

**ASSEMBLY BILL**

**No. 207**

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**Introduced by Assembly Member Rendon**

January 30, 2013

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An act to amend Sections 6602, 6612, 6613, 6616, and 6618 of the Fish and Game Code, relating to marine resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 207, as introduced, Rendon. Marine resources and preservation. The California Marine Resources Legacy Act establishes a program, administered by the Department of Fish and Wildlife, to allow partial removal of offshore oil structures. The act authorizes the department to conditionally approve the partial removal of offshore oil structures, if specified criteria are satisfied, including a finding that the alternative of partial removal provides a net environmental benefit and substantial cost savings compared to the alternative of full removal of these structures. The act requires the first person to file an application on and after January 1, 2011, to partially remove an offshore oil structure to pay, in addition to other specified costs, the startup costs incurred by the department or the State Lands Commission to implement the act, including the costs to develop and adopt regulations. The act requires the payment of startup costs to be reimbursed by the department, as specified. The act requires the Ocean Protection Council, for purposes of determining whether partial removal provides a net environmental benefit, to establish specified criteria, to consult with the department, the California Coastal Commission, the State Lands Commission, the California Ocean Science Trust, and other responsible agencies as to those criteria, and requires certification that partial removal complies with the California Environmental Quality Act, among other things.

The act requires the State Lands Commission to determine the cost savings of partial removal, and requires the applicant, upon conditional approval for conversion, to apportion a percentage of the cost-savings funds in accordance with a prescribed schedule to specified entities and funds. The act defines “cost savings” to mean the difference between the estimated cost to the applicant of complete removal of an oil platform, as required by state and federal leases, and the estimated costs to the applicant of partial removal of the oil platform pursuant to the act, and specifically provides for the inclusion of certain costs in cost savings.

This bill would include certain additional costs in cost savings calculations for purposes of these provisions.

The bill would specify additional costs in cost savings calculations to be used for applications submitted on or before January 1, 2022. The bill would not require the payment of startup costs to be reimbursed by the department for those applications, as specified.

The bill would require the council, in determining whether partial removal of the structure would provide a net benefit to the marine environment compared to full removal of the structure, to take certain adverse impacts to air quality into account and to consult with the State Air Resources Board, among other entities.

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 6602 of the Fish and Game Code is
- 2 amended to read:
- 3 6602. For purposes of this chapter, the following terms have
- 4 the following meanings:
- 5 (a) “Applicant” means the owner or operator of an offshore oil
- 6 structure in state or federal waters or another party responsible for
- 7 decommissioning an offshore oil structure in state or federal waters
- 8 who applies pursuant to this chapter to carry out partial removal
- 9 of the structure.
- 10 (b) “Commission” means the State Lands Commission.
- 11 (c) “Conservancy” means the State Coastal Conservancy.
- 12 (d) “Cost savings” means the difference between the estimated
- 13 cost to the applicant of complete removal of an oil platform as
- 14 required by state and federal leases and the estimated costs to the

1 applicant of partial removal of the oil platform pursuant to this  
2 ~~chapter.~~ *chapter, including all costs to the applicant of*  
3 *participation in either program.*

4 (e) “Council” means the Ocean Protection Council.

5 (f) “Endowment” means the California Endowment for Marine  
6 Preservation established in Division 37 (commencing with Section  
7 71500) of the Public Resources Code.

8 (g) “Exclusive economic zone (EEZ)” means the zone as  
9 measured from the mean high tide line seaward to 200 nautical  
10 miles, as set forth in Presidential Proclamation 5030 of March 10,  
11 1983, in which the United States proclaimed jurisdiction over the  
12 resources of the ocean within 200 miles of the coastline.

13 (h) “National Fishing Enhancement Act of 1984” means Title  
14 II of Public Law 98-623.

15 (i) “Offshore oil structure” means platforms, piers, and artificial  
16 islands located seaward of mean lower low water, used for oil and  
17 gas exploration, development, production, processing, or storage.

18 (j) “Oil” means any kind of petroleum, liquid hydrocarbons,  
19 natural gas, or petroleum products or any fraction or residues  
20 therefrom.

21 (k) “Open coastal marine resources” means those marine  
22 resources that use open coastal waters as their habitat.

23 (l) “Open coastal waters” means the area composed of the  
24 submerged lands of the state that are below the mean lower low  
25 water, extending seaward to the boundaries of the exclusive  
26 economic zone.

27 (m) “Partial removal” means an alternative to full removal of  
28 an offshore oil structure, in compliance with all requirements of  
29 this chapter.

30 (n) “State waters” means waters within the seaward boundary  
31 of the state as identified in Section 2 of Article III of the California  
32 Constitution.

33 SEC. 2. Section 6612 of the Fish and Game Code is amended  
34 to read:

35 6612. (a) Upon receipt of an application to partially remove  
36 an offshore oil structure pursuant to this chapter, the department  
37 shall determine whether the application is complete and includes  
38 all information needed by the department.

39 (b) (1) Upon a determination that the application is complete,  
40 the applicant shall provide surety bonds executed by an admitted

1 surety insurer, irrevocable letters of credit, trust funds, or other  
2 forms of financial assurances, determined by the department to be  
3 available and adequate, to ensure that the applicant will provide  
4 sufficient funds to the department, council, commission, and  
5 conservancy to carry out all required activities pursuant to this  
6 article, including all of the following:

7 (A) Environmental review of the proposed project pursuant to  
8 Section 6604.

9 (B) A determination of net environmental benefit pursuant to  
10 Section 6613.

11 (C) A determination of cost savings pursuant to Section 6614.

12 (D) Preparation of a management plan for the structure pursuant  
13 to Section 6615.

14 (E) Implementation of the management plan and ongoing  
15 maintenance of the structure after the department takes title  
16 pursuant to Section 6620.

17 (F) Development of an advisory spending plan pursuant to  
18 Section 6621.

19 (G) Other activities undertaken to meet the requirements of this  
20 article, including the costs of reviewing applications for  
21 completeness, and reviewing, approving, and permitting the  
22 proposed project, which includes the costs of determining whether  
23 the project meets the requirements of all applicable laws and  
24 regulations and the costs of environmental assessment and review.

25 (2) The department shall consult with the council, commission,  
26 and conservancy in determining appropriate funding for activities  
27 to be carried out by those agencies.

28 (3) The funds provided pursuant to paragraph (1) shall not be  
29 considered in the calculation of cost savings pursuant to Section  
30 6614 or the apportionment of cost savings pursuant to Section  
31 6618.

32 (c) The first person to file an application on and after January  
33 1, 2011, to partially remove an offshore oil structure pursuant to  
34 this chapter, shall pay, in addition to all costs identified under  
35 subdivision (b), the startup costs incurred by the department or the  
36 commission to implement this chapter, including the costs to  
37 develop and adopt regulations pursuant to this chapter. This  
38 payment of startup costs shall be reimbursed by the department as  
39 provided in paragraph (3) of subdivision (c) of Section 6618.

1 (d) As soon as feasible after reaching the agreement pursuant  
2 to subdivision (b), the lead agency shall begin the environmental  
3 review of the proposed project as required pursuant to Section  
4 6604.

5 (e) *For applications submitted on or before January 1, 2022,*  
6 *the provisions of subdivisions (a) through (d) shall apply, except*  
7 *as follows:*

8 (1) *The funds provided pursuant to paragraph (1) of subdivision*  
9 *(b) and subdivision (c) shall be included in the calculation of cost*  
10 *savings pursuant to Section 6614 and the apportionment of cost*  
11 *savings pursuant to Section 6618.*

12 (2) *The funds paid by the first person to file an application, as*  
13 *specified in subdivision (c), shall be included in the calculation of*  
14 *the first applicant's cost savings pursuant to Section 6614.*  
15 *Notwithstanding paragraph (3) of subdivision (c) of Section 6618,*  
16 *the payment of startup costs shall not be reimbursed by the*  
17 *department.*

18 SEC. 3. Section 6613 of the Fish and Game Code is amended  
19 to read:

20 6613. (a) The council shall determine whether the partial  
21 removal of an offshore oil structure pursuant to this chapter  
22 provides a net benefit to the marine environment compared to the  
23 full removal of the structure.

24 (b) As a necessary prerequisite to determining net environmental  
25 benefit as required in subdivision (a), the council shall, upon receipt  
26 of its initial application from the department pursuant to Section  
27 6610, establish appropriate criteria for evaluating the net  
28 environmental benefit of full removal and partial removal of  
29 offshore oil structures.

30 (1) The criteria shall include, but are not limited to, the depth  
31 of the partially removed structure in relation to its value as habitat  
32 and the location of the structure, including its proximity to other  
33 reefs, both natural and artificial.

34 (2) The criteria shall not include any consideration of the funds  
35 to be generated by the partial removal of the structure.

36 (3) In determining the criteria, the council shall consult with  
37 appropriate entities, including, but not limited to, the department,  
38 the commission, the *State Air Resources Board*, the California  
39 Coastal Commission, and the California Ocean Science Trust.

1 (4) The council shall establish the criteria in time to use them  
2 in making its initial determination of net environmental benefit  
3 pursuant to this section.

4 (c) Upon certification of environmental documents pursuant to  
5 the California Environmental Quality Act (*Division 13*  
6 *(commencing with Section 21000) of the Public Resources Code*),  
7 the council shall, based on the criteria developed pursuant to  
8 subdivision (b) and other relevant information, determine whether  
9 partial removal of the structure would provide a net benefit to the  
10 marine environment compared to full removal of the structure. In  
11 making the determination, the council shall, at a minimum, take  
12 into account the following:

13 (1) The contribution of the proposed structure to protection and  
14 productivity of fish and other marine life.

15 (2) Any adverse impacts to biological ~~resources~~ or *resources*,  
16 water quality, or *air quality*, or any other marine environmental  
17 impacts, from the full removal of the facility that would be avoided  
18 by partial removal as proposed in the application.

19 (3) Any adverse impacts to biological ~~resources~~ or *resources*,  
20 water quality, or *air quality*, or any other marine environmental  
21 impacts, from partial removal of the structure as proposed in the  
22 application.

23 (4) Any benefits to the marine environment that would result  
24 from the full removal of the structure or from partial removal as  
25 proposed in the application.

26 (5) Any identified management requirements and restrictions  
27 of the partially removed structure, including, but not limited to,  
28 restrictions on fishing or other activities at the site.

29 (d) Benefits resulting from the contribution of cost savings to  
30 the endowment shall not be considered in the determination of net  
31 environmental benefit.

32 (e) The council may contract or enter into a memorandum of  
33 understanding with any other appropriate governmental or  
34 nongovernmental entity to assist in its determination of net  
35 environmental benefit.

36 (f) The determination made pursuant to this section and  
37 submitted to the department by the council shall constitute the  
38 final determination and shall not be revised except by the council.

1 (g) The council shall take all feasible steps to complete its  
2 determination in a timely manner that accommodates the  
3 department's schedule for consideration of the application.

4 SEC. 4. Section 6616 of the Fish and Game Code is amended  
5 to read:

6 6616. The department may grant conditional approval of an  
7 application for partial removal of an offshore oil structure only if  
8 all of the following criteria are satisfied:

9 (a) The partial removal of the offshore oil structure and the  
10 planning, development, maintenance, and operation of the structure  
11 would be consistent with all applicable state, federal, and  
12 international laws, including, but not limited to, all of the  
13 following:

14 (1) The federal Magnuson-Stevens Fishery Conservation and  
15 Management Act (16 U.S.C. Sec. 1801 et seq.).

16 (2) The federal National Fishing Enhancement Act of 1984 (33  
17 U.S.C. Sec. 2101 et seq.).

18 (3) The federal Coastal Zone Management Act *of 1972* (16  
19 U.S.C. Sec. 1451 et seq.).

20 (4) The California Coastal Management Program.

21 (5) The Marine Life Management Act (Part 1.7 (commencing  
22 with Section 7050)).

23 (6) The Marine Life Protection Act (Chapter 10.5 (commencing  
24 with Section 2850) of Division 3).

25 (7) State and federal water quality laws.

26 (8) Navigational safety laws.

27 (b) The partial removal of the offshore oil structure provides a  
28 net benefit to the marine environment compared to full removal  
29 of the structure, as determined pursuant to Section 6613.

30 (c) The cost savings that would result from the conversion of  
31 the offshore oil platform or production facility have been  
32 determined pursuant to Section 6614.

33 (d) The applicant has provided sufficient funds consistent with  
34 subdivision (b) of Section 6612.

35 (e) The department and the applicant have entered into a  
36 contractual agreement whereby the applicant will provide sufficient  
37 funds for overall management of the structure by the department,  
38 including, but not limited to, ongoing management, operations,  
39 maintenance, monitoring, and enforcement as these relate to the  
40 structure.

1 (f) The department has entered into an indemnification  
2 agreement with the applicant that indemnifies the state and the  
3 department, to the extent permitted by law, against any and all  
4 liability that may result, including, but not limited to, active  
5 negligence, and including defending the state and the department  
6 against any claims against the state for any actions the state  
7 undertakes pursuant to this article. The agreement may be in the  
8 form of an insurance policy, cash settlement, or other mechanism  
9 as determined by the department. In adopting indemnification  
10 requirements for the agreement, the department shall ensure that  
11 the state can defend itself against any liability claims against the  
12 state for any actions the state undertakes pursuant to this article  
13 and pay any resulting judgments. The department shall consult  
14 with and, as necessary, use the resources of the office of the  
15 Attorney General in preparing and entering into the indemnification  
16 agreement. *The cost to the applicant of providing indemnification*  
17 *by agreement, insurance policy, cash settlement, or other*  
18 *mechanism shall be included in the calculation of cost savings*  
19 *pursuant to Section 6614 only for applications submitted on or*  
20 *before January 1, 2022.*

21 (g) The applicant has applied for and received all required  
22 permits, leases, and approvals issued by any governmental agency,  
23 including, but not limited to, a lease issued by the commission if  
24 the proposed project involves state tidelands and submerged lands.  
25 For structures located in federal waters, all of the following  
26 requirements shall be met:

27 (1) The department and the owner or operator of the structure  
28 reach an agreement providing for the department to take title to  
29 the platform or facility as provided in Section 6620.

30 (2) The department acquires the permit issued by the United  
31 States Army Corps of Engineers.

32 (3) The partial removal of the structure is approved by the  
33 Bureau of Ocean Energy Management, Regulation and  
34 Enforcement of the United States Department of the Interior.

35 SEC. 5. Section 6618 of the Fish and Game Code is amended  
36 to read:

37 6618. (a) The cost savings from the partial removal of an  
38 offshore oil structure, as determined pursuant to Section 6614,  
39 shall be apportioned and transmitted as described in this section.



1 (b) Upon receipt of conditional approval pursuant to Section  
2 6617, the ~~owner or operator of the structure~~ *applicant* shall  
3 apportion and directly transmit a portion of the total amount of the  
4 cost savings to the entities in subdivision (c) as follows:

5 (1) Fifty-five percent, if ~~transmitted~~ *the application was*  
6 *submitted* before January 1, ~~2017~~ 2022.

7 (2) Sixty-five percent, if ~~transmitted~~ *the application was*  
8 *submitted* on or after January 1, ~~2017~~ 2022, and before January 1,  
9 ~~2023~~ 2028.

10 (3) Eighty percent, if ~~transmitted~~ *the application was submitted*  
11 *on or after* January 1, ~~2023~~ 2028.

12 (c) Of the total amount of the cost savings to be transmitted  
13 pursuant to subdivision (b), the applicant shall directly transmit  
14 the following amounts to the following entities:

15 (1) Eighty-five percent shall be deposited into the California  
16 Endowment for Marine Preservation established pursuant to  
17 Division 37 (commencing with Section 71500) of the Public  
18 Resources Code.

19 (2) Ten percent shall be deposited into the General Fund.

20 (3) Two percent shall be deposited into the Fish and Game  
21 Preservation Fund for expenditure, upon appropriation by the  
22 Legislature, by the department to pay any costs imposed by this  
23 chapter that are not otherwise provided for pursuant to subdivision  
24 (b) of Section 6612 and subdivision (e) of Section 6616. Any  
25 moneys remaining in the Fish and Game Preservation Fund, after  
26 providing for these costs, shall be used, upon appropriation by the  
27 Legislature, first to reimburse the payment of the startup costs  
28 described in subdivision (c) of Section 6612, and thereafter to  
29 conserve, protect, restore, and enhance the coastal and marine  
30 resources of the state consistent with the mission of the department.

31 (4) Two percent shall be deposited into the Coastal Act Services  
32 Fund, established pursuant to Section 30620.1 of the Public  
33 Resources Code, and shall be allocated to support state agency  
34 work involving research, planning, and regulatory review  
35 associated with the application and enforcement of coastal  
36 management policies in state and federal waters pursuant to state  
37 and federal quasi-judicial authority over offshore oil and gas  
38 development.

39 (5) One percent shall be deposited with the board of supervisors  
40 of the county immediately adjacent to the location of the facility

1 prior to its decommissioning. The amount paid to the county shall  
2 be managed pursuant to paragraph (1) of subdivision (d) of Section  
3 6817 of the Public Resources Code.

O