

Date of Hearing: April 4, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 2160 (Bennett) – As Amended February 15, 2022

SUBJECT: Coastal resources: coastal development permits: fees

SUMMARY: Amends the California Coastal Act to authorize a city or county, at the request of an applicant for a coastal development permit, to waive or reduce the permit fee for specified projects.

EXISTING LAW:

Pursuant to the California Coastal Act of 1976 (Coastal Act) (Public Resources Code § 30600 et seq):

- 1) Requires any person wishing to perform or undertake any development in the coastal zone, in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, to obtain a coastal development permit.
- 2) Prohibits the California Coastal Commission (Commission) from exercising its coastal development permit review authority over any new development within the area to which the certified local coastal program, or any portion thereof, applies.
- 3) Requires a local government, if it has been delegated authority to issue coastal development permits, to recover any costs incurred from fees charged to individual permit applicants.
- 4) Authorizes the local government to elect to not levy fees.
- 5) Authorizes the Commission to waive the filing fee for an application for a coastal development permit.

THIS BILL:

- 1) Defines “applicant” as a qualified nonprofit organization or a public agency.
- 2) Defines “habitat restoration project” as a project proposed for the sole purpose of restoring or enhancing the ecological function, biodiversity, or resiliency of native habitat.
- 3) Defines “public access project” as a project with the primary purpose of creating, enhancing, expanding, or restoring public amenities that provide access to or along the coast.
- 4) Authorizes, at the request of an applicant for a coastal development permit, a city or county to waive or reduce a coastal development permit fee for a public access project or habitat restoration project.

- 5) Authorizes, if a city or county rejects a fee waiver or fee reduction request, the applicant to submit the coastal development permit application directly to the Commission.

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author’s statement.**

Nonprofits perform a wide assortment of habitat restoration and public access work in communities across California. However, high Coastal Development Permitting fees can present a financial barrier to performing meaningful work in a community. This bill eases financial hurdles to allow for restoration and public access projects to be completed by non-profits working for the public's interests as determined by the Coastal Commission.

- 2) **Cutting the Green Tape.** The State of California has identified “Cutting Green Tape” as a signature initiative to increase the pace and scale of environmental restoration. Complex and overlapping permitting processes can result in fewer and smaller actions being taken at a slower pace and a greater expense. In the November 2020 stakeholder-coordinated report issued by California Landscape Stewardship Network, *Cutting Green Tape: Regulatory Efficiencies for a Resilient Environment*, sometimes, fully one-third of public funding for a restoration project goes to planning and permitting, and a project that only takes weeks to implement can take years to permit. Much like the familiar term, “red tape,” “green tape” represents the extra time, money, and effort required to get environmentally beneficial work done because of inefficiencies in our current systems.

In fact, the report recommends the “Coastal Commission explore and utilize efficiencies within their authorities to advance small- and large-scale restoration that are consistent with and/or complementary to existing and planned efficiencies authorized by [other state agencies]”.

- 3) **Commission fee authority.** Commission regulations allow for coastal development permit applicants to request the reduction or waiver of application filing fees. According to the Commission, between 2000 and 2018 there were only eight instances in which a fee reduction or waiver was sought, and only two of these eight requests came from nonprofit organizations.

In hopes of spurring use of that authority to support public benefit projects, AB 1011 (Petrie-Norris, Chapter 185, Statutes of 2019) codified that regulatory provision to authorize the Commission to give extra consideration to waiving the filing fee for nonprofits if the permit is required for a habitat restoration project or a project to provide public access to coastal resources.

- 4) **Taking one step farther.** At the request of an applicant for a coastal development permit, AB 2160 would authorize a city or county to waive or reduce a coastal development permit fee for a public access project or habitat restoration project.

If a city or county rejects a fee waiver or fee reduction request, the bill authorizes the applicant to submit the coastal development permit application directly to the Commission, which, as mentioned above, has the authority to waive or reduce the fees for certain applicants.

If AB 2160 should be enacted, and a city or county declines to waive or reduce an applicant's permit fee for a project covered by the bill when reviewing the permit application, the Commission would maintain its standard of review and defer to all of the requirements of that local government's LCP.

The process proposed by the bill would effectively enable local governments to avoid the lost cost of waived fees, allow the Commission to absorb the fees, and defer the workload of the application review to the state while adhering to the local government's LCP.

Depending on the details of their LCP, some local governments already have discretion to waive or reduce permit fees for applicants, but it's unclear which or how many currently have this authority under their LCP.

- 5) **Eligible projects.** Habitat restoration and public access projects that would be covered under the bill are consistent with those that would further some of the state's goals.

Outdoor Access for All is First Partner Jennifer Siebel Newsom's initiative to enable greater access to nature for all Californians, and provides passes to State Parks and other pathways to providing quality time in nature to Californians.

In addition, Governor Newsom's Nature Based Solutions Executive Order N-82-20 elevates the role of natural and working lands in the fight against climate change and advancing biodiversity conservation as an administration priority. As part of this Executive Order, California is committed to the goal of conserving 30% of state lands and coastal waters by 2030. The draft report, *Pathways to 30x30 California*, states:

Access to nature is critical to human health and well-being. Working to achieve 30x30 provides an opportunity to expand outdoor access and recreation for all Californians. Fostering human connections to nature can increase community support for its protection and ensure all Californians have access to its benefits.

The public access (and habitat restoration) projects have a direct nexus to the state's goals; reducing costs for them creates an incentive to permit more of those projects.

- 6) **Arguments in support. The California Coastal Protection Network, Surfrider Foundation, among other signatories, state:**

Maximizing public access and restoring sensitive coastal habitats are two central principles of the Coastal Act and priorities of our organizations. Many of our organizations are frequently involved in on-the-ground easement or restoration projects that are burdened by high fees, local opposition, and disinterested bureaucracies. These projects would directly benefit from a more streamlined permitting process and help local governments address unnecessary financial and capacity burdens. With this bill, applicants are able to apply directly to the

Coastal Commission for a permit if a local government denies a request. The Commission's permit fees are typically lower than local governments' and the Commission already has the obligation to give close consideration to fee waiver requests from NGOs. This approach would also streamline the process for those projects that may otherwise be appealed to the Commission anyway.

7) Related legislation.

AB1408 (Petrie-Norris, 2021), which was identical to AB 2160, was held in the Assembly Natural Resources Committee due to the Covid-19 pandemic and limits on how many bills policy committees could hear.

AB 1011 (Petrie-Norris, Chapter 185, Statutes of 2019) authorizes the Commission to give extra consideration to waiving the filing fee for nonprofits if the permit is required for a habitat restoration project or a project to provide public access to coastal resources.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Coastal Protection Network
Central Coast Alliance United for Sustainable Economy
Environmental Center of San Diego
Surfrider Foundation
The Wildlands Conservancy
Tolowa Dunes Stewards
West Marine Environmental Action Committee

Opposition

None on file.

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