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AB-2616 California Coastal Commission: environmental justice. (2015-2016)

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Assembly Bill No. 2616

CHAPTER 578

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.

[Approved by Governor September 24, 2016. Filed with Secretary of State September 24, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2616, 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 one of the members of the commission 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 appoint a member who meets these qualifications to a vacant position from the appointments available no later than the fourth appointment 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 Local Program: no

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) Of the representatives appointed by the Governor pursuant to subdivision (d) or (e), one of the representatives shall 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, including, but not limited to, communities with diverse racial and ethnic populations and communities with low-income 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) no later than the fourth appointment 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.