

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, April 27, 2011

This report was prepared on April 14, 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, in Assembly Committee on Natural Resources

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, in Assembly Water, Parks and Wildlife Committee

Department Position: No approved position

AB 752 (Brownley) Tideland and submerged lands: sea level action plan. This bill would require local trustees of granted public trust lands to prepare a sea level action plan for all legislatively granted public trust lands by January 1, 2013 and to submit the plan to the State Lands Commission (SLC). The plan would include, among other things, an assessment of the impact 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 sources such as the Ocean Protection Council are not sufficient to pay for the cost of developing the plan.

Sponsor: State Controller

Status: Amended 03/30/2011, in Assembly Appropriations Committee

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, in Assembly Water, Parks and Wildlife Committee

Department 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.

Sponsor: Author

Status: Introduced 12/15/2010, in Senate Public Safety Committee

Department Position: No approved position

SB 110 (Rubio) Nuisance: mining activities. This bill would provide that no mining activity, operation or facility, or appurtenances thereof, as defined, in operation for more than 3 years, and conducted or maintained for commercial purposes in a manner consistent with proper and accepted customs and standards, shall become a nuisance

due to any changed condition in the locality if it was not a nuisance at the time it began, except as specified. Exceptions include if the mining activity in any way obstructs the free passage or normal use of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

Sponsor: California Construction and Industrial Materials Association

Status: Introduced 1/14/2010, in Senate Judiciary Committee

Department Position: No approved position

SB 152 (Pavley) Public lands: general leasing law: littoral landowners. This bill would delete an existing law that requires free rent for private, individually-owned recreational piers built over state land. 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 03/10/2011, in Senate Governmental Organization 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 04/12/2011, 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 for a term of up to 50 years, after which time the project would revert to the governmental agency.

Sponsor: Author

Status: Amended 04/12/2011, in Senate Governance and Finance Committee

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: In Senate Natural Resources and Water Committee

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. The bill would also revise the existing legislative grant of tidelands and submerged lands to the City of Martinez to include the Martinez Marina. The bill would require the trust lands to be held by each 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 Cities of Pittsburg and Martinez would each 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: Cities of Pittsburg and Martinez

Status: Amended 04/07/2011, in Senate Rules 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. As amended 4/4/11, 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 no longer provide a categorical exemption from CEQA for these activities, but would still provide an exemption from other laws governing acquisition, disposal or destruction of

property by the state. This bill would state that if there is any conflict between HNC provisions and PRC provisions relating to abandoned vessels, the PRC would govern.

Sponsor: State Lands Commission

Status: Amended 04/04/2011, in Senate Judiciary Committee

Department Position: No approved position

SB 623 (Kehoe) Copper in marine paint. This bill would prohibit manufacture, sale and distribution of copper-based marine antifouling paints in California on and after January 1, 2015. This bill would require manufacturers, when replacing the copper in antifouling paints, to use the least toxic alternative.

Sponsor: San Diego Unified Port District, San Diego Coastkeeper

Status: In Senate Environmental Quality Committee

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: In Senate Natural Resources and Water Committee

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

Status: Introduced 01/05/2011, in Subcommittee on Water Resources and Environment

Department Position: No approved position