

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2616

**Introduced by Assembly Member Burke
(Coauthor: Assembly Member Mark Stone)**

February 19, 2016

An act to amend Sections ~~30213 and 30301 of, and to add Section 30006.6 to, 30213, 30301, and 30604 of, and to repeal Section 30500.1 of, the Public Resources Code, relating to coastal resources.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2616, as amended, Burke. California Coastal Commission: ~~membership~~; environmental justice.

Existing law, the California Coastal Act of 1976, establishes the California Coastal Commission and prescribes the membership and functions and duties of the commission. Existing law provides that the commission consists of 15 members.

This bill would increase the membership of the commission to 18 and would require 3 additional members to be appointed, one each by the Governor, the Senate Committee on Rules, and the Speaker of the Assembly, who represent and work directly with communities in the state that are most burdened by, and vulnerable to, high levels of pollution and issue of environmental justice, as defined.

Existing law requires maximum access and recreational opportunities to be provided to the public in the state's coastal areas and, in that regard, requires lower cost visitor and recreational facilities to be protected, encouraged, and, where feasible, provided.

This bill would additionally require housing opportunities for persons of low and moderate income to be protected, encouraged, and, where

feasible, provided in coastal areas. ~~The bill would also specify that the act does not preclude or otherwise restrict the consideration of environmental justice or the equitable distribution of environmental benefits in communities throughout the state.~~

Existing law provides that no local coastal program is required to include housing policies and programs.

This bill would repeal that provision.

Existing law requires any person, as defined, wishing to perform or undertake any development, as defined, in the coastal zone to obtain a permit, except as provided. Existing law prescribes a process for the certification of local coastal programs in the state and requires that, after certification of the coastal program, a coastal development permit be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the certified local coastal program.

This bill would authorize the issuing agency, or the commission on appeal, to consider environmental justice, as defined, or the equitable distribution of environmental benefits in communities throughout the state, when acting on a coastal development permit.

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 30006.6 is added to the Public Resources~~
- 2 ~~Code, to read:~~
- 3 ~~30006.6. This division shall not preclude or otherwise restrict~~
- 4 ~~the consideration of environmental justice, as defined in~~
- 5 ~~subdivision (e) of Section 65040.12 of the Government Code, or~~
- 6 ~~the equitable distribution of environmental benefits in communities~~
- 7 ~~throughout the state.~~
- 8 ~~SEC. 2.~~
- 9 ~~SECTION 1. Section 30213 of the Public Resources Code is~~
- 10 ~~amended to read:~~
- 11 ~~30213. Lower cost visitor and recreational facilities and housing~~
- 12 ~~opportunities for persons of low and moderate income shall be~~
- 13 ~~protected, encouraged, and, where feasible, provided.~~
- 14 ~~Developments providing public recreational opportunities are~~
- 15 ~~preferred.~~
- 16 ~~The commission shall not do either of the following:~~

1 (a) Require that overnight room rentals be fixed at an amount
2 certain for any privately owned and operated hotel, motel, or other
3 similar visitor-serving facility located on either public or private
4 lands.

5 (b) Establish or approve any method for the identification of
6 low or moderate income persons for the purpose of determining
7 eligibility for overnight room rentals in any of those facilities.

8 ~~SEC. 3.~~

9 *SEC. 2.* Section 30301 of the Public Resources Code is
10 amended to read:

11 30301. The commission shall consist of the following 18
12 members:

13 (a) The Secretary of the Natural Resources Agency.

14 (b) The Secretary of Transportation.

15 (c) The Chairperson of the State Lands Commission.

16 (d) Six representatives of the public from the state at large. The
17 Governor, the Senate Committee on Rules, and the Speaker of the
18 Assembly shall each appoint two of these members.

19 (e) Six representatives selected from six coastal regions. The
20 Governor shall select one member from the north coast region and
21 one member from the south central coast region. The Speaker of
22 the Assembly shall select one member from the central coast region
23 and one member from the San Diego coast region. The Senate
24 Committee on Rules shall select one member from the north central
25 coast region and one member from the south coast region. For
26 purposes of this division, these regions are defined as follows:

27 (1) The north coast region consists of the Counties of Del Norte,
28 Humboldt, and Mendocino.

29 (2) The north central coast region consists of the Counties of
30 Sonoma and Marin and the City and County of San Francisco.

31 (3) The central coast region consists of the Counties of San
32 Mateo, Santa Cruz, and Monterey.

33 (4) The south central coast region consists of the Counties of
34 San Luis Obispo, Santa Barbara, and Ventura.

35 (5) The south coast region consists of the Counties of Los
36 Angeles and Orange.

37 (6) The San Diego coast region consists of the County of San
38 Diego.

39 (f) Three representatives of, and who work directly with,
40 communities in the state that are most burdened by, and vulnerable

1 to, high levels of pollution and issues of environmental justice, as
 2 defined in subdivision (e) of Section 65040.12 of the Government
 3 Code, including, but not limited to, communities with diverse
 4 racial and ethnic populations and communities with low-income
 5 populations. The Governor, the Senate Committee on Rules, and
 6 the Speaker of the Assembly shall each appoint one of these
 7 members.

8 *SEC. 3. Section 30500.1 of the Public Resources Code is*
 9 *repealed.*

10 ~~30500.1. No local coastal program shall be required to include~~
 11 ~~housing policies and programs.~~

12 *SEC. 4. Section 30604 of the Public Resources Code is*
 13 *amended to read:*

14 30604. (a) Prior to certification of the local coastal program,
 15 a coastal development permit shall be issued if the issuing agency,
 16 or the commission on appeal, finds that the proposed development
 17 is in conformity with Chapter 3 (commencing with Section 30200)
 18 and that the permitted development will not prejudice the ability
 19 of the local government to prepare a local coastal program that is
 20 in conformity with Chapter 3 (commencing with Section 30200).
 21 A denial of a coastal development permit on grounds it would
 22 prejudice the ability of the local government to prepare a local
 23 coastal program that is in conformity with Chapter 3 (commencing
 24 with Section 30200) shall be accompanied by a specific finding
 25 that sets forth the basis for that conclusion.

26 (b) After certification of the local coastal program, a coastal
 27 development permit shall be issued if the issuing ~~agency~~ *agency*,
 28 or the commission on ~~appeal~~ *appeal*, finds that the proposed
 29 development is in conformity with the certified local coastal
 30 program.

31 (c) Every coastal development permit issued for any
 32 development between the nearest public road and the sea or the
 33 shoreline of any body of water located within the coastal zone
 34 shall include a specific finding that the development is in
 35 conformity with the public access and public recreation policies
 36 of Chapter 3 (commencing with Section 30200).

37 (d) No development or any portion thereof that is outside the
 38 coastal zone shall be subject to the coastal development permit
 39 requirements of this division, nor shall anything in this division
 40 authorize the denial of a coastal development permit by the

1 commission on the grounds the proposed development within the
2 coastal zone will have an adverse environmental effect outside the
3 coastal zone.

4 (e) No coastal development permit may be denied under this
5 division on the grounds that a public agency is planning or
6 contemplating to acquire the ~~property on~~, *property*, or property
7 adjacent to the ~~property on~~, *property*, on which the proposed
8 development is to be located, unless the public agency has been
9 specifically authorized to acquire the property and there are funds
10 available, or funds that could reasonably be expected to be made
11 available within one year, for the acquisition. If a permit has been
12 denied for that reason and the property has not been acquired by
13 a public agency within a reasonable period of time, a permit may
14 not be denied for the development on grounds that the property,
15 or adjacent property, is to be acquired by a public agency when
16 the application for such a development is resubmitted.

17 (f) The commission shall encourage housing opportunities for
18 persons of low and moderate income. In reviewing residential
19 development applications for low- and moderate-income housing,
20 as defined in paragraph (3) of subdivision (h) of Section 65589.5
21 of the Government Code, the issuing ~~agency~~ *agency*, or the
22 ~~commission~~, *commission* on appeal, may not require measures that
23 reduce residential densities below the density sought by an
24 applicant if the density sought is within the permitted density or
25 range of density established by local zoning plus the additional
26 density permitted under Section 65915 of the Government Code,
27 unless the issuing agency or the commission on appeal makes a
28 finding, based on substantial evidence in the record, that the density
29 sought by the applicant cannot feasibly be accommodated on the
30 site in a manner that is in conformity with Chapter 3 (commencing
31 with Section 30200) or the certified local coastal program.

32 (g) The Legislature finds and declares that it is important for
33 the commission to encourage the protection of existing and the
34 provision of new affordable housing opportunities for persons of
35 low and moderate income in the coastal zone.

36 (h) *When acting on a coastal development permit, the issuing*
37 *agency, or the commission on appeal, may consider environmental*
38 *justice, as defined in subdivision (e) of Section 65040.12 of the*

- 1 *Government Code, or the equitable distribution of environmental*
- 2 *benefits throughout the state.*

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