

AMENDED IN SENATE AUGUST 16, 2016

AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN ASSEMBLY MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2616**

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

February 19, 2016

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An act to amend Sections 30301 and 30604 of, and to add Sections 30013 and 30107.3 to, 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 require ~~that three of the 12 voting representatives be individuals who~~ *one of the members appointed by the Governor* to reside in, and work directly with, communities in the state that are disproportionately burdened by, and vulnerable to, high levels of pollution and issues of environmental justice, as defined. The bill would require that the ~~Governor, the Senate Committee on Rules, and the Speaker of the Assembly~~ each appoint a member so qualified *Governor*

*appoint a member who meets these qualifications* to a vacant position from the appointments ~~available~~, *available* no later than the fourth appointment of each appointing authority *available* after January 1, 2017.

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, 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 30013 is added to the Public Resources
- 2 Code, to read:
- 3 30013. The Legislature further finds and declares that in order
- 4 to advance the principles of environmental justice and equality,
- 5 subdivision (a) of Section 11135 of the Government Code and
- 6 subdivision (e) of Section 65040.12 of the Government Code apply
- 7 to the commission and all public agencies implementing the
- 8 provisions of this division. As required by Section 11135 of the
- 9 Government Code, no person in the State of California, on the
- 10 basis of race, national origin, ethnic group identification, religion,
- 11 age, sex, sexual orientation, color, genetic information, or
- 12 disability, shall be unlawfully denied full and equal access to the
- 13 benefits of, or be unlawfully subjected to discrimination, under
- 14 any program or activity that is conducted, operated, or administered
- 15 pursuant to this division, is funded directly by the state for purposes
- 16 of this division, or receives any financial assistance from the state
- 17 pursuant to this division.
- 18 SEC. 2. Section 30107.3 is added to the Public Resources Code,
- 19 to read:

1 30107.3. “Environmental justice” means the fair treatment of  
2 people of all races, cultures, and incomes with respect to the  
3 development, adoption, implementation, and enforcement of  
4 environmental laws, regulations, and policies.

5 SEC. 3. Section 30301 of the Public Resources Code is  
6 amended to read:

7 30301. The commission shall consist of the following 15  
8 members:

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

10 (b) The Secretary of Transportation.

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

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

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

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

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

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

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

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

33 (6) The San Diego coast region consists of the County of San  
34 Diego.

35 (f) ~~Three of the 12 voting representatives shall be individuals~~  
36 ~~who~~ *Of the representatives appointed by the Governor pursuant*  
37 *to subdivision (d) or (e), one of the representatives shall* reside in,  
38 and ~~who~~ work directly with, communities in the state that are  
39 disproportionately burdened by, and vulnerable to, high levels of  
40 pollution and issues of environmental justice, including, but not

1 limited to, communities with diverse racial and ethnic populations  
2 and communities with low-income populations. ~~The Governor,~~  
3 ~~the Senate Committee on Rules, and the Speaker of the Assembly~~  
4 ~~shall each appoint a member qualified pursuant to this subdivision~~  
5 *populations. The Governor shall appoint a representative qualified*  
6 *pursuant to this subdivision* to a vacant position from the  
7 appointments available pursuant to either subdivision (d) or ~~(e);~~  
8 ~~(e)~~ no later than the fourth appointment ~~of each appointing~~  
9 ~~authority~~ available after January 1, 2017.

10 SEC. 4. Section 30604 of the Public Resources Code is  
11 amended to read:

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

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

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

34 (d) No development or any portion thereof that is outside the  
35 coastal zone shall be subject to the coastal development permit  
36 requirements of this division, nor shall anything in this division  
37 authorize the denial of a coastal development permit by the  
38 commission on the grounds the proposed development within the  
39 coastal zone will have an adverse environmental effect outside the  
40 coastal zone.

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

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

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

33 (h) When acting on a coastal development permit, the issuing  
34 agency, or the commission on appeal, may consider environmental  
35 justice, or the equitable distribution of environmental benefits  
36 throughout the state.

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