

AMENDED IN ASSEMBLY JANUARY 17, 2014

AMENDED IN ASSEMBLY JANUARY 6, 2014

AMENDED IN ASSEMBLY AUGUST 14, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1102

Introduced by Assembly Members Allen and Quirk-Silva
(Principal coauthors: Assembly Members Donnelly and Mansoor)
(Coauthors: Assembly Members Beth Gaines and Hagman)
(Coauthors: Senators *Correa*, Nielsen, Walters, and Wyland)

February 22, 2013

An act to add Section ~~40440.15~~ 40440.9 to the Health and Safety Code, and to add Section 30607.8 to the Public Resources Code, relating to ~~nonvehicular air pollution~~ coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1102, as amended, Allen. ~~South Coast Air Quality Management District: beach burning: coastal development permit.~~ *Beach burning: coastal development permit: South Coast Air Quality Management District.*

(1) Existing law establishes the South Coast Air Quality Management District, vested with the authority to regulate air emissions from statutory sources located in the South Coast Air Basin, and establishes a district board to govern the district.

This bill, retroactive to March 1, 2014, would make inoperative an open burning rule that restricts the use or location of a beach fire ring adopted by the south coast district until a public agency with jurisdiction

over the area obtains and implements an approved coastal development permit, as specified. The bill would require the public agency to take all necessary steps to ensure that a coastal development permit is obtained and require the coastal development permit be obtained and implemented no more than 2 years after the enactment of the open burning rule.

(2) Existing law, the California Coastal Act of 1976, provides for the planning and regulation of a development and requires any person undertaking development in the coastal zone to obtain a coastal development permit issued by the California Coastal Commission in accordance with prescribed procedures.

This bill, retroactive to March 1, 2014, would subject the removing or restricting the use of a beach fire ring, as defined, to the requirements of the California Coastal Act and would require the application for a coastal development permit to remove or restrict the use of a beach fire ring to include specified information. By increasing the duties of local officials with respect to the California Coastal Act, the bill would impose a state-mandated local program.

(3) This bill would find and declare that these provisions relate to an issue of statewide concern and not a municipal affair, as specified.

(4) This bill would make legislative findings and declarations as to the necessity of a special statute for the South Coast Air Quality Management District.

(5) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(1) Existing law establishes the South Coast Air Quality Management District vested with the authority to regulate air emissions from stationary sources located in the South Coast Air Basin and establishes a district board to govern the district. Existing regulations of the district prohibit a person from engaging in a recreational, ceremonial, or open burning conducted in a public coastal area marked by an accumulation of sand, as specified.~~

~~This bill would prohibit the district from enacting a rule that regulates, prohibits, or restricts a person from engaging in a beach burning for a~~

recreational, ceremonial, or open burning conducted in a public coastal area marked by an accumulation of sand:

~~(2) Existing law requires any person undertaking development in the coastal zone to obtain a coastal development permit issued by the California Coastal Commission in accordance with prescribed procedures:~~

~~This bill would require a local or regional authority located in the district to obtain a coastal development permit in order to regulate, prohibit, or restrict the use of fire rings, as defined. By imposing new duties on local governments, this bill would impose a state-mandated local program:~~

~~This bill would find and declare that these provisions are an issue of statewide concern and not a municipal affair, as specified.~~

~~(3) This bill would make legislative findings and declarations as to the necessity of a special statute for the south coast district.~~

~~(4) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 40440.9 is added to the Health and Safety
- 2 Code, to read:
- 3 40440.9. (a) *If the south coast district adopts an open burning*
- 4 *rule that restricts the use or location of a beach fire ring, as defined*
- 5 *by Section 30607.8 of the Public Resources Code, the rule shall*
- 6 *not be operative in a particular area until the public agency with*
- 7 *jurisdiction over that area obtains and implements an approved*
- 8 *coastal development permit consistent with the California Coastal*
- 9 *Act (Division 20 (commencing with Section 30000) of the Public*
- 10 *Resources Code), including Section 30607.8 of the Public*
- 11 *Resources Code.*
- 12 (b) *The public agency with jurisdiction over the area shall take*
- 13 *all necessary steps to ensure that an approved coastal development*

1 *permit is obtained and implemented in accordance with the*
2 *California Coastal Act, including Section 30607.8 of the Public*
3 *Resources Code. The coastal development permit shall be obtained*
4 *and implemented no more than two years after the enactment of*
5 *the open burning rule adopted by the south coast district.*

6 *(c) The provisions of this section shall be applied retroactively*
7 *to March 1, 2014.*

8 *SEC. 2. Section 30607.8 is added to the Public Resources Code,*
9 *to read:*

10 *30607.8. (a) Notwithstanding any other regulation or law,*
11 *including Sections 30005 and 30414, removing or restricting the*
12 *use of a beach fire ring shall be subject to the requirements of this*
13 *division.*

14 *(b) An application for a coastal development permit to remove*
15 *or restrict the use of a beach fire ring shall include an analysis of*
16 *alternatives and mitigation measures that would avoid or minimize*
17 *the need to remove or restrict the use of a beach fire ring. The*
18 *Legislature hereby declares that it is the state's preference to avoid*
19 *the net loss of beach fire rings within a city's jurisdiction.*

20 *(c) "Beach fire ring" means a device in which recreational or*
21 *ceremonial burning occurs that is located on a beach in the coastal*
22 *zone.*

23 *(d) The provisions of this section shall be applied retroactively*
24 *to March 1, 2014.*

25 *SEC. 3. The Legislature finds and declares that the use of fire*
26 *rings at public coastal areas is a matter of statewide concern and*
27 *not a municipal affair, as that term is used in Section 5 of Article*
28 *XI of the California Constitution. Therefore, Sections 2 and 3 of*
29 *this act apply to a charter city or county.*

30 *SEC. 4. The Legislature finds and declares that a special law*
31 *is necessary and that a general law cannot be made applicable*
32 *within the meaning of Section 16 of Article IV of the California*
33 *Constitution because of the need to ensure that public agencies*
34 *within the jurisdiction of the South Coast Air Quality Management*
35 *District are in compliance with applicable laws and regulations*
36 *and to maximize and protect public access and public recreational*
37 *opportunities available in areas within the jurisdiction of the South*
38 *Coast Air Quality Management District.*

39 *SEC. 5. If the Commission on State Mandates determines that*
40 *this act contains costs mandated by the state, reimbursement to*

1 *local agencies and school districts for those costs shall be made*
2 *pursuant to Part 7 (commencing with Section 17500) of Division*
3 *4 of Title 2 of the Government Code.*

4 ~~SECTION 1. The Legislature finds and declares all of the~~
5 ~~following:~~

6 ~~(a) As the Legislature confirmed with Assembly Concurrent~~
7 ~~Resolution 52 (Chapter 52 of the Statutes of 2013), beach bonfires~~
8 ~~contained in fire rings should be allowed on all beaches in~~
9 ~~California.~~

10 ~~(b) Beach bonfires are an inexpensive recreational activity and~~
11 ~~are enjoyed by all the members of our community regardless of~~
12 ~~socioeconomic class.~~

13 ~~(c) Fire rings are usually large cement rings in the sand used to~~
14 ~~build your very own bonfire on the beach.~~

15 ~~(d) The California Coastal Commission staff report of October~~
16 ~~22, 2012, stated, "Beach fire rings are a unique recreational facility~~
17 ~~for which there is no substitution."~~

18 ~~(e) Amendments to Rule 444 by the South Coast Air Quality~~
19 ~~Management District were voted on at a hearing on July 12, 2013,~~
20 ~~and any actions by that vote on regulatory language and any~~
21 ~~subsequent action resulting from it need to be nullified.~~

22 ~~SEC. 2. Section 40440.15 is added to the Health and Safety~~
23 ~~Code, to read:~~

24 ~~40440.15. (a) The south coast district shall not regulate,~~
25 ~~prohibit, or restrict a person from engaging in a beach burning for~~
26 ~~a recreational, ceremonial, or open burning conducted in a public~~
27 ~~coastal area marked by an accumulation of sand.~~

28 ~~(b) (1) For purposes of this subdivision, the following terms~~
29 ~~have the following meanings:~~

30 ~~(A) "Development" includes fire rings.~~

31 ~~(B) "Fire ring" means a structure used for a recreational,~~
32 ~~ceremonial, or open burning conducted in a public coastal area.~~

33 ~~(2) Notwithstanding subdivision (b) of Section 30005 of the~~
34 ~~Public Resources Code, a local or regional authority located in the~~
35 ~~south coast district shall obtain a coastal development permit, as~~
36 ~~specified in Article 1 (commencing with Section 30600) of Chapter~~
37 ~~7 of Division 20 of the Public Resources Code, in order to regulate,~~
38 ~~prohibit, or restrict the use of fire rings located in the south coast~~
39 ~~district as of January 1, 2015.~~

1 ~~(3) A permit issued pursuant to paragraph (2) shall be appealable~~
2 ~~to the California Coastal Commission.~~

3 ~~SEC. 3. The Legislature finds and declares that the use of fire~~
4 ~~rings at public coastal areas is a matter of statewide concern and~~
5 ~~not a municipal affair, as that term is used in Section 5 of Article~~
6 ~~XI of the California Constitution. Therefore, subdivision (b) of~~
7 ~~Section 2 of this act applies to a charter city or county.~~

8 ~~SEC. 4. The Legislature finds and declares that a special law~~
9 ~~is necessary and that a general law cannot be made applicable~~
10 ~~within the meaning of Section 16 of Article IV of the California~~
11 ~~Constitution because of the need to protect visitor-generated~~
12 ~~revenues that are used to fund essential programs, such as those~~
13 ~~for the protection of public safety and parks, within the jurisdiction~~
14 ~~of the South Coast Air Quality Management District.~~

15 ~~SEC. 5. If the Commission on State Mandates determines that~~
16 ~~this act contains costs mandated by the state, reimbursement to~~
17 ~~local agencies and school districts for those costs shall be made~~
18 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
19 ~~4 of Title 2 of the Government Code.~~