

AMENDED IN ASSEMBLY MAY 18, 2000
AMENDED IN ASSEMBLY APRIL 10, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2310

**Introduced by Assembly Member Ducheny
(Coauthors: Assembly Members Bates and Calderon)**

February 24, 2000

An act to amend ~~Sections 30233, 30240, and~~ *Section* 30411 of the Public Resources Code, relating to resource planning and management.

LEGISLATIVE COUNSEL'S DIGEST

AB 2310, as amended, Ducheny. Resource planning and management.

The existing California Coastal Act of 1976 ~~permits the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes if there is no feasible less environmentally damaging alternative and if feasible mitigation measures have been provided to minimize adverse environmental effects. Existing law limits diking, filling, or dredging to certain situations, including entrance channels for new or expanded boating facilities in wetlands areas, and in a degraded wetland for boating facilities. Existing law requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values and requires that only uses dependent on those resources be allowed within those areas.~~



~~This bill would permit the California Coastal Commission to apply a certain provision of the coastal act to address conflicts between various policies of the coastal act, as long as the commission ensures that there is a net environmental benefit through restoration and mitigation measures restricts the California Coastal Commission from establishing or imposing any controls on wildlife or fishery management programs that duplicate or exceed regulatory controls established by the Department of Fish and Game or the Fish and Game Commission.~~

This bill would expressly include in that restriction any conservation plans adopted consistent with the provisions regulating the taking, importation, exportation, or sale of any endangered, threatened, or candidate species.

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. It is the intent of the Legislature to
2 clarify the ability of the California Coastal Commission to
3 balance conflicting provisions of the California Coastal
4 Act of 1976 (Division 20 (commencing with Section
5 30000) of the Public Resources Code) relative to
6 degraded wetlands and degraded environmentally
7 sensitive habitat areas. It is the intent of the Legislature
8 that any such balancing result in a net environmental
9 benefit through appropriate mitigation and restoration
10 measures.~~

~~11 It is further~~

~~12 SECTION 1. It is the intent of the Legislature to
13 encourage the California Coastal Commission, along with
14 all other interested resource protection agencies, to
15 participate in shaping habitat conservation plans and
16 natural community conservation plans at the earliest
17 possible opportunity. The Legislature acknowledges it is
18 difficult to complete complicated habitat conservation
19 plans and natural community conservation plans and that
20 it takes the involvement of many stakeholders for a
21 significant period of time to accomplish that task. The~~



1 Legislature recognizes that it is in the best interest of
2 regional ecosystem preservation and restoration to
3 include all relevant public agencies in both the habitat
4 conservation plan and natural community conservation
5 plan processes. The Legislature further declares that
6 because of the complex nature of habitat conservation
7 plan and natural community conservation plan processes,
8 sound public policy requires all relevant agencies to
9 participate from the beginning of the processes.
10 Accordingly, it is the intent of the Legislature to clarify
11 that the prohibition on duplicative or excessive
12 regulatory controls contained in Section 30411 of the
13 Public Resources Code applies equally to previously
14 approved habitat conservation plans and natural
15 community conservation plans.

16 ~~SEC. 2. Section 30233 of the Public Resources Code is~~
17 ~~amended to read:~~

18 ~~30233. (a) The diking, filling, or dredging of open~~
19 ~~coastal waters, wetlands, estuaries, and lakes shall be~~
20 ~~permitted in accordance with other applicable provisions~~
21 ~~of this division if there is no feasible less environmentally~~
22 ~~damaging alternative and if feasible mitigation measures~~
23 ~~have been provided to minimize adverse environmental~~
24 ~~effects, and shall be limited to the following:~~

25 ~~(1) New or expanded port, energy, and~~
26 ~~coastal-dependent industrial facilities, including~~
27 ~~commercial fishing facilities.~~

28 ~~(2) Maintaining existing, or restoring previously~~
29 ~~dredged, depths in existing navigational channels,~~
30 ~~turning basins, vessel berthing and mooring areas, and~~
31 ~~boat launching ramps.~~

32 ~~(3) In wetland areas only, entrance channels for new~~
33 ~~or expanded boating facilities; and in a degraded wetland,~~
34 ~~identified by the Department of Fish and Game pursuant~~
35 ~~to subdivision (b) of Section 30411, for boating facilities~~
36 ~~if, in conjunction with such boating facilities, a substantial~~
37 ~~portion of the degraded wetland is restored and~~
38 ~~maintained as a biologically productive wetland. The size~~
39 ~~of the wetland area used for boating facilities, including~~
40 ~~berthing space, turning basins, necessary navigation~~



1 channels, and any necessary support service facilities
2 shall not exceed 25 percent of the degraded wetland.

3 (4) In open coastal waters, other than wetlands,
4 including streams, estuaries, and lakes, new or expanded
5 boating facilities and the placement of structural pilings
6 for public recreational piers that provide public access
7 and recreational opportunities.

8 (5) Incidental public service purposes, including, but
9 not limited to, burying cables and pipes or inspection of
10 piers and maintenance of existing intake and outfall lines.

11 (6) Mineral extraction, including sand for restoring
12 beaches, except in environmentally sensitive areas.

13 (7) Restoration purposes.

14 (8) Nature study, aquaculture, or similar
15 resource-dependent activities.

16 (b) Dredging and spoils disposal shall be planned and
17 carried out to avoid significant disruption to marine and
18 wildlife habitats and water circulation. Dredge spoils
19 suitable for beach replenishment should be transported
20 for those purposes to appropriate beaches or into suitable
21 longshore current systems.

22 (c) In addition to the other provisions of this section,
23 diking, filling, or dredging in existing estuaries and
24 wetlands shall maintain or enhance the functional
25 capacity of the wetland or estuary. Any alteration of
26 coastal wetlands identified by the Department of Fish
27 and Game, including, but not limited to, the 19 coastal
28 wetlands identified in its report entitled, "Acquisition
29 Priorities for the Coastal Wetlands of California," shall be
30 limited to very minor incidental public facilities,
31 restorative measures, nature study, commercial fishing
32 facilities in Bodega Bay, and development in already
33 developed parts of south San Diego Bay, if otherwise in
34 accordance with this division.

35 For the purposes of this section, "commercial fishing
36 facilities in Bodega Bay" means that not less than 80
37 percent of all boating facilities proposed to be developed
38 or improved, where that improvement would create
39 additional berths in Bodega Bay, shall be designed and
40 used for commercial fishing activities.



1 ~~(d) Erosion control and flood control facilities~~
2 ~~constructed on watercourses can impede the movement~~
3 ~~of sediment and nutrients that would otherwise be~~
4 ~~carried by storm runoff into coastal waters. To facilitate~~
5 ~~the continued delivery of these sediments to the littoral~~
6 ~~zone, whenever feasible, the material removed from~~
7 ~~these facilities may be placed at appropriate points on the~~
8 ~~shoreline in accordance with other applicable provisions~~
9 ~~of this division, where feasible mitigation measures have~~
10 ~~been provided to minimize adverse environmental~~
11 ~~effects. Aspects that shall be considered before issuing a~~
12 ~~coastal development permit for those purposes are the~~
13 ~~method of placement, time of year of placement, and~~
14 ~~sensitivity of the placement area.~~

15 ~~(e) The commission may apply Section 30007.5 when~~
16 ~~addressing any conflict between this section, as this~~
17 ~~section relates to an impact on a degraded wetland, and~~
18 ~~any other section of this division. In so doing, the~~
19 ~~commission shall ensure that there is a net environmental~~
20 ~~benefit through appropriate restoration and mitigation~~
21 ~~measures. The commission may apply Section 30007.5 to~~
22 ~~any other conflicts between the policies of this section~~
23 ~~and any other policy of this chapter.~~

24 ~~SEC. 3. Section 30240 of the Public Resources Code is~~
25 ~~amended to read:~~

26 ~~30240. (a) Environmentally sensitive habitat areas~~
27 ~~shall be protected against any significant disruption of~~
28 ~~habitat values and only uses dependent on those~~
29 ~~resources shall be allowed within those areas.~~

30 ~~(b) Development in areas adjacent to~~
31 ~~environmentally sensitive habitat areas and parks and~~
32 ~~recreation areas shall be sited and designed to prevent~~
33 ~~impacts that would significantly degrade those areas, and~~
34 ~~shall be compatible with the continuance of those habitat~~
35 ~~and recreation areas.~~

36 ~~(e) The commission may apply Section 30007.5 when~~
37 ~~addressing any conflict between this section, as it relates~~
38 ~~to an impact on a degraded environmentally sensitive~~
39 ~~habitat area, and any other section of this division. In so~~
40 ~~doing, the commission shall ensure that there is a net~~



1 ~~environmental benefit through appropriate restoration~~
2 ~~and mitigation measures. The commission may apply~~
3 ~~Section 30007.5 to any other conflicts between the policies~~
4 ~~of this section and any other policy of this chapter.~~

5 ~~SEC. 4.—~~

6 *SEC. 2.* Section 30411 of the Public Resources Code is
7 amended to read:

8 30411. (a) The Department of Fish and Game and
9 the Fish and Game Commission are the principal state
10 agencies responsible for the establishment and control of
11 wildlife and fishery management programs and the
12 commission shall not establish or impose any controls with
13 respect thereto that duplicate or exceed regulatory
14 controls established by these agencies pursuant to specific
15 statutory requirements or authorization, including
16 conservation plans adopted consistent with Sections 2080,
17 2080.1, 2081, 2081.5, 2830, and 2835 of the Fish and Game
18 Code.

19 (b) The Department of Fish and Game, in
20 consultation with the commission and the Department of
21 Boating and Waterways, may study degraded wetlands
22 and identify those that can most feasibly be restored in
23 conjunction with development of a boating facility as
24 provided in subdivision (a) of Section 30233. Any such
25 study shall include consideration of all of the following:

26 (1) Whether the wetland is so severely degraded and
27 its natural processes so substantially impaired that it is not
28 capable of recovering and maintaining a high level of
29 biological productivity without major restoration
30 activities.

31 (2) Whether a substantial portion of the degraded
32 wetland, but in no event less than 75 percent, can be
33 restored and maintained as a highly productive wetland
34 in conjunction with a boating facilities project.

35 (3) Whether restoration of the wetland's natural
36 values, including its biological productivity and wildlife
37 habitat features, can most feasibly be achieved and
38 maintained in conjunction with a boating facility or
39 whether there are other feasible ways to achieve those
40 values.



1 (c) The Legislature finds and declares that salt water
2 or brackish water aquaculture is a coastal-dependent use
3 that should be encouraged to augment food supplies and
4 to further the policies set forth in Chapter 4
5 (commencing with Section 825) of Division 1. The
6 Department of Fish and Game may identify coastal sites
7 it determines to be appropriate for aquaculture facilities.
8 If the department identifies these sites, it shall transmit
9 information identifying the sites to the commission and
10 the relevant local government agency. The commission,
11 and where appropriate, local governments, consistent
12 with the coastal planning requirements of this division,
13 shall provide for as many coastal sites identified by the
14 Department of Fish and Game for any uses that are
15 consistent with the policies of Chapter 3 (commencing
16 with Section 30200).

17 (d) Any agency of the state owning or managing land
18 in the coastal zone for public purposes shall be an active
19 participant in the selection of suitable sites for
20 aquaculture facilities and shall make the land available for
21 use in aquaculture when feasible and consistent with
22 other policies of this division and other provisions of law.

23 (e) The Department of Fish and Game, in
24 consultation with the Aquaculture Development
25 Committee, shall prepare programmatic environmental
26 impact reports for existing and potential commercial
27 aquaculture operations in both coastal and inland areas of
28 the state if both of the following conditions are met:

29 (1) Funds are appropriated to the department for this
30 purpose.

31 (2) Matching funds are provided by the aquaculture
32 industry.

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