

CALIFORNIA COASTAL COMMISSION

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October 7, 1999

TO: Coastal Commissioners and Interested Public

FROM: Peter M. Douglas, Executive Director
Sarah Christie, Legislative Coordinator

SUBJECT: LEGISLATIVE REPORT FOR OCTOBER 1999

CONTENTS: This report provides summaries and status of bills that affect the Coastal Commission and California's Coastal Program.

Note:

This information can be accessed through the Commission's World Wide Web
Homepage at <http://ceres.ca.gov/coastalcomm/index.html>

Please contact Sarah Christie, Legislative Coordinator, at (916) 445-6067 with any questions on the material contained in this report.

PRIORITY LEGISLATION

AB 18 (Keeley) Villaraigosa-Keeley Safe Neighborhood Parks, Clean Water, and Coastal Protection Bond Act of 2000

AB 18 would authorize the issuance of bonds in the amount of \$2,000,000,000 for the acquisition, development, improvement, rehabilitation, restoration, enhancement, and protection of park, recreational, cultural, historical, fish and wildlife, lake, riparian, reservoir, river, and coastal resources. This bill would require the Secretary of State to submit the bond act to the voters at the November 7, 2000 statewide general election.

Introduced 12/07/98
Last Amend 08/25/99
Status Signed by Governor. Chaptered by Secretary of State - Chapter 461, Statutes of 1999
Staff Involvement None
Comm. Position SUPPORT

AB 64 (Ducheny) Public Beach Restoration Act

AB 64 would establish the California Public Beach Restoration Program, to be administered by the Department of Boating and Waterways, for specified public beach enhancement, restoration, and nourishment purposes. The bill would require the Department and the State Coastal Conservancy to jointly prepare and submit to the Legislature, not later than January 1, 2002, a report detailing the restoration, nourishment, and enhancement activities undertaken through the program, evaluating the need for public beach restoration projects, the effectiveness of the program in addressing that need, and ways to increase natural sediment.

Introduced 12/07/98
Last Amend 07/02/99
Status Signed by Governor. Chaptered by Secretary of State - Chapter 798, Statutes of 1999
Staff Involvement None
Comm. Position SUPPORT

AB 75 (Strom-Martin) State Agency Recycling

AB 75 would require each state agency on or before March 15, 2000, to develop and adopt, in consultation with the California Integrated Waste Management Board, an integrated waste management program. It would also require each state agency and each large state facility to divert at least 25% of their solid waste generated from landfill or transformation facilities by January 1, 2001, and at least 50% by January 1, 2002. The bill would authorize the board to establish a source reduction, recycling, and composting requirement that would be an alternative to the 50% reduction required under the bill.

Introduced 12/07/98
Last Amend 08/17/99
Status Signed by Governor. Chaptered by Secretary of State - Chapter 764, Statutes of 1999
Staff Involvement None

AB 399 (Wayne) Coastal Development Permits: Finding

AB 399 would require that every coastal development permit issued for any development within the coastal zone include findings pertaining to public access and public recreation policies.

Introduced 02/12/99
Last Amend None
Status This is a two-year bill.
Staff Involvement Working with author to draft legislation and amendments
Comm. Position SUPPORT

AB 492 (Wayne) Coastal Resources: Public Access

AB 492 would prohibit state land that is located between the first public road and the sea, or that the commission has formally designated as part of the California Coastal Trail, from being transferred or sold to any private entity, unless the state retains a permanent property interest in the land adequate to provide public access to or along the sea. The prohibition would not apply if the private entity is a nonprofit organization that exists for the purposes of preserving lands for public use and enjoyment, or if the Department of Parks and Recreation or the Coastal Conservancy makes specified findings at a noticed public hearing relating to the transfer or sale of the property.

Introduced 02/18/99
Last Amend 08/16/99
Status Signed by Governor. Chaptered by Secretary of State - Chapter 822, Statutes of 1999
Staff Involvement Worked with author to draft amendments
Comm. Position SUPPORT

AB 511 (Wayne) Nonpoint Source Pollution

AB 511 clarifies the Commission's existing authority to address and minimize the adverse impacts of nonpoint source pollution when implementing Coastal Act policies related to coastal public access and recreation, the protection of biological productivity, coastal waters, and sensitive habitat, and new development. The Commission would also be required, not later than January 1, 2001, to prepare and submit to the Governor and the Legislature an annual report on the progress made in implementing the *Polluted Runoff Strategy of the California Coastal Commission*.

Introduced 02/18/99
Last Amend 06/01/99
Status Failed to pass Senate Appropriations. (Reconsideration granted)
Staff Involvement Worked with author to draft legislation
Comm. Position SUPPORT

AB 538 (Wayne) Public Beaches: Bacteriological Standards

AB 538 would require the local permitting authority or appropriate California regional water quality control board, in cooperation with the local health officer, whenever testing reveals that the waters adjacent to a public beach fail to meet those bacteriological standards on 3 testing dates within a four-week period, or on 75% or more of the aggregate tests conducted within a 4-week period, or in certain other described circumstances, to investigate and identify the geographical sources and biological origins of the bacteriological contamination. The bill would require the regional boards to report annually to the State Water Resources Control Board, the department, and the general public on the results of any investigation and subsequent actions performed pursuant to those provisions.

Introduced 02/18/99
Last Amend 08/17/99
Status Signed by Governor. Chaptered by Secretary of State - Chapter 488, Statutes of 1999.
Staff Involvement None

AB 604 (Jackson) Nonpoint Source Pollution

AB 604 would require the State Water Resources Control Board, on or before January 1, 2002, in consultation with the Commission, the State Department of Health Services, and any other state agencies with authority over nonpoint source pollution, to establish a program strategy and implementation plan and performance goals for targeted management measures and for the remaining management measures, on or before January 1, 2000, or other dates as specified. The bill would make the implementation of these provisions contingent upon a determination by the Department of Finance that there are sufficient federal or state funds available for use by the state board to carry out those requirements. (See attached Legislation)

Introduced 02/19/99
Last Amend 08/18/99
Status Vetoed by Governor (See attached Veto Message)
Staff Involvement Worked with author on technical amendments
Comm. Position SUPPORT

AB 642 (Lempert) Coastal Resources: Wetlands Mitigation and Restoration

AB 642 would establish the California Coastal Wetlands Mitigation Banking and Restoration Act of 2000, which would require the Department of Fish and Game, in cooperation with other responsible federal, state, and local agencies, to adopt regulations that establish standards and criteria for a mitigation bank site qualification process in the coastal zone, the evaluation of wetlands acreage and habitat values created at bank sites, and the operation of bank sites. The bill would permit any person who desires to establish a bank site to apply to the department, and to any other appropriate state department that requires a permit, for a determination that the proposed bank site and the proposed operator qualify under the standards and criteria established by the department.

Introduced	02/23/99
Last Amend	08/18/99
Status	This is a two-year bill
Staff Involvement	Reviewing bill, working with author on technical amendments
Comm. Position	NEUTRAL

AB 703 (Lempert) Ballast Water Discharges

This bill would require the water board, and, if determined to be appropriate by the board, the regional boards, to carry out a ballast water discharge management program in consultation with the Department of Fish and Game, the State Lands Commission, and the United States Coast Guard. The bill, on and after January 1, 2000, and until December 31, 2001, would prohibit a person from discharging ballast water that was initially loaded from coastal waters outside the Pacific Coast Region into the waters of the state, or into waters that may impact the waters of the states, unless certain requirements are met. The bill, on and after January 1, 2002, would prohibit any person from discharging any ballast water into the waters of the state or into waters that may impact the waters of the state unless the discharger has complied with statewide general waste discharge requirements prescribed by the board. The bill would provide that any person discharging ballast water in violation of this division prescribed requirements may be liable civilly.

Introduced	02/24/99
Last Amend	08/18/99
Status	Signed by Governor. Chaptered by Secretary of State - Chapter 849, Statutes of 1999
Staff Involvement	None

AB 809 (Strom-Martin) Special Environmental Design License Plates: Fund

AB 809 would require one-half of the fees that are currently deposited in the California Environmental License Plate Fund to instead be deposited in the License Plate Coastal Access Account, which the bill would create, in the State Coastal Conservancy Fund of 1984. The bill would require the money in this new account to be available, upon appropriation, to the State Coastal Conservancy for grants to public agencies and nonprofit entities or organizations for specified purposes.

Introduced	02/24/99
Last Amend	05/28/99
Status	Failed to pass Senate Appropriations Suspense File. (Reconsideration granted)
Staff Involvement	Worked with author to draft legislation
Comm. Position	SUPPORT

AB 848 (Kuehl) Coastal Development Permits: Temporary, Nonrecurring Movie and Television Sets

In order to expedite the processing of an application for a coastal development permit for a motion picture, television, or commercial production project in the coastal zone, AB 848 would allow the governing body of a local government with a certified local coastal program to designate the Commission as the appropriate authority to process and issue a coastal development permit for a temporary, nonrecurring location set, if the production activity, including preparation, construction, filming, and set removal at the site will not exceed 190 days. AB 848 would authorize the executive director of the Commission to schedule for a public hearing and possible action, an appeal of a coastal development permit issued by a local government for a temporary motion picture production project that does not initially comply with all applicable coastal development permit procedural requirements, but that is anticipated to comply fully with those procedural requirements by the time the matter is before the commission on appeal.

Introduced	02/24/99
Last Amend	07/06/99
Status	Signed by Governor. Chaptered by Secretary of State - Chapter 491, Statutes of 1999
Staff Involvement	Worked with the author on amendments

AB 885 (Jackson) Coastal Onsite Sewage Treatment Systems

AB 885 would require the State Department of Health Services, on or before January 1, 2001, in consultation with the State Water Resources Control Board, the California Coastal Commission, and the California Conference of Directors of Environmental Health, to adopt, by regulation, statewide performance standards for all onsite sewage treatment systems within the coastal zone. The bill would require all affected onsite sewage treatment systems to comply with the standards no later than January 1, 2003, or 3 years from the date of the adoption of the standards, whichever is earlier.

Introduced	02/25/99
Last Amend	05/13/99
Status	This is a two-year bill.
Staff Involvement	None
Comm. Position	SUPPORT

AB 989 (Lowenthal) Coastal Development: Notice of Violation

AB 989 would permit the executive director of the commission to file notice of a violation of the Coastal Act if the executive director has determined that real property has been developed in violation of the act. The bill would require a public hearing to be held if the owner submits a timely objection to the filing of the notice of violation, and would require the issuance of a clearance letter if the Commission finds that no violation has occurred. If the Commission determines that a violation has occurred, the bill would require the recordation of the notice of violation with the county recorder in which the real property is located. AB 989 would require the executive director, within 30 days after the final resolution of a violation, to record a notice of rescission with the county recorder indicating that the notice of violation is no longer valid. (See attached Legislation)

Introduced	02/25/99
Last Amend	04/12/99
Status	Vetoed by Governor (See attached Veto Message)
Staff Involvement	Worked with author to draft legislation
Comm. Position	SUPPORT

AB 993 (Shelley) Sea Life Conservation Act: Study

AB 993 enacts the Marine Life Protection Act in order to establish coherent guidelines and purposes for California's marine protected areas.

Introduced	02/25/99
Last Amend	09/10/99
Status	Signed by Governor. Chaptered by Secretary of State - Chapter 1015, Statutes of 1999
Staff Involvement	Worked with author on amendments
Comm. Position	SUPPORT

AB 1000 (House) Eminent Domain: Regulation

AB 1000 would specify that any official act, decision, or regulation of a public entity which restricts the use or impairs the value of private property constitutes an exercise of the power of eminent domain, and shall only be given effect upon the payment to the owner of the private property of just compensation.

Introduced	02/25/99
Last Amend	None
Status	This is a two-year bill.
Staff Involvement	None

AB 1128 (Ackerman) Private Property: Taking

AB 1128 would provide that for the purpose of any law, including any constitutional provision, that requires just compensation for the taking of any private property, that requirement shall apply upon the making of a final decision affecting private property rights. The bill would provide that a final decision, for that purpose, occurs upon the last date that an agency may make or review any agency action prior to the bringing of any action or proceeding in any court to challenge the validity of the agency action. Further, the bill states that upon the existence of any final decision, any person who claims that an agency action entitles the person to just compensation for affected property rights may exercise any administrative or judicial right or remedy to obtain that compensation, separately from any claim relative to the validity of the agency action, and the agency or court shall process the claim for just compensation without regard to the validity of the agency action.

Introduced	02/25/99
Last Amend	None
Status	This is two-year bill.
Staff Involvement	None

AB 1280 (Jackson) Oil and Gas Development: Pipelines

AB 1280 would amend the Coastal Act requiring that all oil extracted from a source located in whole, or in part, under the sea be transported by pipeline to onshore processing and refining facilities, and that all pipelines used to transport this oil utilize the best available technology to ensure maximum protection of public health and safety and of the integrity and productivity of terrestrial and marine ecosystems. This bill would further require that, in addition to all other measures that will maximize the protection of marine habitat and environmental quality, when an offshore well is abandoned or permanently shut down, the best available technology be used to seal and cap a well to prevent any further failure or leakage of oil from the well into the marine environment. The Commission, in conjunction with the State Water Resources Control Board, the State Fire Marshal, the Division of Oil and Gas of the Department of Conservation, and the State Department of Health Services, is also required to conduct a specified inventory and assessment of oil and gas pipelines and, not later than June 1, 2000, to report its findings regarding that inventory and assessment to the Legislature.

Introduced	02/26/99
Last Amend	08/17/99
Status	Failed to pass Assembly Concurrence. (Reconsideration granted)
Staff Involvement	Worked with the author on amendments.
Comm. Position	SUPPORT

AB 1293 (Mazzoni) Coastal Protection: Public Education Programs

AB 1293 would require that the Commission's public education program also include outreach to special groups such as the boating community, and incorporate information on the prevention and reduction of nonpoint source pollution. The bill would provide that, because the actions of people throughout a watershed impact the coast and the ocean, the geographic extent of the commission's education and outreach program shall not be limited to outreach conducted only in the coastal zone. This bill would also authorize the Department of Boating and Waterways to establish a program to provide environmental education to the boating public, with the objective of preventing and reducing boating-related pollution. (See attached Legislation)

Introduced	2/26/99
Last Amend	08/19/99
Status	Vetoed by governor (See attached)
Staff Involvement	Worked with author to draft legislation
Comm. Position	SUPPORT

SJR 2 (Alpert) Offshore Oil Leases

This measure would request that President Clinton extend the moratorium on federal offshore leases to certain leases awarded prior to the moratorium or to terminate those leases.

Introduced	01/07/99
Last Amend	07/12/99
Status	Chaptered by Secretary of State. Res. Chapter 86, Statutes of 1999.
Staff Involvement	None

SB 2 (Chesbro) Watershed, Wildlife, and Parks Improvement Bond Act of 2000

SB 2 would authorize the issuance of bonds in the amount of \$854,500,000 for the acquisition, development, improvement, rehabilitation, restoration, enhancement, and protection of park, recreational, cultural, historical, fish and wildlife, lake, riparian, reservoir, river, and coastal resources.

Introduced	12/07/98
Last Amend	03/22/99
Status	This is a two-year bill.
Staff Involvement	None

SB 48 (Sher) Public Records: Disclosure

SB 48 would allow any person who has been denied access by a state or local government to a public record to appeal that denial to the Attorney General within 20 days of the date of denial and in cases where the agency fails to provide any response. The bill would recommend the Attorney General issue a decision on the appeal within 20 days of the date of the request. If the Attorney General finds that an agency's decision to refuse disclosure was not justified under the California Public Records Act, this bill would allow the Superior Court, in its discretion, to impose a fine on the agency of not less than \$100 for each day that access to the public record was delayed, but not to exceed a total of \$10,000.

Introduced	12/07/98
Last Amend	08/18/99
Status	Vetoed by Governor
Staff Involvement	Worked with the author

SB 57 (Hayden) Coastal, Recreational, and Natural Resources Bond Act of 2000

SB 57 would authorize the issuance of bonds in the amount of \$2,210,000,000 for the purpose of financing a program for the maintenance, expansion, development, or rehabilitation of parks and wildlife, for the protection, restoration, or enhancement of natural resource sites, or for science and environmental education centers, museums, and other facilities. The bill would require the Secretary of State to submit the bond act to the voters at the November 7, 2000, statewide general election. The state Coastal Conservancy would be provided \$200 million for various coastal programs and grants.

Introduced	12/07/98
Last Amend	08/23/99
Status	This is a two-year bill.
Staff Involvement	None

Comm. Position	Support
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SB 74 (Murray, Sher) Parks, Coastal, Recreational, and Natural Resources Bond Act of 2000

SB 74 would establish the Murray-Hayden Urban Parks, Environmental Cleanup, and Youth Service Act, which would provide funding for various projects and programs to develop parks, recreation, and youth service centers, and establish youth service projects. The bill would require all state agencies to cooperate in carrying out the provisions of the act by providing advice and assistance to those departments that have primary responsibility for implementing a program or project under the act.

Introduced 12/07/98
Last Amend 04/15/99
Status This is a two-year bill.
Staff Involvement None

SB 110 (Peace) Energy Conservation, Power Facility and Site Certification, Notice of Intention

SB 110 would eliminate the requirement that electric utilities' 5- and 12-year forecasts established by the Energy Commission serve as the basis for the planning and certification of electric transmission and thermal power plant facilities. Various changes with respect to the information required in an Application for Certification and in the commission's written decision concerning the application are made by this bill. The bill would require the Secretary of the Resources Agency, by January 1, 2001, to review the facility certification program to determine whether that program meets specified criteria for state regulatory programs under the CEQA.

Introduced 12/15/98
Last Amend 08/19/99
Status 09/29/99 Chaptered by Secretary of State. Chapter 581, Statutes of 1999
Staff Involvement Worked with the author on amendments

SB 153 (Haynes) Property Owner Rights Act of 1999

SB 153 would require public agencies to minimize the number of agency actions that may significantly impair the use of private property. Under this bill, every public agency is required to conduct a private property taking impact analysis prior to taking any agency action that may significantly impair the use of private property. Furthermore, this bill would require an exaction or mitigation measure, imposed by a public agency as a condition to a discretionary act, to have a direct relationship to the public burdens imposed by, and to be roughly proportional in nature and extent to the impact of, the proposed activity.

Introduced 01/07/99
Last Amend None
Status This is a two-year bill.
Staff Involvement None
Comm. Position OPPOSE

SB 221 (Alpert) Oil Spill Prevention

Existing law, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, prohibits the operation of a nontank vessel of 300 gross registered tons or greater in the marine waters of the state unless the owner or operator prepares and submits an oil spill contingency plan to the administrator for oil spill response and the plan is approved. SB 221 would authorize the administrator to establish a lower standard of financial responsibility for nontank barges that is not less than the expected costs from a reasonable worst-case oil spill into marine waters.

Introduced 01/25/99
Last Amend 07/08/99
Status This is a two-year bill.
Staff Involvement None

SB 227 (Alpert) Water Quality: Nonpoint Source Pollution

SB 227 would require the state board, on or before January 1, 2001 and in consultation with the regional boards, to prepare, implement and enforce of a detailed program for the purposes of implementing the state's nonpoint source management plan pursuant to Sections 303 and 319 of the Clean Water Act, Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990. The state board would be required, commencing on or before February 1, 2001, and in consultation with the commission, to prepare and submit a nonpoint source pollution control management report with prescribed components. (See attached Legislation)

Introduced 01/25/99
Status 09/29/99 Signed by Governor. Chaptered by Secretary of State. Chapter 560, Statutes of 1999.
Staff Involvement Worked with author to draft legislation
Comm. Position SUPPORT

SB 241 (Alpert) California Endowment for Marine Preservation

SB 241 would establish the California Endowment for Marine Preservation, to be governed by a board of directors, in order to create a permanent source of funding for projects that will enhance the quality, use, and enjoyment of the open coastal marine resources of the state. The bill would also require each owner and operator of certain offshore oil platforms or production facilities, who receives government permits that allow the platform or facility to remain in place, to deposit an unspecified amount with the endowment.

Introduced 01/26/99
Last Amend None
Status This is a two-year bill.
Staff Involvement Working with author

SB 243 (McPherson) Recreational Property: Development Fees

SB 243 would require the State Board of Control to allow a claim for reasonable attorney's fees incurred by an owner of any interest in real property or a public entity as a defendant in a civil action seeking to restrict or prevent public access through the property if the owner or public entity gives permission to the public to enter the property pursuant to a specified agreement. The bill would limit the total sum of the claim for attorney's fees to \$200,000 per fiscal year. This bill would also require that moneys in the Coastal Access Account derived from the filing fees be continuously appropriated without regard to fiscal year to, and expended by, the Coastal Conservancy for grants to public agencies and private nonprofit entities or organizations.

Introduced 01/26/99
Last Amend 08/17/99
Status Signed by Governor. Chaptered by Secretary of State, Chapter 775, Statutes of 1999
Staff Involvement Worked with author on amendments
Comm. Position SUPPORT

SB 300 (Poochigian) Governmental Liability: Permits

SB 300 would provide that a state agency is liable to a private property owner for a temporary taking of the owner's real property if the agency is responsible for a delay in the issuance of a development permit affecting the use of the real property, and the delay is the result of a final decision of the agency that is later determined by a court to be legally erroneous. The bill would also provide that a delay that occurs as a result of the normal development approval process or as a result of litigation challenging a final decision by a state agency constitutes a temporary taking under those provisions if the final decision of the state agency is later determined by a court to be legally erroneous.

This bill would also declare that it is intended to supersede the holding of the California Supreme Court in *Landgate, Inc. v. California Coastal Com.*, 17 Cal. 4th 1006, with regard to any claim arising on or after its effective date.

Introduced	02/03/99
Last Amend	None
Status	Failed to Pass Senate Judiciary Committee (Reconsideration granted)
Staff Involvement	Testified in Committee
Comm. Position	OPPOSE

SB 551 (McPherson) Local Agencies: Building and Zoning Ordinances

SB 551 would add building and zoning ordinances incorporated in any local coastal plan to those ordinances that do not apply under existing law to the location or construction of facilities for the production, generation, storage, or transmission of water, wastewater, or electrical energy or to electrical substations in an electrical transmission system which receives electricity at less than 100,000 volts.

Introduced	02/19/99
Last Amend	None
Status	Author dropped bill.
Staff Involvement	None

SB 1065 (Bowen) Public Records: Electronic Format

SB 1065 would require any agency that has information that constitutes an identifiable public record in an electronic format to make that information available in an electronic format, when requested by any person. The bill would require the agency to make the information available in any electronic format in which it holds the information.

Introduced	02/26/99
Last Amend	04/27/99
Status	Vetoed by Governor
Staff Involvement	None

SB 1244 (O'Connell) Coastal Resources: Oil and Gas Development

The California Coastal Act of 1976, requires that oil and gas development be permitted in accordance with specified requirements if specified conditions are met. SB 1244 would authorize oil and gas development to be permitted in accordance with specified requirements if the applicant for a permit for that development can demonstrate that the development can be performed safely and is consistent with the geologic conditions of the well site.

Introduced	02/26/99
Last Amend	None
Status	This is a two-year bill.
Staff Involvement	None

BILL NO: SB 227

INTRODUCED JANUARY 25, 1999
BY Senator Alpert

An act to add Chapter 5.4 (commencing with Section 13369) to Division 7 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

The Porter-Cologne Water Quality Act governs the coordination and control of water quality in the state, and includes provisions relating to nonpoint source pollution. The California Coastal Act of 1976 imposes certain restrictions on development in the coastal zone of the state. The California Coastal Commission, pursuant to the coastal act, has specified duties with regard to the federally approved California Coastal Management Program.

This bill would require the State Water Resources Control Board, on or before February 1, 2001, and in consultation with the regional boards, the California Coastal Commission, and other appropriate state agencies and advisory groups, as necessary, to prepare a detailed program for the purposes of implementing the state's nonpoint source management plan, as specified. The bill would require the state board, on or before August 1 of each year, and in consultation with the commission and other appropriate agencies, to submit to the Legislature and make available to the public, copies of prescribed state and regional board reports that contain information related to nonpoint source pollution and that the state or regional boards were required to prepare in the previous fiscal year and a summary of the information set forth in those reports, as specified.

SECTION 1. Chapter 5.4 (commencing with Section 13369) is added to Division 7 of the Water Code, to read:

CHAPTER 5.4. NONPOINT SOURCE POLLUTION CONTROL PROGRAM

13369. (a) (1) On or before February 1, 2001, the state board, in consultation with the regional boards, the California Coastal Commission, and other appropriate state agencies and advisory groups, as necessary, shall prepare a detailed program for the purpose of implementing the state's nonpoint source management plan. The board shall address all applicable provisions of the Clean Water Act , including Section 319 (33 U.S.C. Sec. 1329), as well as Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. Sec. 1455b), and this division in the preparation of this detailed implementation program.

(2) (A) The program shall include all of the following components:

(i) Nonregulatory implementation of best management practices.

(ii) Regulatory-based incentives for best management practices.

(iii) The adoption and enforcement of waste discharge requirements that will require the implementation of best management practices.

(B) In connection with its duties under this subdivision to prepare and implement the state's nonpoint source management plan, the state board shall develop, on or before February 1, 2001, guidance to be used by the state board and the regional boards for the purpose of describing the process by which the state board and the regional boards will enforce the state's nonpoint source management plan, pursuant to this division.

(C) The adoption of the guidance developed pursuant to this section is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Notwithstanding Section 7550.5 of the Government Code, and in consultation with the California Coastal Commission and other appropriate agencies, as necessary, the state board, on or before August 1 of each year, shall submit to the Legislature, and make available to the public, both of the following:

(1) Copies of all state and regional board reports that contain information related to nonpoint source pollution and that the state or regional boards were required to prepare in the previous fiscal year pursuant to Sections 303, 305(b), and 319 of the Clean Water Act (33 U.S.C. Secs. 1313, 1315(b), and 1329), Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. Sec. 1455b), related regulations, and this division.

(2) A summary of information related to nonpoint source pollution that is set forth in the reports described pursuant to paragraph (1) including, but not limited to, summaries of both of the following:

(A) Information that is related to nonpoint source pollution and that is required to be included in reports prepared pursuant to Section 305(b) of the Clean Water Act (33 U.S.C. 1315(b)).

(B) Information that is required to be in reports prepared pursuant to Section 319(h)(11) of the Clean Water Act (33 U.S.C. Sec. 1329(h)(11)).

BILL NUMBER: AB 604

INTRODUCED FEBRUARY 19, 1999
BY Assembly Member Jackson

An act to add Section 13396.8 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 604, as amended, Jackson. Nonpoint source pollution.

The Porter-Cologne Water Quality Control Act grants authority to the State Water Resources Control Board to regulate water quality in the state, including matters relating to nonpoint source pollution.

This bill, for the purpose of carrying out the state's nonpoint source pollution control program in accordance with specified federal law, would require the state board, in consultation with the California Coastal Commission, the State Department of Health Services, and any other state agencies with authority over nonpoint source pollution, on or before January 1, 2002, to establish a program strategy and implementation plan and performance goals for targeted management measures and for the remaining management measures on or before January 1, 2005, as specified. The bill also would require the state board (a), if it determines that it will be unable to carry out these provisions, to notify the appropriate policy and fiscal committees of the Legislature, in writing, regarding the projected completion dates and the reasons for not completing the requirements of this article by March 1, 2001, for all targeted management measures, and by March 1, 2004, for all remaining measures, and (b) to notify the appropriate policy and fiscal committees of the Legislature by March 1, 2000, what measures it has under development as of January 1, 2000, the resources dedicated to that effort, and what measures will be subject to the deadlines imposed by the bill. would require the state board to notify, in writing, the Legislature with regard to the projected dates of completion of those requirements if it determines that it will be unable to carry out those requirements on or before January 1, 2002.

The bill would make the implementation of these provisions contingent upon a determination by the Department of Finance, and notification of that determination to the state board, that there are sufficient federal or state funds available for use by the state board to carry out those requirements.

SECTION 1. Section 13396.8 is added to the Water Code, to read:

13396.8. (a) (1) For the purposes of carrying out the state's nonpoint source pollution program in accordance with Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 and Section 319 of the Clean Water Act (33 U.S.C. Sec. 1329), the state board, in consultation with the California Coastal Commission, the State Department of Health Services, and any other state agencies with authority over nonpoint source pollution, on or before January 1, 2002, shall establish a program strategy and implementation plan, and performance goals for targeted management measures and the remaining management

measures in compliance with Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990.

(2) Notwithstanding paragraph (1), if the state board determines that it will be unable to carry out paragraph (1) on or before January 1, 2002, the state board shall notify, in writing, the Legislature with regard to the projected dates of completion of the requirements set forth in paragraph (1).

(3) The implementation of paragraphs (1) and (2) is contingent upon a determination by the Department of Finance, and notification of that determination to the state board, that there are sufficient federal or state funds available for use by the state board to carry out those paragraphs.

measures in compliance with Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990, and for the remaining management measures, on or before January 1, 2005.

(b) For the purpose of this section, a performance goal shall may include, but not be limited to, a measurement used to describe the improvement of the quality of surface water, groundwater, or coastal or ocean waters of the state based on the state's water quality standards and objectives.

(c) Notwithstanding Section 7550.5 of the Government Code, on or before June 1, 2001, the state board shall report to the Legislature with regard to the impact of the implementation of the management measures on all of the following:

(1) The number of beach closures.

(2) The rate of compliance with the state's nonpoint source pollution program.

(3) The number of impaired water bodies, as determined annually by the United States Environmental Protection Agency.

(c) (1) If the state board determines that it will be unable to carry out paragraph (1) of subdivision

(a), the state board shall notify the appropriate policy and fiscal committees of the Legislature, in writing, regarding the projected completion dates and the reasons for not completing the requirements of this section by March 1, 2001, for all targeted management measures and by March 1, 2004, for all remaining measures.

(2) The state board shall notify the appropriate policy and fiscal committees of the Legislature by March 1, 2000, of what measures it has under development as of January 1, 2000, the resources dedicated to that effort, and what measures will be subject to the deadlines imposed by the bill.

09/28/99

To the Members of the California Assembly:

I am returning Assembly Bill 604 without my signature.

This bill would require the State Water Resources Control Board (SWRCB), in consultation with other state agencies, to establish a nonpoint source program strategy and implementation plan and performance goals for management measures and submit a progress report to the Legislature on the program.

This bill is unnecessary because the SWRCB currently is working, in cooperation with 22 other state agencies, to comply with federal requirements to establish a comprehensive coastal nonpoint source pollution program, including the development of management measures. The deadlines for developing performance goals in

AB 604 are inconsistent with this effort and do not reflect the commitment by appropriate federal, state, local and private interests that is necessary to address the water quality problems caused by nonpoint source pollution.

However, I am signing SB 227 which establishes the statutory framework for California's nonpoint source program and requires the SWRCB to report regularly to the Legislature. Senate Bill 227 better complements existing water quality law and takes into consideration recent negotiations with the federal government.

Sincerely,

GRAY DAVIS

BILL NO: AB 989

INTRODUCED FEBRUARY 25, 1999

BY Assembly Member Lowenthal

An act to add Section 30812 to the Public Resources Code, relating to coastal development.

LEGISLATIVE COUNSEL'S DIGEST

AB 989, Lowenthal. Coastal development.

(1) Existing law requires any person wishing to perform or undertake any development in the coastal zone to obtain a coastal development permit from the California Coastal Commission or from a local government.

This bill would permit the executive director of the commission to file notice of a violation of the California Coastal Act of 1976 if the executive director has determined that real property has been developed in violation of the act. The bill would require a public hearing to be held if the owner submits a timely objection to the filing of the notice of violation, and would require the issuance of a clearance letter if the commission finds that no violation has occurred. If the commission determines that a violation has occurred, the bill would require the recordation of the notice of violation with the county recorder of the county in which the real property is located, thereby imposing a state-mandated local program.

The bill would require the executive director, within 30 days after the final resolution of a violation, to record a notice of rescission with the county recorder indicating that the notice of violation is no longer valid. The bill would also authorize the commission at any time and for cause, on its own initiative or at the request of the property owner, to cause a notice of rescission to be recorded invalidating the notice of violation.

(2) 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 no reimbursement is required by this act for a specified reason.

SECTION 1. Section 30812 is added to the Public Resources Code, to read:

30812. (a) Whenever the executive director of the commission has determined that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.

(b) The notification specified in subdivision (a) shall indicate that the owner is required to respond in writing, within 20 days of the postmarked mailing of the notification, to object to recording the notice of violation. The notification shall also state that if, within 20 days of

mailing of the notification, the owner of the real property at issue fails to inform the executive director of the owner's objection to recording the notice of violation, the executive director shall record the notice of violation with the county recorder of the county in which the real property is located.

(c) If the owner submits a timely objection to the filing of the notice of violation, a public hearing shall be held at the next regularly scheduled commission meeting for which adequate public notice can be provided, at which the owner may present evidence to the commission why the notice of violation should not be recorded. The hearing may be postponed for cause for not more than 90 days after the date of the receipt of the objection to recordation of the notice of violation.

(d) If, after the commission has completed its hearing and the owner has been given the opportunity to present evidence, the commission finds that, based on the available evidence, no violation has occurred, the executive director shall mail a clearance letter to the owner of the real property. If the commission finds that, based on available evidence, a violation has occurred, the executive director shall record the notice of violation with the county recorder of the county in which the real property is located.

(e) The notice of violation, when recorded, is constructive notice of the violation to all successors in interest in that property, in the same manner as provided in Section 405.24 of the Code of Civil Procedure. The county recorder shall index the names of the fee owners in the general index.

(f) Within 30 days after the final resolution of a violation that is the subject of a recorded notice of violation, the executive director shall mail a clearance letter to the owner of the real property and shall record a notice of rescission with the county recorder indicating that the notice of violation is no longer valid. The notice of rescission shall have the same effect of a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure.

(g) The executive director shall not invoke the procedures of this section until all existing methods for resolving the violation have been utilized and the property owner has been made aware of the potential for the recordation of a notice of violation. For purposes of this subdivision, existing methods for resolving the violation do not include the commencement of an administrative or judicial proceeding.

(h) This section only applies in circumstances in which the commission is the legally responsible coastal development permitting authority or in which a local government or port governing body requests the commission to assist in the resolution of an unresolved violation if the local government is the legally responsible coastal development permitting authority.

(i) The commission, 24 months from the date of recordation, shall review each notice of violation that has been recorded to determine why the violation has not been resolved and whether the notice of violation should be expunged.

(j) The commission, at any time and for cause, on its own initiative or at the request of the property owner may cause a notice of rescission to be recorded invalidating the notice of

violation recorded pursuant to this section. The notice of recission shall have the same effect of a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

VETO MESSAGE

September 27, 1999

To the Members of the assembly:

I am returning Assembly bill No. 989 without my signature.

This bill would authorize the executive director of the California Coastal commission to record a notice of violation if the director has determined that property has been developed in violation of the California Coastal Act.

The bill would inappropriately shift the burden of proof from a government entity to a private individual who must then affirmatively prove they did not act in violation of the Coastal Act. Current law provides the Coastal Commission with other remedies to address violation of the act. Therefore, this bill is unnecessary.

Sincerely,

GRAY DAVIS

BILL NO: AB 1293

INTRODUCED FEBRUARY 26, 1999
BY Assembly Member Mazzoni

An act to add Section 63 to the Harbors and Navigation Code, and to amend Section 30012 of the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1293, Mazzoni. Coastal protection: public education programs.

Existing law requires the Department of Boating and Waterways to implement and administer laws regulating boating and the use of waterways in the state.

This bill would authorize the department to establish a program to provide environmental education to the boating public, with the objective of preventing and reducing boating-related pollution. The bill would require the department, if it establishes the program, to consult with specified governmental agencies as appropriate and necessary to carry out the objectives of the program.

The existing California Coastal Act of 1976 requires the California Coastal Commission, to the extent that its resources permit, to carry out a public education program that includes outreach efforts to schools, youth organizations, and the general public for the purpose of promoting understanding of, fostering a sense of individual responsibility for, and encouraging public initiatives and participation in programs for, the conservation and wise use of coastal and ocean resources.

This bill would require that the public education program also include outreach to special groups such as the boating community, and include information on the prevention and reduction of nonpoint source pollution. The bill would provide that, because the actions of people throughout a watershed impact the coast and the ocean, the geographic extent of the commission's education and outreach program shall not be limited to outreach conducted only in the coastal zone. The bill would require public education and outreach programs that the commission initiates that are focused on nonpoint source pollution to be coordinated with the State Water Resources Control Board and with the appropriate California regional water quality control board.

SECTION 1. Section 63 is added to the Harbors and Navigation Code, to read:

63. The department may establish a program to provide environmental education to the boating public, with the objective of preventing and reducing boating-related pollution. If the department establishes the program, it shall consult with the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the State Air Resources Board, the State Water Resources Control Board, the Department of Fish and Game, the Office of Oil Spill Prevention and Response, the Integrated Waste Management Board, and any other state or local agency as appropriate and necessary to carry out the objectives of this section.

SEC. 2. Section 30012 of the Public Resources Code is amended to read:

30012. (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.

(b) (1) The commission shall, to the extent that its resources permit, carry out a public education program that includes outreach efforts to schools, youth organizations, special groups such as the boating community, and the general public for the purpose of promoting understanding of, fostering a sense of individual responsibility for, and encouraging public initiatives and participation in programs for, the conservation and wise use of coastal and ocean resources. The program shall also include information on the prevention and reduction of coastal nonpoint source pollution. Emphasis shall be given to volunteer efforts such as the Adopt-A-Beach program.

(2) In carrying out this program, the commission shall coordinate with other agencies to avoid duplication and to maximize information sharing. Any public education and outreach program that the commission initiates that is focused on the boating community shall be carried out in consultation with the Department of Boating and Waterways and shall include information concerning pollution from the operation of marine engines and the consequent impact on water quality, marine life, and other coastal and ocean resources.

(3) Because the actions of people throughout a watershed can impact the coast and ocean, the geographic extent of the commission's public education, including outreach efforts, related to this program shall not be limited to outreach conducted only in the coastal zone.

(4) Any public education and outreach program that the commission initiates that is focused on nonpoint source pollution shall be coordinated with the State Water Resources Control Board and with the California regional water quality control board with jurisdiction in the geographic area where the program is conducted.

(c) The commission is encouraged to seek funding from any appropriate public or private source and may apply for and expend any grant or endowment funds for the purposes of this section without the need to specifically include funds in its budget. Any funding made available to the commission for these purposes shall be reported to the fiscal committee of each house of the Legislature at the time its budget is being formally reviewed.

(d) The commission is encouraged to seek and utilize interns for the purpose of assisting its regular staff in carrying out the purposes of this section and this division and, notwithstanding any other provision of law, may participate in any internship program the executive director determines to be appropriate. With respect to any internship program the commission uses, it shall make the best efforts to ensure that the participants in the program reflect the ethnic diversity of the state and are provided an educational and meaningful experience.

(e) Notwithstanding Section 7550.5 of the Government Code, the commission shall submit to each house of the Legislature an annual report describing the progress it is making in carrying out this section.

VETO MESSAGE

September 27, 1999

To the Members of the Assembly:

I am returning Assembly Bill No. 1293 without my signature.

This bill would have required the Coastal Commission to carry out public education and outreach programs relating to boating and nonpoint source pollution and would have extended the Commission's authority beyond the coastal zone for purposes of these programs.

I do not support expanding the Commission's authority beyond the coastal zone. Moreover, the Department of Boating and Waterways is the appropriate agency to carry out public education programs related to boating. In addition, programs relating to nonpoint source pollution should be carried out by the State Water Resources Control Board and the regional water quality control boards.

Sincerely,

GRAY DAVIS

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