

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 500 (Ward) – As Amended April 19, 2021

**SUBJECT:** Local planning: permitting: coastal development

**SUMMARY:** Requires housing opportunities for persons of low and moderate income to be protected, encouraged, and, where feasible, provided by the California Coastal Act of 1976 (Coastal Act). Requires, no later than January 1, 2024, specified local governments within the coastal zone to adopt specified local coastal program (LCP) amendments related to accessory dwelling units (ADU) and supportive housing projects.

**EXISTING LAW,** pursuant to the Coastal Act:

- 1) Establishes the California Coastal Commission (Commission) in the Natural Resources Agency and requires the Commission to consist of 15 members (3 non-voting and 12 voting).
- 2) Requires a person planning to perform or undertake any development in the coastal zone to obtain a coastal development permit (CDP) from the Commission or local government enforcing a LCP.
- 3) Defines "development" to mean, among other things, the placement or erection of any solid material or structure on land or in water. "Structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.
- 4) Defines the "coastal zone" as the land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas, the coastal zone extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less. In developed urban areas, the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, nor any area contiguous thereto, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area.
- 5) Requires lower cost visitor and recreational facilities to be protected, encouraged, and, where feasible, provided. Declares a preference for developments providing public recreational opportunities.
- 6) Prohibits LCP's from being required to include housing policies and programs.
- 7) Authorizes the Commission to consider environmental justice, or the equitable distribution of environmental benefits throughout the state, when acting on a CDP as the issuing agency, or as the Commission on appeal.

- 8) Declares that the Legislature finds that it is important for the Commission to encourage the protection of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

**THIS BILL:**

- 1) Requires housing opportunities for persons of low and moderate income to be protected, encouraged, and, where feasible, provided.
- 2) Requires new development in nonhazardous areas to preserve and enhance the supply of higher density residential, multifamily residential, and mixed-use development in areas with adequate public transit.
- 3) Deletes the prohibition on requiring local coastal programs to include housing policies and programs.
- 4) Requires, no later than January 1, 2024, a local government lying, in whole or in part, within the coastal zone that has a certified land use plan or a fully certified LCP to adopt and submit to the Commission the amendment that specifies streamlining of permitting procedures for the approval of ADUs and supportive housing projects.

**FISCAL EFFECT:** Unknown

**COMMENTS:****1) Author's statement:**

ADUs and supportive housing are proven solutions to address the current housing crisis for middle- and low-income Californians, yet they are underutilized in the coastal zone, in part due to the time-intensive regulatory process. AB 500 will streamline the regulatory process for ADUs and supportive housing, and will give coastal communities the opportunity to partner with the California Coastal Commission to provide new affordable housing solutions for all Californians.

- 2) **Coastal Commission.** The Commission was established by voter initiative in 1972 (Proposition 20) and later made permanent by the Legislature through adoption of the Coastal Act. In partnership with coastal cities and counties, the Commission plans and regulates the use of land and water in the coastal zone. Development activities, which are broadly defined by the Coastal Act to include construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters, generally require a CDP from either the Commission or the local government with a certified LCP.

The Commission is an independent, quasi-judicial state agency, and is composed of 12 voting members, appointed equally (4 each) by the Governor, the Senate Rules Committee, and the Speaker of the Assembly. Six of the voting commissioners are locally elected officials and six are appointed from the public at large. Three ex officio (non-voting) members represent the Natural Resources Agency, the Transportation Agency, and the State Lands Commission.

According to the Commission's mission statement:

The Commission is committed to protecting and enhancing California's coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination.

The Commission's implementation of the Coastal Act included guidelines for the protection of affordable housing, which were adopted in 1977. The Commission prohibited the demolition of low- and moderate-income housing for reasons other than health and safety. The Commission also included density bonuses and reduced parking requirements in their guidelines to prioritize new affordable housing opportunities. The guidelines were revised in 1979 and 1981 to require in-lieu fees, land dedication, and housing credits in certain circumstances. The Commission also required specified percentages of proposed housing units set aside for low- and moderate-income households. According to the Commission, its inclusionary housing program resulted in the approval of approximately 5,000 affordable units between 1977 and 1981. The Commission also states that it denied the demolition of more than 1,100 existing affordable units. The Commission also required approximately \$2,000,000 in "in lieu" fees for affordable housing between 1977 and 1981. In 1981, SB 626 (Mello), Chapter 1007, Statutes of 1981, repealed the Commission's authority to protect and provide affordable housing, but persevered its authority to protect and provide lower cost visitor and recreational facilities.

- 3) **Lower cost accommodations.** The Commission has carried out the Coastal Act mandate to protect and provide lower cost visitor-serving accommodations in various ways. The Commission has certified LCP policies throughout the coastal zone. Through CDP actions, the Commission has in some cases denied permit applications for development that would eliminate existing lower cost facilities, and has in other cases required lower cost accommodations to be constructed in conjunction with new higher cost hotels either on or off site.

The Commission has also collected over \$24 million in "in-lieu" fee mitigation for impacts to lower cost accommodations, and more than \$10 million of those fees have resulted in the development of significant lower cost accommodations along the California coast, including support for the 260-bed Santa Monica Hostel, the restoration of Crystal Cove Cottages in Orange County, and nearly 200 new State Parks campsites. However, millions of dollars in in-lieu fees remain unspent, and the Commission is currently engaged in an effort to document all past "in lieu" fee requirements. The Commission partnered with State Parks, the State Coastal Commission, regional agencies, local governments, and non-profits on projects funded by in-lieu fees.

- 4) **Affordable housing.** According to the California Housing Partnership Corporation, California needs 1,299,120 more affordable rental homes to meet the needs of its lowest income renters. At the same time, market pressures have driven prices up farther inland from the coastline, widening the gap that low- and moderate-income communities must cross to access the coast. The Coastal Act states:

The Legislature finds and declares that it is important for the Commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

However, the Commission is prohibited from requiring LCPs from having affordable housing policies. The Commission believes it is largely powerless to address the issue of affordable housing because of this prohibition. AB 500 would repeal that prohibition and require the Commission to protect and provide affordable housing. The Commission voted unanimously to support AB 500.

If the Commission is given the authority to protect and provide affordable housing, it may develop regulations that include similar requirements to those that existed prior to 1981 or what is currently required to protect lower cost accommodations. This could include “in lieu” fees. There are currently concerns with the “in lieu” fees generated from CDP that do not provide adequate lower cost accommodations because they are small relative to the total cost of a lower cost accommodation project. In addition, “in lieu” fees are a condition of an individual CDP and often have geographic and nexus requirements that makes it more complicated to fund appropriate projects. These same concerns may apply to any “in lieu” fees that could be required by the Commission to protect affordable housing.

- 5) **ADUs.** This bill also requires a local government with a certified LCP or land use plan to adopt an LCP amendment no later than January 1, 2024 to streamline permitting procedures for the approval of ADUs and supportive housing projects. Legislation that streamlined the approval process for ADUs such as AB 2299 (Bloom), Chapter 735, Statutes of 2016, and SB 1069 (Wieckowski) Chapter 720, Statutes of 2016, has preserved the applicability of the Coastal Act. However, the Commission has recommended that local governments adopt amendments to their LCP to streamline approval of ADUs in ways consistent with the Coastal Act and to the extent feasible meet the intent of the legislation. The Commission has offered to process ADU-specific LCP amendments as minor or de minimis amendments whenever possible. Approximately 19 local governments already have certified LCP amendments for ADU streamlining.
- 6) **Double referral.** This bill is double referred to the Housing and Community Development Committee.
- 7) **Prior legislation.**

AB 663 (Bloom, 2017) required, until January 1, 2023, housing opportunities for persons of low and moderate income to be protected, encouraged, and, where feasible, provided by the Coastal Act. This bill failed the Assembly Floor on a 33-37 vote.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Coastal Commission  
Elders Action Network

### **Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. /