

AMENDED IN ASSEMBLY MAY 31, 2016

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, 30301, 30301~~ *30301* and 30604 ~~of, and to repeal Section 30500.1 of,~~ *of* the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2616, as amended, Burke. California Coastal Commission: 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~~ *by requiring* 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~~ *issues* 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:~~

~~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, requires,~~ after certification of the *local* coastal program, a coastal development permit *to* 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 30213 of the Public Resources Code is~~
- 2 ~~amended to read:~~
- 3 30213. ~~Lower cost visitor and recreational facilities and housing~~
- 4 ~~opportunities for persons of low and moderate income shall be~~
- 5 ~~protected, encouraged, and, where feasible, provided.~~
- 6 ~~Developments providing public recreational opportunities are~~
- 7 ~~preferred:~~
- 8 ~~The commission shall not do either of the following:~~
- 9 (a) ~~Require that overnight room rentals be fixed at an amount~~
- 10 ~~certain for any privately owned and operated hotel, motel, or other~~
- 11 ~~similar visitor-serving facility located on either public or private~~
- 12 ~~lands.~~
- 13 (b) ~~Establish or approve any method for the identification of~~
- 14 ~~low or moderate income persons for the purpose of determining~~
- 15 ~~eligibility for overnight room rentals in any of those facilities.~~

1 ~~SEC. 2.~~

2 *SECTION 1.* Section 30301 of the Public Resources Code is
3 amended to read:

4 30301. The commission shall consist of the following 18
5 members:

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

7 (b) The Secretary of Transportation.

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

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

12 (e) Six representatives selected from six coastal regions. The
13 Governor shall select one member from the north coast region and
14 one member from the south central coast region. The Speaker of
15 the Assembly shall select one member from the central coast region
16 and one member from the San Diego coast region. The Senate
17 Committee on Rules shall select one member from the north central
18 coast region and one member from the south coast region. For
19 purposes of this division, these regions are defined as follows:

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

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

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

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

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

30 (6) The San Diego coast region consists of the County of San
31 Diego.

32 (f) Three representatives of, and who work directly with,
33 communities in the state that are most burdened by, and vulnerable
34 to, high levels of pollution and issues of environmental justice, as
35 defined in subdivision (e) of Section 65040.12 of the Government
36 Code, including, but not limited to, communities with diverse
37 racial and ethnic populations and communities with low-income
38 populations. The Governor, the Senate Committee on Rules, and
39 the Speaker of the Assembly shall each appoint one of these
40 members.

1 ~~SEC. 3.~~ Section 30500.1 of the Public Resources Code is
2 repealed.

3 ~~SEC. 4.~~

4 *SEC. 2.* Section 30604 of the Public Resources Code is
5 amended to read:

6 30604. (a) Prior to certification of the local coastal program,
7 a coastal development permit shall be issued if the issuing agency,
8 or the commission on appeal, finds that the proposed development
9 is in conformity with Chapter 3 (commencing with Section 30200)
10 and that the permitted development will not prejudice the ability
11 of the local government to prepare a local coastal program that is
12 in conformity with Chapter 3 (commencing with Section 30200).
13 A denial of a coastal development permit on grounds it would
14 prejudice the ability of the local government to prepare a local
15 coastal program that is in conformity with Chapter 3 (commencing
16 with Section 30200) shall be accompanied by a specific finding
17 that sets forth the basis for that conclusion.

18 (b) After certification of the local coastal program, a coastal
19 development permit shall be issued if the issuing agency, or the
20 commission on appeal, finds that the proposed development is in
21 conformity with the certified local coastal program.

22 (c) Every coastal development permit issued for any
23 development between the nearest public road and the sea or the
24 shoreline of any body of water located within the coastal zone
25 shall include a specific finding that the development is in
26 conformity with the public access and public recreation policies
27 of Chapter 3 (commencing with Section 30200).

28 (d) No development or any portion thereof that is outside the
29 coastal zone shall be subject to the coastal development permit
30 requirements of this division, nor shall anything in this division
31 authorize the denial of a coastal development permit by the
32 commission on the grounds the proposed development within the
33 coastal zone will have an adverse environmental effect outside the
34 coastal zone.

35 (e) No coastal development permit may be denied under this
36 division on the grounds that a public agency is planning or
37 contemplating to acquire the property, or property adjacent to the
38 property, on which the proposed development is to be located,
39 unless the public agency has been specifically authorized to acquire
40 the property and there are funds available, or funds that could

1 reasonably be expected to be made available within one year, for
2 the acquisition. If a permit has been denied for that reason and the
3 property has not been acquired by a public agency within a
4 reasonable period of time, a permit may not be denied for the
5 development on grounds that the property, or adjacent property,
6 is to be acquired by a public agency when the application for such
7 a development is resubmitted.

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

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

27 (h) When acting on a coastal development permit, the issuing
28 agency, or the commission on appeal, may consider environmental
29 justice, as defined in subdivision (e) of Section 65040.12 of the
30 Government Code, or the equitable distribution of environmental
31 benefits throughout the state.