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.

*Analysis Prepared by:* Michael Jarred / NAT. RES. / (916) 319-2092
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.
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.


The people of the State of California do enact as follows:

SECTION 1. Section 30013 is added to the Public Resources Code, to read:

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

SEC. 2. Section 30107.3 is added to the Public Resources Code, to read:
30107.3. “Environmental justice” means 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.

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

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

(a) The Secretary of the Natural Resources Agency.
(b) The Secretary of Transportation.
(c) The Chairperson of the State Lands Commission.
(d) Six representatives of the public from the state at large. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint two of these members.
(e) Six representatives selected from six coastal regions. The Governor shall select one member from the north coast region and one member from the south central coast region. The Speaker of the Assembly shall select one member from the central coast region and one member from the San Diego coast region. The Senate Committee on Rules shall select one member from the north central coast region and one member from the south coast region. For purposes of this division, these regions are defined as follows:

1. The north coast region consists of the Counties of Del Norte, Humboldt, and Mendocino.
2. The north central coast region consists of the Counties of Sonoma and Marin and the City and County of San Francisco.
3. The central coast region consists of the Counties of San Mateo, Santa Cruz, and Monterey.
4. The south central coast region consists of the Counties of San Luis Obispo, Santa Barbara, and Ventura.
5. The south coast region consists of the Counties of Los Angeles and Orange.
6. The San Diego coast region consists of the County of San Diego.

(f) Three of the 12 voting representatives shall be individuals who, Of the representatives appointed by the Governor pursuant to subdivision (d) or (e), one of the representatives shall reside in, and who work directly with, communities in the state that are disproportionately burdened by, and vulnerable to, high levels of pollution and issues of environmental justice, including, but not
limited to, communities with diverse racial and ethnic populations and communities with low-income populations. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint a member qualified pursuant to this subdivision populations. The Governor shall appoint a representative qualified pursuant to this subdivision to a vacant position from the appointments available pursuant to either subdivision (d) or (e). (e) no later than the fourth appointment of each appointing authority available after January 1, 2017.

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

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

(b) After certification of the local coastal program, a coastal development permit shall 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.

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

(d) No development or any portion thereof that is outside the coastal zone shall be subject to the coastal development permit requirements of this division, nor shall anything in this division authorize the denial of a coastal development permit by the commission on the grounds the proposed development within the coastal zone will have an adverse environmental effect outside the coastal zone.
(e) No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property, or property adjacent to the property, on which the proposed development is to be located, unless the public agency has been specifically authorized to acquire the property and there are funds available, or funds that could reasonably be expected to be made available within one year, for the acquisition. If a permit has been denied for that reason and the property has not been acquired by a public agency within a reasonable period of time, a permit may not be denied for the development on grounds that the property, or adjacent property, is to be acquired by a public agency when the application for such a development is resubmitted.

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

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

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