

AMENDED IN ASSEMBLY APRIL 25, 1995

AMENDED IN ASSEMBLY APRIL 17, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1303

Introduced by Assembly Member McPherson

February 23, 1995

An act to amend Sections 30602, 30603, 30620, and 30621 of, and to add Section 30624.9 to, the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1303, as amended, McPherson. Coastal resources: coastal development permit applications: appeals.

Existing law, the California Coastal Act of 1976, allows specified individuals to appeal to the California Coastal Commission any action taken by a local government on a coastal development permit application. Existing law requires the executive director of the commission to determine whether certain appeals are patently frivolous. If the executive director determines that the appeal is patently frivolous, the appeal may not be filed until a filing fee in the amount of \$300 is deposited with the commission *within 3 days*.

This bill would provide that any action taken by a local government on a coastal development permit application is final, regardless of whether an appeal is submitted, if any

required appeal filing fee is not deposited with the commission within ~~the time prescribed~~ 5 days.

The bill would also define the term “minor development” for purposes of the act and would permit a local government, after certification of its local coastal program, to waive the public hearing requirement on a coastal development permit application for a minor development if specified conditions are met.

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 30602 of the Public Resources
2 Code is amended to read:

3 30602. Prior to certification of its local coastal
4 program, any action taken by a local government on a
5 coastal development permit application may be appealed
6 by the executive director of the commission, any person,
7 including the applicant, or any two members of the
8 commission to the commission. The action shall become
9 final at the close of business on the 20th working day from
10 the date of receipt of the notice required by subdivision
11 (c) of Section 30620.5, unless an appeal is submitted
12 within that time. Regardless of whether an appeal is
13 submitted, the local government’s action shall become
14 final if an appeal fee is imposed pursuant to subdivision
15 (d) of Section 30620 and is not deposited with the
16 commission within the time prescribed.

17 SEC. 2. Section 30603 of the Public Resources Code is
18 amended to read:

19 30603. (a) After certification of its local coastal
20 program, an action taken by a local government on a
21 coastal development permit application may be appealed
22 to the commission for only the following types of
23 developments:

24 (1) Developments approved by the local government
25 between the sea and the first public road paralleling the
26 sea or within 300 feet of the inland extent of any beach or



1 of the mean high tideline of the sea where there is no
2 beach, whichever is the greater distance.

3 (2) Developments approved by the local government
4 not included within paragraph (1) that are located on
5 tidelands, submerged lands, public trust lands, within 100
6 feet of any wetland, estuary, or stream, or within 300 feet
7 of the top of the seaward face of any coastal bluff.

8 (3) Developments approved by the local government
9 not included within paragraph (1) or (2) that are located
10 in a sensitive coastal resource area.

11 (4) Any development approved by a coastal county
12 that is not designated as the principal permitted use
13 under the zoning ordinance or zoning district map
14 approved pursuant to Chapter 6 (commencing with
15 Section 30500).

16 (5) Any development which constitutes a major public
17 works project or a major energy facility.

18 (b) (1) The grounds for an appeal pursuant to
19 subdivision (a) shall be limited to an allegation that the
20 development does not conform to the standards set forth
21 in the certified local coastal program or the public access
22 policies set forth in this division.

23 (2) The grounds for an appeal of a denial of a permit
24 pursuant to paragraph (5) of subdivision (a) shall be
25 limited to an allegation that the development conforms
26 to the standards set forth in the certified local coastal
27 program and the public access policies set forth in this
28 division.

29 (c) Any action described in subdivision (a) shall
30 become final at the close of business on the 10th working
31 day from the date of receipt by the commission of the
32 notice of the local government's final action, unless an
33 appeal is submitted within that time. Regardless of
34 whether an appeal is submitted, the local government's
35 action shall become final if an appeal fee is imposed
36 pursuant to subdivision (d) of Section 30620 and is not
37 deposited with the commission within the time
38 prescribed.

39 (d) A local government taking an action on a coastal
40 development permit shall send notification of its final



1 action to the commission by certified mail within seven
2 calendar days from the date of taking the action.

3 SEC. 3. Section 30620 of the Public Resources Code is
4 amended to read:

5 30620. (a) By January 30, 1977, the commission shall,
6 consistent with this chapter, prepare interim procedures
7 for the submission, review, and appeal of coastal
8 development permit applications and of claims of
9 exemption. These procedures shall include, but are not
10 limited to, the following:

11 (1) Application and appeal forms.

12 (2) Reasonable provisions for notification to the
13 commission and other interested persons of any action
14 taken by a local government pursuant to this chapter, in
15 sufficient detail to ensure that a preliminary review of
16 that action for conformity with this chapter can be made.

17 (3) Interpretive guidelines designed to assist local
18 governments, the commission, and persons subject to this
19 chapter in determining how the policies of this division
20 shall be applied in the coastal zone prior to the
21 certification of local coastal programs. However, the
22 guidelines shall not supersede, enlarge, or diminish the
23 powers or authority of the commission or any other public
24 agency.

25 (b) Not later than May 1, 1977, the commission shall,
26 after public hearing, adopt permanent procedures that
27 include the components specified in subdivision (a) and
28 shall transmit a copy of those procedures to each local
29 government within the coastal zone and make them
30 readily available to the public. The commission may
31 thereafter, from time to time, and, except in cases of
32 emergency, after public hearing, modify or adopt
33 additional procedures or guidelines that the commission
34 determines to be necessary to better carry out this
35 division.

36 (c) The commission may require a reasonable filing
37 fee and the reimbursement of expenses for the processing
38 by the commission of any application for a coastal
39 development permit under this division and, except for
40 local coastal program submittals, for any other filing,



1 including, but not limited to, a request for revocation,
2 categorical exclusion, or boundary adjustment, submitted
3 for review by the commission.

4 (d) With respect to any appeal of an action taken by
5 a local government pursuant to Section 30602 or 30603,
6 the executive director shall, within five working days of
7 receipt of an appeal from any person other than members
8 of the commission or any public agency, determine
9 whether the appeal is patently frivolous. If the executive
10 director determines that an appeal is patently frivolous,
11 the appeal shall not be filed unless a filing fee in the
12 amount of three hundred dollars (\$300) is deposited with
13 the commission within ~~three~~ *five* working days of the
14 receipt of the executive director's determination. If the
15 commission subsequently finds that the appeal raises a
16 substantial issue, the filing fee shall be refunded.

17 SEC. 4. Section 30621 of the Public Resources Code is
18 amended to read:

19 30621. (a) The commission shall provide for a de
20 novo public hearing on applications for coastal
21 development permits and any appeals brought pursuant
22 to this division and shall give to any affected person a
23 written public notice of the nature of the proceeding and
24 of the time and place of the public hearing. Notice shall
25 also be given to any person who requests, in writing, such
26 notification. A hearing on any coastal development
27 permit application or an appeal shall be set no later than
28 49 days after the date on which the application or appeal
29 is filed with the commission.

30 (b) An appeal that is properly submitted shall be
31 considered to be filed when any of the following occurs:

32 (1) The executive director determines that the appeal
33 is not patently frivolous pursuant to subdivision (d) of
34 Section 30620.

35 (2) The five-day period for the executive director to
36 determine whether an appeal is patently frivolous
37 pursuant to subdivision (d) of Section 30620 expires
38 without that determination.



1 (3) The appellant pays the filing fee within the
2 ~~three-day~~ *five-day* period set forth in subdivision (d) of
3 Section 30620.

4 SEC. 5. Section 30624.9 is added to the Public
5 Resources Code, to read:

6 30624.9. (a) For purposes of this section, “minor
7 development” means a development which a local
8 government determines has no adverse effect either
9 individually or cumulatively on coastal resources or
10 public access to the shoreline or along the coast.

11 (b) After certification of its local coastal program, a
12 local government may waive the requirement for a
13 public hearing on a coastal development permit
14 application for a minor development only if both of the
15 following occur:

16 (1) Notice that a public hearing shall be held upon
17 request by any person is provided to all persons who
18 would otherwise be required to be notified of a public
19 hearing as well as any other persons known to be
20 interested in receiving notice.

21 (2) No request for public hearing is received by the
22 local government within 10 working days from the date
23 of sending the notice pursuant to paragraph (1).

24 (c) The notice provided pursuant to subdivision (b)
25 shall include a statement that failure by a person to
26 request a public hearing may result in the loss of that
27 person’s ability to appeal to the commission any action
28 taken by a local government on a coastal development
29 permit application.

