

(Without Reference to File)

CONCURRENCE IN SENATE AMENDMENTS

AB 2616 (Burke)

As Amended August 16, 2016

Majority vote

ASSEMBLY: 49-26 (June 2, 2016)

SENATE: 26-13 (August 29, 2016)

Original Committee Reference: **NAT. RES.**

SUMMARY: Specifies that one of the members appointed to the Coastal Commission (Commission) by the Governor is required to work directly with communities in the state that are most burdened by, and vulnerable to, high levels of pollution and issues of environmental justice. Allows the Commission to address environmental justice concerns.

The Senate amendments eliminate the increase in Commission membership and instead specify that one of the Governor's existing appointees be required to work directly with communities in the state that are most burdened by, and vulnerable to, high levels of pollution and issues of environmental justice.

EXISTING LAW:

- 1) Pursuant to the California Coastal Act of 1976 (Coastal Act),
 - a) Establishes the Commission in the Natural Resources Agency and requires the Commission to consist of 15 members (3 non-voting and 12 voting).
 - b) Requires the membership of the Commission to include six members of the public at large and six local government representatives from six coastal regions.
 - c) Provides that the Governor, the Speaker of the Assembly, and Senate Rules Committee each appoint four of the members.
 - d) Requires the Governor, the Senate Committee on Rules, and the Speaker of the Assembly to make good faith efforts to assure that their appointments, as a whole, reflect, to the greatest extent feasible, the economic, social, and geographic diversity of the state.
 - e) Requires a person planning to perform or undertake any development in the coastal zone to obtain a coastal development permit (CDP) from the Commission or local government enforcing a Local Coastal Program (LCP).
- 2) Defines "environmental justice" to mean the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

FISCAL EFFECT: According to the Senate Appropriations Committee, no fiscal impact.

COMMENTS:

- 1) **Coastal Commission.** The Commission was established by voter initiative in 1972 (Proposition 20) and later made permanent by the Legislature through adoption of the Coastal Act. In partnership with coastal cities and counties, the Commission plans and regulates the use of land and water in the coastal zone. Development activities, which are broadly defined by the Coastal Act to include construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters generally require a CDP from either the Commission or the local government with a certified LCP. The Commission is an independent, quasi-judicial state agency. Currently, the Commission voting members are evenly divided between local governments and public at large members.

- 2) **Environmental justice.** According to the Office of Environmental Health Hazard Assessment, approximately 8 million Californians (21%) live in zip codes that are considered "highly impacted" by environmental, public health, and socioeconomic stressors. Nearly half of all Californians live within six miles of a facility that is a significant greenhouse gas emitter (46%), and they are disproportionately people of color (62%). Throughout California, people of color face a 50% higher risk of cancer from ambient concentrations of air pollutants listed under the Clean Air Act. These impacts are felt by all Californians. The Air Resources Board estimates that air pollution exposure accounts for 19,000 premature deaths, 280,000 cases of asthma, and 1.9 million lost work days every year.

AMENDED IN SENATE AUGUST 16, 2016

AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN ASSEMBLY MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

california legislature—2015–16 regular session

ASSEMBLY BILL

No. 2616

**Introduced by Assembly Member Burke
(Coauthor: Assembly Member Mark Stone)**

February 19, 2016

An act to amend Sections 30301 and 30604 of, and to add Sections 30013 and 30107.3 to, the Public Resources Code, relating to coastal resources.

legislative counsel's digest

AB 2616, as amended, Burke. California Coastal Commission: environmental justice.

Existing law, the California Coastal Act of 1976, establishes the California Coastal Commission and prescribes the membership and functions and duties of the commission. Existing law provides that the commission consists of 15 members.

This bill would require ~~that three of the 12 voting representatives be individuals who~~ *one of the members appointed by the Governor* to reside in, and work directly with, communities in the state that are disproportionately burdened by, and vulnerable to, high levels of pollution and issues of environmental justice, as defined. The bill would require that the ~~Governor, the Senate Committee on Rules, and the Speaker of the Assembly~~ each appoint a member so qualified *Governor*

appoint a member who meets these qualifications to a vacant position from the appointments ~~available~~, *available* no later than the fourth appointment of each appointing authority *available* after January 1, 2017.

Existing law requires any person, as defined, wishing to perform or undertake any development, as defined, in the coastal zone to obtain a permit, except as provided. Existing law prescribes a process for the certification of local coastal programs in the state and requires, after certification of the local coastal program, a coastal development permit to be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the certified local coastal program.

This bill would authorize the issuing agency, or the commission on appeal, to consider environmental justice, as defined, or the equitable distribution of environmental benefits in communities throughout the state, when acting on a coastal development permit.

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 30013 is added to the Public Resources
2 Code, to read:

3 30013. The Legislature further finds and declares that in order
4 to advance the principles of environmental justice and equality,
5 subdivision (a) of Section 11135 of the Government Code and
6 subdivision (e) of Section 65040.12 of the Government Code apply
7 to the commission and all public agencies implementing the
8 provisions of this division. As required by Section 11135 of the
9 Government Code, no person in the State of California, on the
10 basis of race, national origin, ethnic group identification, religion,
11 age, sex, sexual orientation, color, genetic information, or
12 disability, shall be unlawfully denied full and equal access to the
13 benefits of, or be unlawfully subjected to discrimination, under
14 any program or activity that is conducted, operated, or administered
15 pursuant to this division, is funded directly by the state for purposes
16 of this division, or receives any financial assistance from the state
17 pursuant to this division.

18 SEC. 2. Section 30107.3 is added to the Public Resources Code,
19 to read:

1 30107.3. “Environmental justice” means the fair treatment of
2 people of all races, cultures, and incomes with respect to the
3 development, adoption, implementation, and enforcement of
4 environmental laws, regulations, and policies.

5 SEC. 3. Section 30301 of the Public Resources Code is
6 amended to read:

7 30301. The commission shall consist of the following 15
8 members:

9 (a) The Secretary of the Natural Resources Agency.

10 (b) The Secretary of Transportation.

11 (c) The Chairperson of the State Lands Commission.

12 (d) Six representatives of the public from the state at large. The
13 Governor, the Senate Committee on Rules, and the Speaker of the
14 Assembly shall each appoint two of these members.

15 (e) Six representatives selected from six coastal regions. The
16 Governor shall select one member from the north coast region and
17 one member from the south central coast region. The Speaker of
18 the Assembly shall select one member from the central coast region
19 and one member from the San Diego coast region. The Senate
20 Committee on Rules shall select one member from the north central
21 coast region and one member from the south coast region. For
22 purposes of this division, these regions are defined as follows:

23 (1) The north coast region consists of the Counties of Del Norte,
24 Humboldt, and Mendocino.

25 (2) The north central coast region consists of the Counties of
26 Sonoma and Marin and the City and County of San Francisco.

27 (3) The central coast region consists of the Counties of San
28 Mateo, Santa Cruz, and Monterey.

29 (4) The south central coast region consists of the Counties of
30 San Luis Obispo, Santa Barbara, and Ventura.

31 (5) The south coast region consists of the Counties of Los
32 Angeles and Orange.

33 (6) The San Diego coast region consists of the County of San
34 Diego.

35 (f) ~~Three of the 12 voting representatives shall be individuals~~
36 ~~who~~ *Of the representatives appointed by the Governor pursuant*
37 *to subdivision (d) or (e), one of the representatives shall reside in,*
38 ~~and who~~ *work directly with, communities in the state that are*
39 *disproportionately burdened by, and vulnerable to, high levels of*
40 *pollution and issues of environmental justice, including, but not*

1 limited to, communities with diverse racial and ethnic populations
 2 and communities with low-income populations. ~~The Governor,~~
 3 ~~the Senate Committee on Rules, and the Speaker of the Assembly~~
 4 ~~shall each appoint a member qualified pursuant to this subdivision~~
 5 *populations. The Governor shall appoint a representative qualified*
 6 *pursuant to this subdivision* to a vacant position from the
 7 appointments available pursuant to either subdivision (d) or ~~(e),~~
 8 ~~(e)~~ no later than the fourth appointment ~~of each appointing~~
 9 ~~authority~~ available after January 1, 2017.

10 SEC. 4. Section 30604 of the Public Resources Code is
 11 amended to read:

12 30604. (a) Prior to certification of the local coastal program,
 13 a coastal development permit shall be issued if the issuing agency,
 14 or the commission on appeal, finds that the proposed development
 15 is in conformity with Chapter 3 (commencing with Section 30200)
 16 and that the permitted development will not prejudice the ability
 17 of the local government to prepare a local coastal program that is
 18 in conformity with Chapter 3 (commencing with Section 30200).
 19 A denial of a coastal development permit on grounds it would
 20 prejudice the ability of the local government to prepare a local
 21 coastal program that is in conformity with Chapter 3 (commencing
 22 with Section 30200) shall be accompanied by a specific finding
 23 that sets forth the basis for that conclusion.

24 (b) After certification of the local coastal program, a coastal
 25 development permit shall be issued if the issuing agency, or the
 26 commission on appeal, finds that the proposed development is in
 27 conformity with the certified local coastal program.

28 (c) Every coastal development permit issued for any
 29 development between the nearest public road and the sea or the
 30 shoreline of any body of water located within the coastal zone
 31 shall include a specific finding that the development is in
 32 conformity with the public access and public recreation policies
 33 of Chapter 3 (commencing with Section 30200).

34 (d) No development or any portion thereof that is outside the
 35 coastal zone shall be subject to the coastal development permit
 36 requirements of this division, nor shall anything in this division
 37 authorize the denial of a coastal development permit by the
 38 commission on the grounds the proposed development within the
 39 coastal zone will have an adverse environmental effect outside the
 40 coastal zone.

1 (e) No coastal development permit may be denied under this
2 division on the grounds that a public agency is planning or
3 contemplating to acquire the property, or property adjacent to the
4 property, on which the proposed development is to be located,
5 unless the public agency has been specifically authorized to acquire
6 the property and there are funds available, or funds that could
7 reasonably be expected to be made available within one year, for
8 the acquisition. If a permit has been denied for that reason and the
9 property has not been acquired by a public agency within a
10 reasonable period of time, a permit may not be denied for the
11 development on grounds that the property, or adjacent property,
12 is to be acquired by a public agency when the application for such
13 a development is resubmitted.

14 (f) The commission shall encourage housing opportunities for
15 persons of low and moderate income. In reviewing residential
16 development applications for low- and moderate-income housing,
17 as defined in paragraph (3) of subdivision (h) of Section 65589.5
18 of the Government Code, the issuing agency, or the commission
19 on appeal, may not require measures that reduce residential
20 densities below the density sought by an applicant if the density
21 sought is within the permitted density or range of density
22 established by local zoning plus the additional density permitted
23 under Section 65915 of the Government Code, unless the issuing
24 agency or the commission on appeal makes a finding, based on
25 substantial evidence in the record, that the density sought by the
26 applicant cannot feasibly be accommodated on the site in a manner
27 that is in conformity with Chapter 3 (commencing with Section
28 30200) or the certified local coastal program.

29 (g) The Legislature finds and declares that it is important for
30 the commission to encourage the protection of existing and the
31 provision of new affordable housing opportunities for persons of
32 low and moderate income in the coastal zone.

33 (h) When acting on a coastal development permit, the issuing
34 agency, or the commission on appeal, may consider environmental
35 justice, or the equitable distribution of environmental benefits
36 throughout the state.

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COUNTY OF SANTA BARBARA

BOARD OF SUPERVISORS
County Administration Building
105 East Anapamu Street
Santa Barbara, CA 93101
Telephone: (805) 568-2190
www.countyofsb.org

August 3, 2016

The Honorable Ricardo Lara
Chair, Senate Appropriations Committee
State Capitol, Room 5050
Sacramento, CA 95814

RE: AB 2616 (Burke) California Coastal Commission: environmental justice – OPPOSE

Dear Senator Ricardo Lara:

I am writing on behalf of the Santa Barbara County Board of Supervisors to oppose Assembly Bill 2616 - California Coastal Commission: environmental justice.

This bill would add three additional Coastal Commission Members to work directly on issues with communities that are most burdened by, and vulnerable to, high levels of pollution and issues of environmental justice. The County of Santa Barbara supports the current balance between public appointees and elected representatives. Furthermore, the County firmly considers the Commission's ongoing purpose is to uphold access to the coast, work on issues of environmental justice, and always consider disadvantaged communities when deciding on land use issues in the coastal zone. The County does not believe nor support that the Commission should be adding commissioners for specific purposes of which the Commission should already be handling.

For these reasons, Santa Barbara County opposes AB 2616. If you have questions about the Board's position, please contact the County's Legislative Coordinator, Joseph Toney at 805-568-2060 or jtoney@countyofsb.org.

Sincerely,

Cliff Berg
Governmental Advocates

cc: Assemblymember Autumn Burke, Author
Members of the Senate Natural Resources and Water Committee
Narisha Bonakdar, Consultant, Senate Appropriations Committee
Todd Moffitt, Consultant, Senate Republican Caucus
Members, County of Santa Barbara Board of Supervisors
Joseph Toney, County of Santa Barbara Legislative Coordinator