

Introduced by Senator Hancock

February 19, 2016

An act relating to ports and harbors.

LEGISLATIVE COUNSEL'S DIGEST

SB 1277, as amended, Hancock. Ports and harbors: City of Oakland: coal shipment.

Existing law regulates the operation of ports and harbors. The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund and provided for allocation by the California Transportation Commission of \$2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement, and specified categories of projects eligible to receive these funds, including projects to enhance the capacity and efficiency of ports.

This bill would prohibit the shipment of coal to, or through, a certain port facility located in the former Oakland Army Base that has been funded in part by the proceeds of Proposition 1B.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Oakland.

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:

1 (1) The City of Oakland has received substantial funding from
2 the California Transportation Commission for the development of
3 the Bulk and Oversized Terminal at the former Oakland Army
4 Base. The funding has been provided from the proceeds of bonds
5 sold pursuant to the Highway Safety, Traffic Reduction, Air
6 Quality, and Port Security Bond Act of 2006 (Chapter 12.49
7 (commencing with Section 8879.20) of Division 1 of Title 2 of
8 the Government Code).

9 (2) According to the Legislative Analyst’s analysis of the
10 Highway Safety, Traffic Reduction, Air Quality, and Port Security
11 Bond Act of 2006, one of the goals of the act was to provide
12 funding to projects to “improve air quality by reducing emissions
13 related to goods movement.”

14 (3) In the agreement between the City of Oakland and a private
15 developer for a project that includes the development of the Bulk
16 and Oversized Terminal, paragraph D of the Recitals states that
17 “the development of the project will provide many benefits to the
18 City and the public including but not limited to: (1) mitigate or
19 avoid potential significant environmental impacts;” In
20 paragraph 3.4.2 of that agreement, the City of Oakland reserves
21 the right to apply regulations adopted after the effective date of
22 the agreement if the city finds failure to apply those regulations
23 “would place existing or future occupants or users of the Project,
24 adjacent neighbors, or any portion thereof, or all of them, in a
25 condition substantially dangerous to their health or safety.”

26 (4) There is a proposal to export coal from the Bulk and
27 Oversized Terminal.

28 (5) Coal export poses unique and substantial dangers to citizens
29 in adjacent neighborhoods, workers at the site, and to the Oakland
30 community as a whole.

31 (6) Assuming that 10.5 million tons of coal is shipped annually,
32 as much as 646 tons per year of fugitive coal dust may be generated
33 by the movement of coal through the port facility.

34 (7) Coal dust poses serious health concerns for a neighborhood
35 already burdened with a history of environmental injustices and
36 ill equipped to cope with additional stresses.

37 (8) The American Lung Association considers coal dust a source
38 of particulate matter that is dangerous to breathe.

1 (9) The World Health Organization cites coal dust, along with
2 silica and asbestos, as responsible for most occupational lung
3 diseases due to airborne particulate.

4 (10) The United States Environmental Protection Agency cites
5 numerous scientific studies that link particulate matter with a series
6 of significant health problems, including premature death in people
7 with lung or heart disease, nonfatal heart attacks, irregular
8 heartbeat, aggravated asthma, decreased lung function, and
9 increased respiratory symptoms, such as irritation of the airways,
10 coughing, or difficulty in breathing.

11 (11) There are no proven topping agents that have demonstrated
12 effectiveness at reducing coal dust over long trips.

13 (12) Confined or covered coal transportation and terminal
14 operations would shift the burden of toxic pollution to workers at
15 the site while also exacerbating risks of fire during transport,
16 storage, and loading.

17 (13) “Covered” and “clean” coal operations raise significant
18 safety concerns for workers related to the increased likelihood of
19 coal combustion when it is confined. Trains often have open-top
20 cars as a technique to mitigate the chances of fires by allowing
21 heat to escape. If these train cars and warehouse spaces are covered
22 then risk of fire is likely to be higher.

23 (14) Coal transport, warehousing, and loading operations will
24 increase worker exposure to coal dust due to inherent jostling of
25 the commodity. Covering and confining the coal export terminal
26 and its operations will only exacerbate these problems because
27 dust will be more concentrated within the workspace.

28 (15) Coal presents transportation concerns because the weight
29 of the trains increases stress on tracks and slows traffic, and
30 because the dust damages rail tracks.

31 (16) Coal dust and leachates can pollute waterways, often with
32 long-lasting impacts.

33 (17) The community of West Oakland, which is near the Bulk
34 and Oversized Terminal, is already heavily and adversely impacted
35 by goods movements through the community.

36 (18) The California Environmental Protection Agency, using
37 the California Communities Environmental Health Screening Tool
38 (CalEnviroScreen), a tool that assesses all census tracts in
39 California, has identified the community of West Oakland as a

1 disadvantaged community disproportionately burdened by, and
2 vulnerable to, multiple sources of pollution.

3 (19) The residents of West Oakland breathe air containing three
4 times the amount of diesel particulate matter than in other ~~part~~
5 *parts* of the San Francisco Bay area, which translates to a 2.5 times
6 greater risk of cancer. Children in West Oakland suffer from
7 ailments like asthma at higher rates than children in other
8 neighborhoods.

9 (20) The residents of West Oakland are two times more likely
10 to go to a hospital emergency room with asthma as compared to
11 residents in other parts of the County of Alameda. According to
12 the Office of Statewide Health Planning and Development, in
13 2009, for every 10,000 visits, 183 visits in West Oakland were due
14 to asthma, whereas the statewide average is 48 visits. Those
15 residents are also more likely to die of illnesses linked to air
16 pollution like cancers, heart diseases, and other ailments.

17 (21) The residents of West Oakland are already impacted by
18 goods movements, and do not deserve to bear the brunt of the
19 health impacts of coal moving through their community.

20 (22) The transportation of coal through the Bulk and Oversized
21 Terminal would present a substantially dangerous condition to the
22 health and safety of the residents of Oakland along with the
23 workers at the Port of Oakland and is contrary to the goals of the
24 Highway Safety, Traffic Reduction, Air Quality, and Port Security
25 Bond Act of 2006.

26 (b) Because of the substantial dangers to the City of Oakland
27 and its residents associated with coal shipment and because this
28 activity is contrary to the intent of the Highway Safety, Traffic
29 Reduction, ~~Act Quality~~ *Air Quality*, and Port Security *Bond Act*
30 of 2006, *to the extent consistent with federal law*, coal shall not
31 be transported to, or through, the Bulk and Oversized Terminal
32 located in the former Oakland Army Base.

33 SEC. 2. The Legislature finds and declares that a special law
34 is necessary and that a general law cannot be made applicable
35 within the meaning of Section 16 of Article IV of the California
36 Constitution because of the unique nature of the proposed coal
37 shipment through the Bulk and Oversized Terminal located in the
38 former Oakland Army Base in the City of Oakland.

O