chrisman further delegated this authority to the California Department of Fish and Wildlife (CDFW), establishing it as the primary trustee agency for the State of California.

Select other state agencies have also served as state trustees along with CDFW. Out of the 18 NRDA's that have involved an oil spill along California's coast or ocean, the State Lands Commission has been designated a trustee agency seven times. The Department of Parks and Recreation was a trustee for five of these NRDA's. The Coastal Conservancy and the University of California have also been included as trustees for particular NRDA's. Neither the Coastal Commission nor BCDC has ever served as a trustee agency for an NRDA. Although existing law does not preclude either agency from being designated as a trustee, neither agency currently has a formal role in the evaluation or restoration of coastal resources damaged by oil spills.

### **PROGRAM BACKGROUND**

In 1969, the Santa Barbara oil spill, then the largest oil spill in United States waters, helped catalyze the initiation and ultimate passage of Proposition 20 and, subsequently, the California Coastal Act. Since its creation, the Commission has consistently acted to protect California's coastal resources from the threat of oil spills. Specifically, the Commission has a dedicated Oil Spill Program that is involved in spill prevention, preparedness, and immediate response. Among its many activities, the Commission's Oil Spill Program participates in oil spill drills, reviews regulations for oil spill prevention and response, participates in the development of planning materials for oiled wildlife rehabilitation facilities located in the coastal zone, and reviews coastal development projects related to energy and oil infrastructure for compliance with the California Coastal Act and consistency with the Coastal Zone Management Act.

### **ANALYSIS**

The federal Oil Pollution Act of 1990 prescribes the natural resource damage assessment (NRDA) process to provide for the recovery and restoration of resources damaged by oil spills. This process is designed to draw on the expertise of relevant local, state, and federal agencies to ensure that oil spill recovery is as thorough and coordinated as possible.

Given that the Coastal Commission and BCDC exercise very specific authority over California's coastal and bay resources, the commissions are the agencies ideally suited to evaluate injury to and restoration of those resources. In the event of an oil spill, the assessment and consultation role proposed by this bill would allow the relevant commission to contribute its particular expertise to the NRDA for the benefit of the trustee council in a way that supplements but does not supplant the established process.

Allowing the Coastal Commission and BCDC to contribute to the NRDA process would help ensure a full and comprehensive accounting of all natural resources damaged by coastal oil spills, including Coastal Act resources. For instance, while the Department of Parks and

Recreation has the full authority and capacity to calculate loss of public access from state park closures, the Coastal Act protects public access broadly across jurisdictions, including loss of public access to the coast and beaches beyond state park units. Similarly, the Commission's authority over coastal wetlands and Environmentally Sensitive Habitat Areas (ESHA) are specific and unique to the Coastal Act. Including damages to ESHA or other habitat that supports sensitive species would complement habitat and wildlife damages assessed by the Department of Fish and Wildlife. Losses to coastal-dependent recreation, coastal agriculture, and scenic resources may also be appropriate for inclusion in an NRDA.

While existing law arguably allows for the Coastal Commission and BCDC to serve as trustee agencies, the fact remains that the past 18 NRDA's for coastal oil spills were prepared without either agency's participation. Additionally, it is possible the Coastal Commission may not have the staff capacity to fully participate in a formal trustee capacity.

Establishing a consultation role for the state's two coastal management agencies to contribute their expertise in a limited, focused way could enhance the NRDA process, streamline approvals for coastal mitigation projects, and ensure that coastal resources damaged by oil spills are restored to the fullest potential.

**SUPPORT**

None on file.

**OPPOSITION**

None on file.

**RECOMMENDED POSITION**

Staff recommends the Commission **Support** AB 2864.

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2864**

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**Introduced by Assembly Member Limón**

February 16, 2018

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An act to amend Section ~~30330~~ 8670.7 of the ~~Public Resources~~ *Government Code*, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2864, as amended, Limón. ~~California Coastal Commission:~~ ~~coastal zone~~ resources: oil spills.

The California Coastal Act of 1976 provides for the regulation of development of certain lands within the coastal zone, as defined. Under the act, the California Coastal Commission generally has primary responsibility for the implementation of the act and is designated as the state coastal zone planning and management agency for any and all purposes, and is authorized to exercise any and all powers set forth in the federal Coastal Zone Management Act of 1972 or any other federal act that relates to the planning or management of the coastal zone.

~~This bill would designate the commission as a trustee for coastal zone resources affected by oil spills and related responses.~~

*The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup. The act requires the administrator to coordinate all actions required by state or local agencies to assess injury to, and provide full mitigation for injury to, or to restore, rehabilitate, or replace, natural resources, including wildlife, fisheries,*

wildlife or fisheries habitat, beaches, and coastal areas, that are damaged by an oil spill.

*This bill, for spills affecting coastal resources, would require the administrator to request that the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as applicable according to jurisdiction, provide the state trustees with a written assessment of the extent, value, and level of damage or injury to coastal resources, including, but not limited to, public access, coastal wetlands and habitats, and coastal recreation. The bill would require the applicable commission's findings to be integrated into the final damage assessment and restoration plan, and would require the administrator to consult with the applicable commission on potential restoration and mitigation measures for inclusion in the plan.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1     SECTION 1. Section 8670.7 of the Government Code is  
2     amended to read:

3     8670.7. (a) The administrator, subject to the Governor, has  
4     the primary authority to direct prevention, removal, abatement,  
5     response, containment, and cleanup efforts with regard to all  
6     aspects of any oil spill in waters of the state, in accordance with  
7     any applicable facility or vessel contingency plan and the California  
8     oil spill contingency plan. The administrator shall cooperate with  
9     any federal on-scene coordinator, as specified in the National  
10    Contingency Plan.

11    (b) The administrator shall implement the California oil spill  
12    contingency plan, required pursuant to Section 8574.1, to the fullest  
13    extent possible.

14    (c) The administrator shall do both of the following:

15    (1) Be present at the location of any oil spill of more than  
16    100,000 gallons in waters of the state, as soon as possible after  
17    notice of the discharge.

18    (2) Ensure that persons trained in oil spill response and cleanup,  
19    whether employed by the responsible party, the state, or another  
20    private or public person or entity, are onsite to respond to, contain,  
21    and clean up any oil spill in waters of the state, as soon as possible  
22    after notice of the discharge.

1 (d) Throughout the response and cleanup process, the  
2 administrator shall apprise the air quality management district or  
3 air pollution control district having jurisdiction over the area in  
4 which the oil spill occurred and the local government agencies  
5 that are affected by the spill.

6 (e) The administrator, with the assistance, as needed, of the  
7 Office of the State Fire Marshal, the Public Utilities Commission,  
8 the State Lands Commission, or other state agency, and the federal  
9 on-scene coordinator, shall determine the cause and amount of the  
10 discharge.

11 (f) The administrator shall have the state authority over the use  
12 of all response methods, including, but not limited to, in situ  
13 burning, dispersants, and any oil spill cleanup agents in connection  
14 with an oil discharge. The administrator shall consult with the  
15 federal on-scene coordinator prior to exercising authority under  
16 this subdivision.

17 (g) (1) The administrator shall conduct workshops, consistent  
18 with the intent of this chapter, with the participation of appropriate  
19 local, state, and federal agencies, including the State Air Resources  
20 Board, air pollution control and air quality management districts,  
21 and affected private organizations, on the subject of oil spill  
22 response technologies, including in situ burning. The workshops  
23 shall review the latest research and findings regarding the efficacy  
24 and toxicity of oil spill cleanup agents and other technologies, their  
25 potential public health and safety and environmental impacts, and  
26 any other relevant factors concerning their use in oil spill response.  
27 In conducting these workshops, the administrator shall solicit the  
28 views of all participating parties concerning the use of these  
29 technologies, with particular attention to any special considerations  
30 that apply to coastal areas and waters of the state.

31 (2) The administrator shall publish guidelines and conduct  
32 periodic reviews of the policies, procedures, and parameters for  
33 the use of in situ burning, which may be implemented in the event  
34 of an oil spill.

35 (h) (1) The administrator shall ensure that, as part of the  
36 response to any significant spill, biologists or other personnel are  
37 present and provided any support and funding necessary and  
38 appropriate for the assessment of damages to natural resources  
39 and for the collection of data and other evidence that may help in  
40 determining and recovering damages.

1 (2) (A) The administrator shall coordinate all actions required  
 2 by state or local agencies to assess injury to, and provide full  
 3 mitigation for injury to, or to restore, rehabilitate, or replace, natural  
 4 resources, including wildlife, fisheries, wildlife or fisheries habitat,  
 5 beaches, and coastal areas, that are damaged by an oil spill. For  
 6 purposes of this subparagraph, “actions required by state or local  
 7 agencies” include, but are not limited to, actions required by state  
 8 trustees under Section 1006 of the Oil Pollution Act of 1990 (33  
 9 U.S.C. Sec. 2706) and actions required pursuant to Section  
 10 8670.61.5.

11 *(B) For spills affecting coastal resources, the administrator*  
 12 *shall request that the California Coastal Commission or the San*  
 13 *Francisco Bay Conservation and Development Commission, as*  
 14 *applicable according to jurisdiction, provide the state trustees*  
 15 *with a written assessment of the extent, value, and level of damage*  
 16 *or injury to coastal resources, including, but not limited to, public*  
 17 *access, coastal wetlands and habitats, and coastal recreation. The*  
 18 *applicable commission’s findings shall be integrated into the final*  
 19 *damage assessment and restoration plan. The administrator shall*  
 20 *consult with the applicable commission on potential restoration*  
 21 *and mitigation measures for inclusion in the plan.*

22 ~~(B)~~

23 (C) The responsible party shall be liable for all coordination  
 24 costs incurred by the administrator.

25 (3) This subdivision does not give the administrator any  
 26 authority to administer state or local laws or to limit the authority  
 27 of another state or local agency to implement and enforce state or  
 28 local laws under its jurisdiction, nor does this subdivision limit  
 29 the authority or duties of the administrator under this chapter or  
 30 limit the authority of an agency to enforce existing permits or  
 31 permit conditions.

32 (i) (1) The administrator shall enter into a memorandum of  
 33 understanding with the executive director of the State Water  
 34 Resources Control Board, acting for the State Water Resources  
 35 Control Board and the California regional water quality control  
 36 boards, and with the approval of the State Water Resources Control  
 37 Board, to address discharges, other than dispersants, that are  
 38 incidental to, or directly associated with, the response, containment,  
 39 and cleanup of an existing or threatened oil spill conducted  
 40 pursuant to this chapter.

1 (2) The memorandum of understanding entered into pursuant  
2 to paragraph (1) shall address any permits, requirements, or  
3 authorizations that are required for the specified discharges. The  
4 memorandum of understanding shall be consistent with  
5 requirements that protect state water quality and beneficial uses  
6 and with any applicable provisions of the Porter-Cologne Water  
7 Quality Control Act (Division 7 (commencing with Section 13000)  
8 of the Water Code) or the federal Clean Water Act (33 U.S.C. Sec.  
9 1251 et seq.), and shall expedite efficient oil spill response.

10 SECTION 1. ~~Section 30330 of the Public Resources Code is~~  
11 ~~amended to read:~~

12 ~~30330. (a) The commission, unless specifically otherwise~~  
13 ~~provided, shall have the primary responsibility for the~~  
14 ~~implementation of this division and is designated as the state~~  
15 ~~coastal zone planning and management agency for any and all~~  
16 ~~purposes, and may exercise any and all powers prescribed in the~~  
17 ~~federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec.~~  
18 ~~1451, et seq.) or any amendment thereto or any other federal act~~  
19 ~~heretofore or hereafter enacted that relates to the planning or~~  
20 ~~management of the coastal zone.~~

21 ~~(b) In addition to any other authority, the commission may,~~  
22 ~~except for a facility defined in Section 25110, grant or issue any~~  
23 ~~certificate or statement required pursuant to any federal law~~  
24 ~~described in subdivision (a) that an activity of any person, including~~  
25 ~~any local, state, or federal agency, is in conformity with this~~  
26 ~~division. With respect to any project outside the coastal zone that~~  
27 ~~may have a substantial effect on the resources within the~~  
28 ~~jurisdiction of the San Francisco Bay Conservation and~~  
29 ~~Development Commission, established pursuant to Title 7.2~~  
30 ~~(commencing with Section 66600) of the Government Code, and~~  
31 ~~for which any certification is required pursuant to the federal~~  
32 ~~Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451, et~~  
33 ~~seq.), that certification shall be issued by the Bay Conservation~~  
34 ~~and Development Commission; provided however, the commission~~  
35 ~~may review and submit comments for any such project that affects~~  
36 ~~resources within the coastal zone.~~

37 ~~(c) The commission shall be a trustee for coastal zone resources~~  
38 ~~affected by oil spills and related responses.~~

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