

DEPARTMENT OF BOATING AND WATERWAYS

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To: Boating and Waterways Commission Members

From: Department of Boating and Waterways, Legislative Unit

Subject: LEGISLATIVE REPORT, August 24, 2011

This report was prepared on August 9, 2011.

ASSEMBLY BILLS

AB 49 (Gatto) Development: expedited permit review. This bill would require the Office of Permit Assistance to provide information to developers explaining the permit approval process at the state and local levels, or assisting them in meeting statutory environmental quality requirements, as specified. The bill would require the office to assist state and local agencies in streamlining the permit approval process, and an applicant in identifying any permit required by a state agency for the proposed project. The bill would authorize the office to call a conference of parties at the state level to resolve questions or mediate disputes arising from a permit application for a development project. This bill would not be applicable to residential development.

Sponsor: Author

Status: Amended 03/24/2011, 2-year bill

Department Position: No approved position

AB 627 (Berryhill, Bill) State Water Resources Development System: Delta Corridors Plan: feasibility study. This bill would require the Department of Water Resources (DWR) to undertake an expedited evaluation and feasibility study on implementing a specified Delta Corridors Plan (Plan) as part of the State Water Resources Development System. DWR would be required to consult with the Department of Fish and Game to study specified impacts and benefits of the Plan and to include in the study an assessment of the incorporation of the Two-Gates Fish Protection Demonstration Project into the Plan. DWR would be required to prepare and submit to the Legislature, on or before January 1, 2013, a report that includes its feasibility findings. If DWR determines the implementation of the plan is feasible, it would be required to include recommendations on specific facilities to be constructed and to identify potential funding sources to implement the plan. This bill would declare the intent of the Legislature to appropriate money to DWR to pay the costs of the feasibility study required by this bill.

Sponsor: Author

Status: Amended 03/31/2011, 2-year bill

Department Position: No approved position

AB 656 (Huber) Boards and commissions: repeal. This bill would set a repeal date of January 1, 2014 for several boards and commissions, including the Boating and Waterways Commission. If enacted, the repeal date would trigger review of the Commission by the Joint Legislative Sunset Review Committee.

Sponsor: Author

Status: Amended 07/01/2011, in Assembly Appropriations Committee

Position: No approved position

AB 752 (Brownley) Tideland and submerged lands: sea level action plan. This bill would specify that the preparation of a sea level action plan for all of its legislatively granted public trust lands shall be among the management priorities of a local trustee of granted public lands, as defined. The bill would require a local trustee whose gross public trust revenues, as defined, exceed \$250,000 to prepare a sea level action plan for those lands by July 1, 2013, but would specify that all other local trustees may, but are not required to, prepare a plan. The plan would include, among other things, an assessment of the impact of a range of sea level rise on granted public trust lands, an estimate of the cost of this impact, and strategies to prevent or mitigate damage to development and infrastructure and to protect and enhance habitat. This bill would require the SLC to exempt a local trustee from the requirement to prepare a sea level action plan or to grant a deadline extension if the revenues derived from its granted public trust lands and assets or funding to it from other sources are not sufficient to pay for the cost of developing the plan.

Sponsor: State Controller

Status: Amended 05/27/2011, 2-year bill

Department Position: No approved position

AB 977 (Harkey) Harbors and ports: loans: OC Dana Point Harbor. This bill would require the department to extend until June 30, 2016, all phases of certain loan contracts between the department and the County of Orange, OC Dana Point Harbor. The author has stated that this will be a two-year bill that won't be pursued until 2012.

Sponsor: Author

Status: Amended 03/31/2011, 2-year bill

Department Position: No approved position

AB 1429 (Chesbro) Disaster relief: March 2011 tsunami. This bill would add the effects of the tsunami that occurred in Del Norte County in March 2011 to the list of events for which the state share of state eligible cost is up to 100%. The state shall also assume up

to a 100% share in those cases where the Federal Emergency Management Agency or another applicable federal agency has approved the federal share of costs. This bill would exempt Del Norte County from Government Code Section 8685.9, which requires, as a condition of funding, a local hazard mitigation plan in accordance with the federal Disaster Mitigation Act of 2000 (P.L. 106-390) as part of the safety element of its general plan.

Sponsor: Author

Status: Amended 05/16/2011, in Senate Appropriations Committee

Position: No approved position

SENATE BILLS

SB 49 (Strickland) Local government: emergency response: fees. This bill would prohibit a city, including a charter city, county, district, municipal corporation, or public authority from charging a fee to any person, regardless of residency, for the expense of an emergency response, including boating-related emergencies, except where a fee is otherwise authorized. This bill would not apply to a special district unless that district received revenues from transaction and use taxes, as specified.

Sponsor: Author

Status: Amended 04/27/2011, 2-year bill

Department Position: No approved position

SB 152 (Pavley) Public lands: general leasing law: littoral landowners. This bill would require the State Lands Commission to charge rent (based on local conditions and local fair annual rental values) for private, individually-owned recreational piers built over state land. Leases already in effect on July 1, 2011 would not be affected for the term of the lease. According to the author, approximately 1,600 piers would be affected by this bill, resulting in the eventual charge of rent for piers that are now free.

Sponsor: State Lands Commission

Status: Amended 05/25/2011, in Assembly Appropriations Committee

Department Position: No approved position

SB 215 (Huff) Invasive aquatic species: mussels. As amended, this bill would extend the sunset date from January 1, 2012 to January 1, 2017 on existing law that generally prohibits a person from possessing, importing, shipping, or transporting in the state, or from placing, planting, or causing to be placed or planted in any water within the state, dreissenid mussels, and authorizes the Director of Fish and Game or his or her designee to engage in various enforcement activities. Existing law also provides that a person who violates or resists, delays, obstructs, or interferes with the implementation of these

provisions is subject to a penalty up to \$1,000. Existing law also exempts certain entities from enforcement activities, or from civil or criminal liability, as specified.

Sponsor: Association of California Water Agencies

Status: Amended 04/26/2011, held in Assembly Appropriations Committee

Department Position: No approved position

SB 475 (Wright) Infrastructure financing. This bill would authorize a local governmental agency to enter into an agreement with a private entity for financing for specified types of revenue-generating infrastructure projects, including harbors and inland waterways. The bill would require an agreement entered into under these provisions to include adequate financial resources to perform the agreement, and would permit the agreements to lease or license to, or provide other permitted uses by, the private entity.

Sponsor: Author

Status: Amended 06/20/2011, 2-year bill

Department Position: No approved position

SB 501 (Harman) Tidelands and submerged lands: City of Newport Beach. This bill would revise a land grant to the City of Newport Beach to authorize the city to lease specified lots for certain purposes for terms not to exceed 50 years, or until January 1, 2060, whichever comes later. These lease purposes would include beaches, harbors, and recreational boating facilities.

Sponsor: Author

Status: 2-year bill

Department Position: No approved position

SB 551 (DeSaulnier) State property: tidelands transfer: City of Pittsburg and City of Martinez Marina. This bill would replace the existing grant of tidelands and submerged lands to the City of Pittsburg. *As amended 05/31/2011, the bill would no longer affect the legislative grant of tidelands and submerged lands to the City of Martinez (Martinez Marina).* The bill would require the trust lands to be held by the city consistent with the public trust doctrine, including the protection of maritime or water dependent commerce, navigation, and fisheries, and the preservation of the lands in their natural state for

scientific study, open space, wildlife habitat, and water- oriented recreation. The bill would require, beginning on June 30, 2012, that 20% of all annual gross revenues generated from the trust lands be transmitted to the State Lands Commission (SLC), of which 80% would be deposited in the General Fund and 20% in the Kapiloff Land Bank Fund. The bill would require the SLC, by January 1, 2014, to survey and record a description of the trust

lands subject to the bill. The City of Pittsburg would be required to submit a trust lands use plan, and beginning September 30, 2022, a detailed statement of its trust land uses (every five years) and an annual report of trust revenues and expenditures.

Sponsor: City of Pittsburg

Status: Amended 05/31/2011, in Assembly Appropriations Committee

Department Position: No approved position

SB 595 (Wolk) Tidelands and submerged lands: removal of vessels. This bill would create an administrative process, in lieu of the current court process, for the State Lands Commission (SLC) to remove and dispose of vessels and other watercraft from public lands or waterways under SLC jurisdiction. This bill would delete existing Harbors and Navigation Code (HNC) provisions and would add Public Resources Code (PRC) provisions expanding SLC authority related to abandoned vessels. This bill would provide an exemption from the State Contract Act for SLC actions pertaining to abandoned vessels.

Sponsor: State Lands Commission

Status: Amended 06/29/2011, in Assembly

Department Position: No approved position

SB 623 (Kehoe) Vessels: marine antifouling paint. This bill would require the Department of Pesticide Regulation, by January 1, 2014, to determine the maximum allowable leach rate for low-leach rate antifouling paints. The bill would prohibit, on and after January 1, 2015, a manufacturer, wholesaler, retailer, or distributor from selling or offering for sale in California a new recreational vessel, as defined, containing antifouling paint that contains copper. The bill also would prohibit, on and after January 1, 2019, the use or application of antifouling paint that contains copper on recreational vessels, except as provided. The bill would require the State Water Resources Control board, by January 1, 2019, and biennially thereafter, to determine whether the use of low-leach rate copper-containing antifouling paints could result in the attainment of water quality objectives in marinas and harbors for dissolved copper. The bill would, on or after January 1, 2019, prohibit the use or application of antifouling paint on recreational vessels one year after a determination by the State Water Resources Control Board that the trend line of measured water quality data does not point toward attainment of the dissolved copper water quality objectives in marinas and harbors.

This bill would require an owner or a master of a transient vessel, as defined, to submit to the manufacturer, wholesaler, retailer, distributor, boatyard, or other vessel repair facility, and to the marina or similar mooring facility at the time of service or the onset of temporary residency a transient vessel affidavit certifying under the penalty of perjury that the vessel qualifies as a transient vessel. A person who knowingly submits a false affidavit is liable for an unspecified penalty. Because a person who submits a false affidavit has committed the

crime of perjury, this bill would create a new crime, thereby imposing a state-mandated local program. The bill would require a transient vessel that no longer qualifies as a transient vessel to be hauled and to remove all antifouling paints. A person who fails to remove the antifouling paints is liable for an unspecified amount.

Sponsor: San Diego Unified Port District, San Diego Coastkeeper

Status: Amended 06/21/2011, 2-year bill

Department Position: No approved position

SB 876 (Harman) Tidelands and submerged lands: shore protection: lease of structures. This bill would specify the terms for a lease of structures for shore protection for private property adjacent to tidelands or submerged lands by allowing the commission to only lease these structures to a littoral owner for a term of 99 years, with the consideration for the lease adjusting no more than once for an unspecified number of years, based on any change in the California Consumer Price Index.

Sponsor: Author

Status: 2-year bill

Department Position: No approved position

FEDERAL BILLS

H.R. 104 (Boustany) Realize America's Maritime Promise (RAMP) Act. This bill would ensure that Harbor Maintenance Taxes credited to the Harbor Maintenance Trust Fund are appropriated for harbor maintenance dredging.

Sponsor: Author, 113 co-sponsors

Status: Subcommittee hearings held 07/08/2011

Department Position: No approved position