
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Henry Stern, Chair

2021 - 2022 Regular

Bill No:	AB 2160	Hearing Date:	June 14, 2022
Author:	Bennett		
Version:	May 5, 2022 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Katharine Moore		

Subject: Coastal resources: coastal development permits: fees

BACKGROUND AND EXISTING LAW

The California Coastal Commission (commission) was established by voter initiative in 1972. The Legislature later made the Coastal Commission permanent through the adoption of the California Coastal Act of 1976 (Coastal Act) (Public Resources Code (PRC) §§30000 *et seq.*). The Commission plans for and regulates the use of land and water in the coastal zone (which excludes the San Francisco Bay).

The commission is an independent, quasi-judicial state agency, and its mission statement states that it “is committed to protecting and enhancing California’s coast and ocean for present and future generations.” The commission does so “through careful planning and regulation of environmentally sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination.”

Development activities in the coastal zone generally require a coastal development permit (CDP) issued by the commission or by a local government with a local coastal program (LCP) certified by the commission. Coastal Act policies are the standards the Coastal Commission uses to determine the permissibility of proposed developments subject to its jurisdiction

Existing law, pursuant to the Coastal Act:

- 1) Establishes the commission in the California Natural Resources Agency.
- 2) Includes legislative findings and declarations that the basic goals of the state for the coastal zone include:
 - a) Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources, and
 - b) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners, among other things. (PRC §30001.5)
- 3) Provides for the planning and regulation of development within the coastal zone, as defined.

- a) A person planning to perform or undertake any development in the coastal zone is required to obtain a CDP from the commission or local government enforcing a certified LCP. (PRC §30600)
 - i) Development means, among other things, the placement or erection of any solid material or structure on land or in water. Structure means building, road, pipe, flume, conduit, and electrical power transmission and distribution lines, among other things. (PRC §30106)
 - ii) The coastal zone means the coastal land and waters of California, and includes the lands that extend inland generally 1,000 yards from the mean high tide line, as specified, with various exceptions including the San Francisco Bay. (PRC §30103)
- 4) Prohibits the commission from exercising its review authority over any new development within the area to which the certified LCP, or any portion thereof, applies. (PRC §30519)
- 5) Requires that the standard of review used by the commission for the appeal of certain local jurisdiction-issued CDPs is the applicable certified LCP, as provided. (PRC §30603)
- 6) Requires a local government, if it has a certified LCP, to recover any costs incurred from fees charged to permit applicants. Authorizes local governments to elect not to charge fees for CDPs. (PRC §30600.6)
- 7) Directs the commission to give additional consideration to non-profit organizations undertaking public access or restoration projects when considering a request for a fee waiver. (PRC §30620)

Existing law further provides that government entities cannot be required to pay filing fees for the performance of any official services. (Government Code §6103) The commission interprets this provision to mean that it cannot assess CDP application fees from public entities.

PROPOSED LAW

This bill amends the Coastal Act to authorize a city or county to waive or reduce CDP fees for public access or habitat restoration projects, as specified. Specifically, this bill would:

- 1) Authorize a city or county to waive or reduce a CDP fee for a public access or habitat restoration project at the request of the applicant.
- 2) Authorize the applicant, if the city or county denies the fee waiver or reduction request, to submit the CDP application directly to the commission.
- 3) Provide that these changes shall not be construed to impact, address, or change a local coastal plan or program.
- 4) Define relevant terms including applicant, habitat restoration project, and public access project, as provided.

ARGUMENTS IN SUPPORT

According to the author, “Nonprofits perform a wide assortment of habitat restoration and public access work in communities across California. However, high Coastal Development Permitting (CDP) 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.”

The Environmental Center of San Diego adds “While a few thousand dollars may not seem like a significant cost, it can be a barrier to small non-profits who rely on individuals donations.”

ARGUMENTS IN OPPOSITION

None received

COMMENTS

The permit fee waiver is applicable in very limited circumstances. Only public agencies or nonprofits interested in undertaking projects where the primary purpose is public access, as defined, or the only purpose is habitat restoration are eligible. Providing for public access and habitat restoration or protection are fundamental goals of the Coastal Act. The commission appears to already not charge public entities for permit fees in at least certain circumstances.

The commission’s analysis of this bill notes that projects that will meet the proposed criteria are a “very small percentage of project applications.” They also note that “Because these types of projects provide public benefits that are in line with state priorities, as a matter of public policy, it is reasonable for the state to incentivize them by encouraging reasonable cost savings [to the applicant] where feasible.”

The permit fee waiver should help to facilitate qualifying projects. Helping to facilitate public access and habitat restoration are consistent with existing statutory Coastal Act policies. Reduced or no permit fees will be one less barrier to qualifying projects receiving CDP permits.

In some jurisdictions, local CDP fees can exceed those required by the commission. This bill does not force local governments to provide relief, but authorizes an applicant to instead seek a CDP permit from the commission who may grant a fee waiver. In addition, while some local jurisdictions may provide fee waivers for certain projects in particular instances, this bill would make the fee waiver policy uniform statewide for qualifying projects.

The permit fee waiver is consistent with Newsom Administration policy. Facilitating public access and habitat restoration projects in the coastal zone is consistent with the goals of Newsom Administration initiatives led by the California Natural Resources Agency. These initiatives include *Cutting Green Tape*, *Access for All*, and *30x30*. *Cutting Green Tape* seeks to “increase the pace and scale of ecological restoration and stewardship by amending and streamlining various government processes”, and *Access for All* seeks to “expand all Californians’ access to parks, open space, nature, and cultural amenities.” Conserving thirty percent each of the state’s lands and coastal waters by 2030 is the goal of *30x30*.

According to the Assembly Natural Resources Committee’s bill analysis, the final *Cutting Green Tape* report explicitly recommends that the commission “explore and utilize efficiencies within their authorities to advance small- and large-scale restoration that are consistent with an/or complementary to existing and planned efficiencies authorized by [other state agencies].”

Recent related legislation

AB 1408 (Petrie-Norris, 2021) would have amended the Coastal Act to authorize a city or county to waive or reduce CDP fees for public access or habitat restoration projects, as specified. *(This bill was not heard due to bill number limitations imposed due to the COVID-19 pandemic.)*

AB 1011 (Petrie-Norris, Chapter 185, Statutes of 2019) codified the commission’s regulatory authority to waive CDP fees in the circumstances that a non-profit was applying for a CDP for a habitat restoration project of a public access project.

SUGGESTED AMENDMENTS: none

SUPPORT

California Coastal Commission
California Coastal Protection Network
Central Coast Alliance United for a Sustainable Economy
Environmental Action Committee of West Marin
Environmental Center of San Diego
Midpeninsula Regional Open Space District
Surfrider Foundation
Sustainable Conservation
The Wildlands Conservancy
Tolowa Dunes Stewards

One individual

OPPOSITION

None Received

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