

ASSEMBLY BILL

No. 976

**Introduced by Assembly Member Atkins
(Principal coauthor: Assembly Member Stone)**

February 22, 2013

An act to amend Section 30823 of, and to add Section 30821 to, the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 976, as introduced, Atkins. Coastal resources: California Coastal Act of 1976: enforcement: penalties.

(1) The California Coastal Act of 1976 requires a person undertaking development in the coastal zone to obtain a coastal development permit in accordance with prescribed procedures. Existing law authorizes the superior court to impose civil liability on a person who performs or undertakes development that is in violation of the act or that is inconsistent with a previously issued coastal development permit, and on a person who violates the act in any other manner.

This bill would provide that a person who violates the act is subject to an administrative civil penalty of an unspecified amount that may be imposed by the California Coastal Commission by a majority vote of the commissioners, upon consideration of various factors, in a public hearing.

This bill would provide that a person, as defined, shall not be subject to both monetary civil liability imposed by the commission and monetary civil liability imposed by the superior court for the same act or failure to act. In the event that a person who is assessed a penalty by the commission fails to pay the penalty, fails to comply with a restoration or cease and desist order, or challenges any of these actions in a court

of law, the commission may maintain an action or otherwise engage in judicial proceedings to enforce those requirements and the court may grant relief, as specified. This bill would also allow the commission to record a lien on the property of a violator in the amount of the penalty assessed by the commission if the violator fails to pay the penalty.

(2) The act requires that all funds derived from the payment of a penalty are to be deposited into the Violation Remediation Account of the State Coastal Conservancy Fund, until appropriated by the Legislature, for purposes of carrying out the act.

This bill would instead require that all funds derived from the payment of a penalty be deposited into the Coastal Act Services Fund, until appropriated by the Legislature, for the purposes of carrying out the act.

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 30821 is added to the Public Resources
2 Code, to read:

3 30821. (a) In addition to any other penalties imposed pursuant
4 to this division, a person, including a landowner, who is in violation
5 of a provision of this division is subject to an administrative civil
6 penalty that may be imposed by the commission in an amount not
7 less than ____ dollars (\$____) and not to exceed ____ dollars
8 \$____) for each violation.

9 (b) All penalties imposed pursuant to subdivision (a) shall be
10 imposed by majority vote of the commissioners present in a duly
11 noticed public hearing in compliance with the requirements of
12 Section 30810, 30811, or 30812.

13 (c) In determining the amount of civil liability, the commission
14 shall take into account the factors set forth in subdivision (c) of
15 Section 30820.

16 (d) A person shall not be subject to both monetary civil liability
17 imposed under this section and monetary civil liability imposed
18 by the superior court for the same act or failure to act. In the event
19 that a person who is assessed a penalty under this section fails to
20 pay the administrative penalty, otherwise fails to comply with a
21 restoration or cease and desist order issued by the commission in
22 connection with the penalty action, or challenges any of these

1 actions by the commission in a court of law, the commission may
2 maintain an action or otherwise engage in judicial proceedings to
3 enforce those requirements and the court may grant any relief as
4 provided under this chapter.

5 (e) If a person fails to pay a penalty imposed by the commission
6 pursuant to this section, the commission may record a lien on the
7 property in the amount of the penalty assessed by the commission.
8 This lien shall have the force, effect, and priority of a judgment
9 lien.

10 (f) In enacting this section, it is not the intent of the Legislature
11 that unintentional, minor violations that only cause de minimis
12 harm should lead to civil penalties, if the violator has acted
13 expeditiously to correct the violation consistent with this act.

14 (g) "Person," for the purpose of this section, does not include
15 a local government, a special district, or an agency thereof when
16 acting in a legislative or adjudicative capacity.

17 SEC. 2. Section 30823 of the Public Resources Code is
18 amended to read:

19 30823. ~~Any~~ All funds derived under this article shall be
20 ~~expended for carrying out~~ deposited in the provisions *Coastal Act*
21 *Services Fund, established pursuant to subdivision (a) of this*
22 ~~division, when Section 30620.1, until~~ appropriated by the
23 Legislature. Funds so derived shall be deposited in *Legislature,*
24 ~~for the Violation Remediation Account~~ purpose of the *Coastal*
25 ~~Conservancy Fund until appropriated.~~ *carrying out this division.*