

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, 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~~ *an amount not to exceed 75% of the maximum civil penalty that may be imposed in the superior court, as specified.*

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 \$_____ 75 percent of the amount of the maximum penalty
- 9 authorized pursuant to subdivision (b) of Section 30820 for each
- 10 violation.
- 11 (b) All penalties imposed pursuant to subdivision (a) shall be
- 12 imposed by majority vote of the commissioners present in a duly
- 13 noticed public hearing in compliance with the requirements of
- 14 Section 30810, 30811, or 30812.
- 15 (c) In determining the amount of civil liability, the commission
- 16 shall take into account the factors set forth in subdivision (c) of
- 17 Section 30820.
- 18 (d) A person shall not be subject to both monetary civil liability
- 19 imposed under this section and monetary civil liability imposed
- 20 by the superior court for the same act or failure to act. In the event

1 that a person who is assessed a penalty under this section fails to
2 pay the administrative penalty, otherwise fails to comply with a
3 restoration or cease and desist order issued by the commission in
4 connection with the penalty action, or challenges any of these
5 actions by the commission in a court of law, the commission may
6 maintain an action or otherwise engage in judicial proceedings to
7 enforce those requirements and the court may grant any relief as
8 provided under this chapter.

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

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

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

21 SEC. 2. Section 30823 of the Public Resources Code is
22 amended to read:

23 30823. All funds derived under this article shall be deposited
24 in the Coastal Act Services Fund, established pursuant to
25 subdivision (a) of Section 30620.1, until appropriated by the
26 Legislature, for the purpose of carrying out this division.