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SB-1078 Sea Level Rise Revolving Loan Pilot Program. (2021-2022)

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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

SENATE BILL

NO. 1078

Introduced by Senator Allen

February 15, 2022

An act to add Division 20.6.6 (commencing with Section 30975) to the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1078, Allen. Sea Level Rise Revolving Loan Pilot Program.

Existing law establishes in state government the Ocean Protection Council. Existing law requires the council to, among other things, establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies. Existing law establishes the State Coastal Conservancy with prescribed powers and responsibilities for implementing and administering various programs intended to preserve, protect, and restore the state's coastal areas.

This bill would require the council, in consultation with the conservancy, to develop the Sea Level Rise Revolving Loan Pilot Program, within 12 months of receiving specified requests from local jurisdictions to do so, for purposes of providing low-interest loans to local jurisdictions, as defined, for the purchase of coastal properties in their jurisdictions identified as vulnerable coastal property, as defined, located in specified communities, including low-income communities, as provided. The bill would require the council in consultation with other state planning and coastal management agencies, as provided, to adopt guidelines and eligibility criteria for the program. The bill would authorize specified local jurisdictions to apply for, and be awarded, a low-interest loan under the program from the conservancy, in consultation with the council, if the local jurisdiction develops and submits to the conservancy a vulnerable coastal property plan and completes all other requirements imposed by the council. The bill would

require the conservancy, in consultation with the council, to review the plans to determine whether they meet the required criteria and guidelines for vulnerable coastal properties to be eligible for participation in the program.

The bill would establish the Sea Level Rise Revolving Loan Fund, to be administered by the conservancy, in consultation with the council, for purposes of providing, upon appropriation by the Legislature, the low-interest loans to eligible local jurisdictions, as provided. The bill would also require that loan repayments, fees, interest, and penalties be deposited in the fund for specified uses, upon appropriation by the Legislature, including for additional loans authorized under the program.

The bill would require, 3 years after issuing the first loan, but no later than January 1, 2028, the conservancy and the council to provide a report to the Legislature that evaluates the efficacy of the program, as provided.

The bill would make the bill's provisions contingent upon an appropriation by the Legislature for its purposes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Division 20.6.6 (commencing with Section 30975) is added to the Public Resources Code, to read:

DIVISION 20.6.6 Sea Level Rise Revolving Loan Pilot Program

30975. This division shall be known, and may be cited, as the Sea Level Rise Revolving Loan Pilot Program.

30976. The Legislature finds and declares all of the following:

(a) Anthropogenic climate change has been, and will continue to be, a very serious threat to the future of California. Rising global temperatures, and the subsequent melting of polar ice caps, has resulted in an increased rise in sea levels worldwide with significant ramifications for coastal communities.

(b) Current projections indicate California's coast will experience a sea level rise on the order of one foot by 2050 and three and one-half feet by 2100, with the sea level continuing to rise significantly in future centuries. A higher sea level exacerbates the threats of coastal erosion, storm surge, and flood damage along California's coastline and will very likely result in saltwater intrusion that will threaten drinking water supplies, among other hazards.

(c) Currently, the California coastline is home to 68 percent of the state's population and is responsible for 80 percent of its gross domestic product. California's ocean-based economy employs over 500,000 people and is valued at approximately forty-five billion dollars (\$45,000,000,000) annually.

(d) Any attempt to properly address the threat of sea level rise must include a broad range of creative climate change mitigation strategies to limit greenhouse gas emissions and the worst impacts of climate change, and must include adaptation and resiliency efforts designed to prepare communities for the impacts we cannot avoid.

(e) Any attempt to properly address the threat of sea level rise must consider and prioritize low-income communities, communities of color, tribal communities, and other disproportionately affected communities and populations who bear, and have borne, the brunt of impacts from climate change.

30977. The following definitions shall apply for purposes of this division:

(a) "Bank" means the California Infrastructure and Economic Development Bank.

(b) "Conservancy" means the State Coastal Conservancy.

(c) "Council" means the Ocean Protection Council established pursuant to Section 35600.

(d) "Fund" means the Sea Level Rise Revolving Loan Fund established pursuant to Section 30980.

(e) "Local jurisdiction" means a city, county, regional park or open-space district, land trust, or resource conservation district in which a vulnerable coastal property is located. A county, resource conservation district, or joint powers authority, which may include a state agency, may act as the local jurisdiction for a city or county upon implementation of a memorandum of understanding between the two jurisdictions.

(f) "Vulnerable coastal property" means any improved land containing a building or structure, or agricultural land, identified by a local jurisdiction as vulnerable to sea level rise. To be considered a "vulnerable coastal property" within the jurisdiction of the California Coastal Commission, the property shall be located in a jurisdiction with a certified local coastal program that includes

policies or programs, or both, to avoid, minimize, and mitigate the impacts of sea level rise, which has been developed pursuant to a comprehensive vulnerability assessment and certified by the California Coastal Commission.

30977.5. (a) A local jurisdiction may send a letter to the council requesting establishment of a Sea Level Rise Revolving Loan Pilot Program in accordance with this division.

(b) (1) The council and the conservancy shall not implement this division until the council receives letters from at least three local jurisdictions pursuant to subdivision (a).

(2) After receiving at least three letters from local jurisdictions pursuant to subdivision (a), the council shall post on its internet website, and shall notify the budget and relevant policy committees of the Legislature, that the requisite letters have been received to begin implementation of this division.

30978. (a) The council, in consultation with the conservancy, shall develop the Sea Level Rise Revolving Loan Pilot Program within 12 months of receiving the requests from local jurisdictions pursuant to Section 30977.5. The program shall provide low-interest loans to local jurisdictions for the purchase of coastal properties in their jurisdictions identified as vulnerable coastal property located in low-income communities, communities of color, tribal communities, and other disproportionately affected communities and populations who bear, and have borne, the brunt of impacts from climate change.

(b) The council, in consultation with other state planning and coastal management agencies, including, but not limited to, the Office of Planning and Research, the Strategic Growth Council, the California Coastal Commission, the State Lands Commission, the conservancy, and the San Francisco Bay Conservation and Development Commission, shall adopt guidelines and eligibility criteria for vulnerable coastal properties to qualify for funding under the Sea Level Rise Revolving Loan Pilot Program. Eligibility criteria shall include, at a minimum, all of the following:

(1) Evidence that the property will be able to generate enough revenue to repay the loan.

(2) Evaluation of the cost-effectiveness of providing a loan to purchase the property.

(3) Evidence that the property is part of the implementation of a local or regional plan to address the impacts of sea level rise.

(4) Evaluation of the public benefits of acquisition, including, but not limited to, future use of the property for sea level rise mitigation as natural infrastructure or for coastal public access, especially if adjacent properties within the same neighborhood are included in a comprehensive strategy.

(5) A methodology for determining when a vulnerable coastal property purchased through the program is no longer habitable.

(6) Criteria to equitably identify properties for inclusion in the program, with a precise plan to identify low-income communities, communities of color, tribal communities, and other disproportionately affected communities and populations who bear, and have borne, the brunt of impacts from climate change.

(c) The guidelines shall require local jurisdictions to develop strategies to support community relocation efforts when coastal property is no longer habitable.

(d) The council shall post on its internet website the eligibility criteria and guidelines for what information a local jurisdiction is required to include in a vulnerable coastal property plan.

(e) The council shall update the eligibility criteria and guidelines, in consultation with other state planning and coastal management agencies, including, but not limited to, the Office of Planning and Research, the Strategic Growth Council, the California Coastal Commission, the State Lands Commission, the State Coastal Conservancy, and the San Francisco Bay Conservation and Development Commission, every five years, in conjunction with new sea level rise science and adaptation guidance.

(f) Upon appropriation by the Legislature, funds shall be used to initiate the Sea Level Rise Revolving Loan Pilot Program for purposes of loan administration, disbursement to local jurisdictions, and to assess the efficacy of the program.

30979. (a) A local jurisdiction may apply for, and may be awarded, a low-interest loan through the Sea Level Rise Revolving Loan Pilot Program from the conservancy, in consultation with the council, only if the local jurisdiction completes both of the following:

(1) Develops and submits to the conservancy a vulnerable coastal property plan for its jurisdiction. The vulnerable coastal property plan shall include all of the following:

(A) An explanation of how the vulnerable coastal property or properties included in the plan meet the criteria developed by the council pursuant to Section 30978.

(B) The process and timeframe for the local jurisdiction to acquire the vulnerable coastal property included in the plan.

(C) The lease agreement for, or plan for leasing, any vulnerable coastal property included in the plan that demonstrates the rental income is sufficient to repay the loan.

(D) The management plan for any vulnerable coastal property included in the plan that covers the time period necessary to repay the loan.

(E) An explanation of how any structure included in the plan will be removed from the property when it can no longer be safely occupied without need for a shoreline protective device, including a comprehensive implementation plan and funding mechanisms.

(F) A third-party appraisal of the property to ensure fair market value is used for the loan amount.

(G) An analysis of potential impacts on nearby severely disadvantaged communities, as defined by Section 80002 of this code, and disadvantaged communities, as identified pursuant to Section 39711 of the Health and Safety Code, and a plan for addressing any inequalities created by the program, including local financial impact.

(2) All other requirements imposed by the council under this division.

(b) The conservancy, in consultation with the council, shall review a vulnerable coastal property plan submitted by a local jurisdiction pursuant to this section, and, if it determines the plan meets the criteria and guidelines pursuant to Section 30978, the conservancy shall approve the plan in writing. If the conservancy finds the plan does not meet the criteria and guidelines, the conservancy shall return the plan to the local jurisdiction with a clear explanation of why the plan fails to meet the criteria, and, if practicable, suggestions for improving the plan. The conservancy may consider available resources when deciding to approve or return a plan.

(c) (1) If awarded a loan under this section, a local jurisdiction shall use the moneys to purchase the vulnerable coastal property or properties included in the vulnerable coastal property plan through a fair and transparent purchase process.

(2) The local jurisdiction shall not use eminent domain to acquire vulnerable coastal properties included in the Sea Level Rise Revolving Loan Pilot Program.

30980. (a) There is hereby created in the State Treasury the Sea Level Rise Revolving Loan Fund, to be administered by the conservancy, in consultation with the council, for the purpose of providing low-interest loans to eligible local jurisdictions in accordance with the Sea Level Rise Revolving Loan Pilot Program established under this division.

(b) Upon request of the conservancy, the bank shall make recommendations regarding the specific financing mechanisms and risk mitigation measures necessary and appropriate for the successful administration of the fund. Recommendations may include identifying available funds to make direct loans, or to capitalize trust funds for the purpose of guaranteeing loans made by a participating lender.

(c) (1) The conservancy, in consultation with the council, upon appropriation by the Legislature for these purposes, may award low-interest loans from the fund for purposes of the Sea Level Rise Revolving Loan Pilot Program to a local jurisdiction that meets the requirements of Sections 30978 and 30979. The conservancy may award loans as a sole lender or as a colender.

(2) The financing shall not exceed the total value of the vulnerable coastal property being financed.

(d) The conservancy, in consultation with the council, upon appropriation by the Legislature for these purposes, may administer the Sea Level Rise Revolving Loan Pilot Program through a grant or contract with a third-party entity with experience administering revolving loan funds.

(e) The conservancy shall cease providing loans and accepting vulnerable coastal property plans when there are insufficient moneys in the fund to do so.

(f) All moneys received for repayment of a loan, and any penalties, interest, and fees in connection with a loan, provided for purposes of the Sea Level Rise Revolving Loan Pilot Program shall be deposited in the fund, for appropriation by the Legislature. Penalty moneys in the revolving fund shall be available, upon appropriation by the Legislature, for additional loans authorized under this division.

(g) The conservancy and the council may use moneys in the fund, upon appropriation by the Legislature for this purpose, for administrative costs incurred in implementing the Sea Level Rise Revolving Loan Pilot Program.

(h) (1) Three years after issuing the first loan pursuant to this division, but no later than January 1, 2028, the conservancy and the council shall provide a report to the Legislature that evaluates the efficacy of the Sea Level Rise Revolving Loan Pilot Program.

(2) The report shall include, but not be limited to, all of the following information:

(A) The number and name of interested applicants.

(B) A description of properties purchased by the loan.

(C) A summary of loan disbursements, fees, interest, and repayments.

(D) Recommendations to improve the efficacy of the program.

(3) (A) A report provided to the Legislature pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(B) Pursuant to Section 10231.5 of the Government Code, this subdivision shall become inoperative on January 1, 2032.

(i) Nothing in this section authorizes the conservancy or the council to expand the Sea Level Rise Revolving Loan Pilot Program beyond the scope of this division.

30981. The implementation of this division is contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for its purposes.