

AMENDED IN ASSEMBLY APRIL 26, 2017

AMENDED IN ASSEMBLY MARCH 9, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1129

Introduced by Assembly Member Mark Stone

February 17, 2017

An act to amend Sections 30235, 30624, and 30821 of the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1129, as amended, Mark Stone. Coastal resources: structures: beach access and protection.

Existing law, the California Coastal Act of 1976, provides for planning and regulation of development in the coastal zone, as defined. The act specifies planning and management policies for the location of new residential, commercial, and industrial development in the coastal zone.

The act requires the permitting of revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

This bill would also require that the permitted construction of those structures be consistent with the policies of the act, including policies regarding protection of public access, shoreline ecology, natural landforms, and other impacts on coastal resources, and would define the term “existing structure” for the purposes of those provisions.

The act requires any person wishing to perform or undertake any development in the coastal zone, as defined, to obtain a coastal development permit, but exempts from those requirements specified emergency projects undertaken, carried out, or approved by a public agency, as prescribed.

This bill would specify that any emergency permit issued under those provisions is a temporary authorization intended to allow the minimum amount of temporary development necessary to address the identified emergency, and minimize any potential harm or adverse coastal impacts related to addressing the emergency. The bill would specify that any subsequent development that is carried out that is beyond the scope of the emergency permit shall require a coastal development permit and is not subject to emergency authorization granted under those provisions.

The act imposes specified civil penalties on a person, including a landowner, who is in violation of the public access provisions of the act for each violation of the act.

This bill would additionally impose those civil penalties on a person, including a landowner, who has *placed or caused to be placed* an unpermitted shoreline protection structure ~~on his or her property located in~~ *within* the coastal zone.

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. (a) The Legislature finds and declares all of the
2 following:
- 3 (1) California beaches provide recreation opportunities for
4 residents across the state, as well as visitors from around the world.
- 5 (2) The coastal economy is based upon the maintenance of
6 precious natural areas, beaches, parks, and urban areas as tourist
7 destinations, and their economic benefit to the state depends on
8 protection of their scenic and recreational value.
- 9 (3) As climate change occurs, much of the coast is under threat
10 due to sea level rise and amplified coastal erosion.
- 11 (4) The economic and environmental health of human and
12 natural coastal communities depends on their resilience and their
13 ability to survive and rebound from adverse effects.

1 (5) In response to erosion and storm events, Californians have
2 built seawalls, revetments, and other armoring structures along
3 more than 10 percent of California’s coast.

4 (6) Coastal armoring structures placed on eroding beaches
5 prevent coastal ecosystems from migrating inland and cut off sand
6 supply by preventing natural erosion processes. The placement of
7 these structures on coastal lands also causes beaches to narrow
8 and eventually disappear, diminishing coastal habitat.

9 (7) Coastal armoring limits beach access, impedes coastal
10 recreation, and causes increased erosion to neighboring properties.

11 (8) A variety of alternatives to coastal armoring exist that use
12 natural features and processes to protect property. While these
13 nature-based alternatives have been shown to cost less or about
14 the same as armoring, they also have the additional benefit of
15 restoring and enhancing the natural character of the coast and
16 ensuring coastal beach access for the public.

17 (b) It is therefore the intent of the Legislature to provide clear
18 direction and enhanced authority to the California Coastal
19 Commission to maximize the use of natural infrastructure to protect
20 the state’s coastline, while minimizing the use of coastal armoring
21 and its related negative impacts.

22 SEC. 2. Section 30235 of the Public Resources Code is
23 amended to read:

24 30235. (a) Revetments, breakwaters, groins, harbor channels,
25 seawalls, cliff retaining walls, and other such construction that
26 alters natural shoreline processes shall be permitted when required
27 to serve coastal-dependent uses or to protect an existing structure
28 or public beach in danger from erosion and when that construction
29 is (1) designed to eliminate or mitigate adverse impacts on local
30 shoreline sand supply, and (2) consistent with the policies of this
31 division, including policies pertaining to protection of public
32 access, shoreline ecology, natural landforms, and other impacts
33 on coastal resources. Existing marine structures causing water
34 stagnation contributing to pollution problems and fishkills should
35 be phased out or upgraded where feasible.

36 (b) For purposes of this section, and consistent with existing
37 practice, “existing structure” means a structure that is legally
38 authorized and in existence as of January 1, 1977.

39 SEC. 3. Section 30624 of the Public Resources Code is
40 amended to read:

1 30624. (a) The commission shall provide, by regulation, for
2 the issuance of coastal development permits by the executive
3 director of the commission or, where the coastal development
4 permit authority has been delegated to a local government pursuant
5 to Section 30600.5, by an appropriate local official designated by
6 resolution of the local government without compliance with the
7 procedures specified in this chapter in cases of emergency, other
8 than an emergency provided for under Section 30611, and for the
9 following nonemergency developments: improvements to any
10 existing structure; any single-family dwelling; any development
11 of four dwelling units or less within any incorporated area that
12 does not require demolition; any other developments not in excess
13 of one hundred thousand dollars (\$100,000) other than any division
14 of land; and any development specifically authorized as a principal
15 permitted use and proposed in an area for which the land use
16 portion of the applicable local coastal program has been certified.
17 That permit for nonemergency development shall not be effective
18 until after reasonable public notice and adequate time for the review
19 of the issuance has been provided.

20 (b) If one-third of the appointed members of the commission
21 so request at the first meeting following the issuance of that permit
22 by the executive director, that issuance shall not be effective, and,
23 instead, the application shall be processed in accordance with the
24 commission's procedures for permits and pursuant to the provisions
25 of this chapter.

26 (c) Any permit issued by a local official pursuant to the
27 provisions of this section shall be scheduled on the agenda of the
28 governing body of the local agency at its first scheduled meeting
29 after that permit has been issued. If, at that meeting, one-third of
30 the members of that governing body so request, the permit issued
31 by the local official shall not go into effect and the application for
32 a coastal development permit shall be processed by the local
33 government pursuant to Section 30600.5.

34 (d) No monetary limitations shall be required for emergencies
35 covered by the provisions of this section.

36 (e) (1) An emergency permit issued under this section is a
37 temporary authorization intended to allow the minimum amount
38 of temporary development necessary to address the identified
39 emergency, and minimize any potential harm or adverse coastal
40 impacts related to addressing the emergency. Any subsequent

1 development that is carried out that is beyond the scope of the
2 emergency permit shall require a coastal development permit and
3 is not subject to the emergency authorization granted under this
4 section. Any development in the coastal zone that is covered under
5 an emergency authorization granted pursuant to this section shall
6 be removed at the end of the term of the permit unless authorized
7 by a subsequent coastal development permit or a determination
8 that no permit is needed, and any area affected by the development
9 shall be restored to its prior condition.

10 (2) Any violation of paragraph (1) shall constitute a knowing
11 and intentional violation of this division, subject to any penalties
12 provided in Article 2 (commencing with Section 30820) of Chapter
13 9.

14 SEC. 4. Section 30821 of the Public Resources Code is
15 amended to read:

16 30821. (a) In addition to any other penalties imposed pursuant
17 to this division, a person, including a landowner, who is in violation
18 of the public access provisions of this division, or who has *placed*
19 *or caused to be placed* an unpermitted shoreline protection
20 structure, such as a seawall, revetment, retaining wall, or other
21 like structure, ~~on his or her property located in~~ *within* the coastal
22 zone, is subject to an administrative civil penalty that may be
23 imposed by the commission in an amount not to exceed 75 percent
24 of the amount of the maximum penalty authorized pursuant to
25 subdivision (b) of Section 30820 for each violation. The
26 administrative civil penalty may be assessed for each day the
27 violation persists, but for no more than five years.

28 (b) All penalties imposed pursuant to subdivision (a) shall be
29 imposed by majority vote of the commissioners present in a duly
30 noticed public hearing in compliance with the requirements of
31 Section 30810, 30811, or 30812.

32 (c) In determining the amount of civil liability, the commission
33 shall take into account the factors set forth in subdivision (c) of
34 Section 30820.

35 (d) A person shall not be subject to both monetary civil liability
36 imposed under this section and monetary civil liability imposed
37 by the superior court for the same act or failure to act. If a person
38 who is assessed a penalty under this section fails to pay the
39 administrative penalty, otherwise fails to comply with a restoration
40 or cease and desist order issued by the commission in connection

1 with the penalty action, or challenges any of these actions by the
2 commission in a court of law, the commission may maintain an
3 action or otherwise engage in judicial proceedings to enforce those
4 requirements and the court may grant any relief as provided under
5 this chapter.

6 (e) If a person fails to pay a penalty imposed by the commission
7 pursuant to this section, the commission may record a lien on the
8 property in the amount of the penalty assessed by the commission.
9 This lien shall have the force, effect, and priority of a judgment
10 lien.

11 (f) In enacting this section, it is the intent of the Legislature to
12 ensure that unintentional, minor violations of this division that
13 only cause de minimis harm will not lead to the imposition of
14 administrative penalties if the violator has acted expeditiously to
15 correct the violation.

16 (g) “Person,” for the purpose of this section, does not include
17 a local government, a special district, or an agency thereof, when
18 acting in a legislative or adjudicative capacity.

19 (h) Administrative penalties pursuant to subdivision (a) shall
20 not be assessed if the property owner corrects the violation
21 consistent with this division within 30 days of receiving written
22 notification from the commission regarding the violation, and if
23 the alleged violator can correct the violation without undertaking
24 additional development that requires a permit under this division.
25 This 30-day timeframe for corrective action does not apply to
26 previous violations of permit conditions incurred by a property
27 owner.

28 (i) The commission shall prepare and submit, pursuant to Section
29 9795 of the Government Code, a report to the Legislature by
30 January 15, 2019, that includes all of the following:

31 (1) The number of new violations reported annually to the
32 commission from January 1, 2015, to December 31, 2018,
33 inclusive.

34 (2) The number of violations resolved from January 1, 2015, to
35 December 31, 2018, inclusive.

36 (3) The number of administrative penalties issued pursuant to
37 this section, the dollar amount of the penalties, and a description
38 of the violations from January 1, 2015, to December 31, 2018,
39 inclusive.

- 1 (j) Revenues derived pursuant to this section shall be deposited
- 2 into the Violation Remediation Account of the Coastal
- 3 Conservancy Fund and expended pursuant to Section 30823.

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