

AMENDED IN ASSEMBLY MAY 28, 2013

AMENDED IN ASSEMBLY MAY 13, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

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, repeal, and add Section 30823 of, and to add and repeal Section 30821 to,~~ *of* 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~~

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 that may be imposed by~~ *authorize, until January 1, 2017, the California Coastal Commission to impose*

upon a person who violates the act an administrative civil penalty by a majority vote of the commissioners, upon consideration of various factors, and in 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 prohibit~~ a person, as defined, ~~shall not be from being~~ subject to both *this* monetary civil liability imposed by the commission and a monetary civil liability imposed by the superior court for the same act or failure to act. ~~In~~ *The bill*, 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, *would authorize* the commission ~~may to~~ maintain an action or otherwise engage in judicial proceedings to enforce those requirements and *would authorize* the court ~~may to~~ 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 provide that, until January 1, 2017, \$1,500,000 of the funds annually derived from the payment of a penalty be deposited into that Violation Remediation Account, as adjusted, and that any additional funds be deposited in 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 to exceed 75 percent of the amount of the maximum penalty

1 authorized pursuant to subdivision (b) of Section 30820 for each
2 violation.

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

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

10 (d) A person shall not be subject to both monetary civil liability
11 imposed under this section and monetary civil liability imposed
12 by the superior court for the same act or failure to act. In the event
13 that a person who is assessed a penalty under this section fails to
14 pay the administrative penalty, otherwise fails to comply with a
15 restoration or cease and desist order issued by the commission in
16 connection with the penalty action, or challenges any of these
17 actions by the commission in a court of law, the commission may
18 maintain an action or otherwise engage in judicial proceedings to
19 enforce those requirements and the court may grant any relief as
20 provided under this chapter.

21 (e) If a person fails to pay a penalty imposed by the commission
22 pursuant to this section, the commission may record a lien on the
23 property in the amount of the penalty assessed by the commission.
24 This lien shall have the force, effect, and priority of a judgment
25 lien.

26 (f) In enacting this section, it is the intent of the Legislature to
27 ensure that unintentional, minor violations of this division that
28 only cause de minimis harm will not lead to the imposition of civil
29 penalties if the violator has acted expeditiously to correct the
30 violation.

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

34 (h) *This section shall remain in effect only until January 1, 2017.*

35 ~~SEC. 2. Section 30823 of the Public Resources Code is~~
36 ~~amended to read:~~

37 ~~30823. (a) (1) Except as provided in subdivision (b), of the~~
38 ~~funds annually derived pursuant to this article, one million five~~
39 ~~hundred thousand dollars (\$1,500,000) shall be deposited in the~~

1 ~~Violation Remediation Account of the State Coastal Conservancy~~
2 ~~Fund.~~

3 ~~(2) The one million five hundred thousand dollars (\$1,500,000)~~
4 ~~specified in paragraph (1) shall be adjusted annually, based on the~~
5 ~~percentage change in the California Consumer Price Index, as~~
6 ~~determined pursuant to Section 2212 of the Revenue and Taxation~~
7 ~~Code.~~

8 ~~(b) Any additional funds derived pursuant to this article that~~
9 ~~exceed the annual amount determined pursuant to subdivision (a)~~
10 ~~shall be deposited in the Coastal Act Services Fund, established~~
11 ~~pursuant to subdivision (a) of Section 30620.1, until appropriated~~
12 ~~by the Legislature, for the purpose of carrying out this division.~~

13 ~~(c) This section shall remain in effect only until January 1, 2017,~~
14 ~~and as of that date is repealed, unless a later enacted statute, that~~
15 ~~is enacted before January 1, 2017, deletes or extends that date.~~

16 ~~SEC. 3. Section 30823 is added to the Public Resources Code,~~
17 ~~to read:~~

18 ~~30823. (a) Any funds derived under this article shall be~~
19 ~~expended for carrying out the provisions of this division, when~~
20 ~~appropriated by the Legislature. Funds so derived shall be deposited~~
21 ~~in the Violation Remediation Account of the Coastal Conservancy~~
22 ~~Fund until appropriated.~~

23 ~~(b) This section shall become operative on January 1, 2017.~~