

Amended IN Assembly April 26, 2017

Amended IN Assembly March 09, 2017

CALIFORNIA LEGISLATURE— 2017–2018 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.

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: NO

BILL TEXT

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

SECTION 1.

(a) The Legislature finds and declares all of the following:

(1) California beaches provide recreation opportunities for residents across the state, as well as visitors from around the world.

(2) The coastal economy is based upon the maintenance of precious natural areas, beaches, parks, and urban areas as tourist destinations, and their economic benefit to the state depends on protection of their scenic and recreational value.

(3) As climate change occurs, much of the coast is under threat due to sea level rise and amplified coastal erosion.

(4) The economic and environmental health of human and natural coastal communities depends on their resilience and their ability to survive and rebound from adverse effects.

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

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

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

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

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

SEC. 2.

Section 30235 of the Public Resources Code is amended to read:

30235.

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

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

SEC. 3.

Section 30624 of the Public Resources Code is amended to read:

30624.

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

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

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

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

(e) (1) An emergency permit issued under this section 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. 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 the emergency authorization granted under this section. Any development in the coastal zone that is covered under an emergency authorization granted pursuant to this section shall be removed at the end of the term of the permit unless authorized by a subsequent coastal development permit or a determination that no permit is needed, and any area affected by the development shall be restored to its prior condition.

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

SEC. 4.

Section 30821 of the Public Resources Code is amended to read:

30821.

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

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

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

(d) A person shall not be subject to both monetary civil liability imposed under this section and monetary civil liability imposed by the superior court for the same act or failure to act. If a person who is assessed a penalty under this section fails to pay the administrative penalty, otherwise fails to comply with a restoration or cease and desist order issued by the commission in connection with the penalty action, or challenges any of these actions by the commission in a court of law, the commission may

maintain an action or otherwise engage in judicial proceedings to enforce those requirements and the court may grant any relief as provided under this chapter.

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

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

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

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

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

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

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

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

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