
THIRD READING

Bill No: SB 83
Author: Allen (D)
Amended: 5/20/21
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 3/16/21
AYES: Laird, Jones, Allen, Eggman, Grove, Hertzberg, Hueso, Limón, Stern

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/20/21
AYES: Portantino, Bradford, Jones, Kamlager, Laird, Wieckowski
NO VOTE RECORDED: Bates

SUBJECT: Sea Level Rise Revolving Loan Program

SOURCE: Author

DIGEST: This bill requires the Ocean Protection Council, in consultation with the State Coastal Conservancy, to develop the Sea Level Rise Revolving Loan Program for the purposes of providing low-interest loans to local jurisdictions to purchase coastal properties identified as vulnerable coastal property, as provided.

ANALYSIS:

Existing law:

- 1) Establishes the State Coastal Conservancy (Coastal Conservancy) to, among other things, restore coastal habitat, and provide public access to the coastline.
 - a) The Coastal Conservancy provides grants through, for example, its Climate Ready Program to help grantees address the impacts of climate change in its jurisdiction.
- 2) Establishes the Ocean Protection Council (OPC).

- a) The OPC is required, among other things, to establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies.
- 3) Establishes the California Infrastructure and Economic Development Bank (I-Bank) in the Governor's Office of Business and Economic Development.
 - a) The I-Bank makes loans, issues bonds, and provides financial assistance for various types of qualified projects, among other things.
- 4) Establishes the California Coastal Commission (Coastal Commission) pursuant to the California Coastal Act of 1976.
 - a) The Coastal Commission has jurisdiction over the planning and regulation of development within the coastal zone, among other things.
- 5) Establishes the State Lands Commission and vests it with jurisdiction over certain public and sovereign lands, including tidelands and submerged lands.

This bill requires the OPC, in consultation with the Coastal Conservancy, to develop the Sea Level Rise Revolving Loan Program for the purposes of providing low-interest loans to local jurisdictions to purchase coastal properties identified as vulnerable coastal property, as provided. Specifically, this bill:

- 1) Establishes the Sea Level Rise Revolving Loan Program (Program).
- 2) Defines "local jurisdiction" as a city, county or resource conservation district that includes a vulnerable coastal property, and provides for a county, resource conservation district or joint powers authority, as specified, to act as a local jurisdiction in certain circumstances.
 - a) A "vulnerable coastal property" means any coastal property, building, or structure identified by a local jurisdiction that is vulnerable to sea level rise as determined in accordance with criteria developed by the OPC, as provided.
- 3) Requires the OPC, in consultation with the Coastal Conservancy, to develop the Program, as specified.
 - a) The Program shall provide low-interest loans to local jurisdictions for the purchase of coastal properties in their jurisdictions identified as vulnerable coastal property.

- 4) Requires the OPC, by January 1, 2023, in consultation with the Coastal Commission, the State Lands Commission, the Office of Planning and Research, the Strategic Growth Council, the San Francisco Bay Conservation and Development Commission and other state planning and coastal management agencies to do both of the following:
 - a) Adopt criteria and guidelines for the identification of vulnerable coastal properties eligible for participation in the Program. These include, among others:
 - i) Required conditions for coastal properties to be identified as vulnerable coastal properties.
 - ii) Specific information to be included in a vulnerable coastal property plan created by the local jurisdiction in order to determine the risks of sea level rise and related risks to the community, as specified.
 - iii) Criteria to identify when a vulnerable property is no longer habitable, as specified.
 - b) Post all developed criteria and guidelines on the OPC's internet website.
- 5) Authorizes a local jurisdiction to apply for, and be awarded, a low-interest loan through the Program from the Coastal Conservancy if the local jurisdiction develops and submits to the Coastal Conservancy a vulnerable coastal property plan (plan), and meets any other requirements imposed by the Coastal Conservancy.
 - a) The plan shall include certain information, including how identified vulnerable coastal property or properties meet the criteria developed by the OPC, the process and timeframe for the local jurisdiction to acquire the vulnerable coastal property included in the plan, a lease agreement and management plan for the vulnerable coastal property demonstrating that rental income during the time period is sufficient to repay the loan, and an explanation of how any structure will be removed when it can no longer be safely occupied without the need for a shoreline protective device, as specified.
- 6) Requires the Coastal Conservancy to review a plan submitted by a local jurisdiction and approve the plan in writing if it determines the plan meets the OPC's criteria and guidelines. If the plan does not meet the OPC's criteria and guidelines, the Coastal Conservancy shall return the plan to the local

jurisdiction with a clear explanation of why it does not meet the criteria, and suggestions for improvement, if practicable.

- 7) Requires a local jurisdiction, if receiving a loan, to use the moneys to purchase the property or properties included in the plan through a fair and transparent purchase process.
 - a) The local jurisdiction shall not use eminent domain to acquire vulnerable coastal properties in the Program.
- 8) Creates the Sea Level Rise Revolving Loan Fund (Fund) in the State Treasury, as provided, to be administered by the Coastal Conservancy for the purposes of providing low-interest loans to eligible jurisdictions in accordance with the Program.
 - a) The I-Bank at the request of the Coastal Conservancy shall make recommendations regarding specific financing mechanisms and risk mitigation measures necessary and appropriate for the successful administration of the Fund, among other things, as specified.
 - b) The Coastal Conservancy, upon appropriation by the Legislature, may provide low-interest loans from the Fund for the purposes of the Program to any local jurisdiction that meets the requirements in connection with the financing or refinancing of a vulnerable coastal property either as a sole lender or in participation or syndication with other lenders, as provided. The financing shall not exceed the total value of the vulnerable coastal property being financed.
 - c) Loan repayments, fees and penalties are required to be deposited in the Fund for certain uses, including, upon appropriation by the Legislature, for additional loans authorized under the Program. The Coastal Conservancy may use moneys in the Fund to pay for administrative costs associated with Program implementation, as specified.
- 9) Provides implementation of the Program is contingent upon legislative appropriation through the annual Budget Act or otherwise.
- 10) Makes relevant and appropriate legislative findings.

Background

In late 2019, the Legislative Analyst's Office (LAO) released a report describing the threat sea level rise poses to the state. The LAO found that the state faces the

threat of extensive and expensive sea level rise impacts, and emphasized how important it is for coastal communities to start preparing for that threat now. In addition, the LAO determined that the state has a vested interest in coastal communities becoming prepared, despite most responsibility for sea level rise preparation residing with local governments. The LAO's recommendations included fostering regional-scale adaptation, and providing support for local planning and adaptation projects, among others. The LAO also noted that creative and innovative solutions could help address the risks posed by rising sea level.

A few states have begun home buyout programs in certain coastal areas after experiencing severe or repeated flooding or extensive storm damage. For instance, after Hurricane/Superstorm Sandy, New Jersey established the "Blue Acres Program" in 2012 to dedicate state funds and leverage federal dollars to purchase at-risk homes. As of September 2019, this program has spent \$375 million to purchase and demolish almost 1,000 properties. Damage from Hurricane Sandy also resulted in New York purchasing 300 homes for \$120 million on Staten Island. Both of these examples used a combination of state and federal public funds. In North Carolina, a regional storm water service agency purchased 460 properties at a cost of \$67 million. Storm water fees financed this program almost entirely. Once frontline properties are purchased, residents are able to relocate to areas at lower risk of flooding or storm damage. The frontline areas can then be restored and managed to promote resiliency and mitigate the impacts of future floods and storms.

The state's recent Fourth Climate Change Assessment found that climate change impacts in the coastal zone already are "unprecedented," and will include the direct impacts of sea level rise, changes in ocean conditions, increased flooding (including from rising groundwater tables, but also high "king" tides), and other hazards. Sea level rise poses an immediate and real threat to coastal ecosystems, livelihoods and economies, public access to the coast, recreation, private property, public infrastructure, water supplies, and the well-being and safety of coastal communities, including vulnerable populations.

The sea level along the state's coastline is currently predicted to rise by as much as one-half foot by 2030 and up to 7 feet by 2100. According to the National Oceanic and Atmospheric Administration, 12.3 million people were employed in coastal California in 2015, earning about \$883.5 billion, which corresponds to over \$2 trillion in annual gross domestic product. Just over 2/3s of the state's residents live in coastal counties. Sea level rise puts this at risk.

Three options exist for adapting to sea level rise – build barriers for protection, adapt to accommodate regular or periodic flooding, and relocate assets out of the flood zone. Each of these options has trade-offs, and may not be feasible or practical in a given location. However, as the LAO noted recently, undertaking coastal adaptation and resilience activities is likely much less costly than avoiding or delaying action. The LAO cites the Federal Emergency Management Agency’s (FEMA’s) calculation that \$1 spent in various types of pre-disaster mitigation efforts avoids public and private losses of \$6 total. Action today may also provide for more time in the future to mount a more intensive response.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- Ongoing cost pressure of \$907,000 annually (Sea Level Rise Revolving Loan Fund [SLRRLF]) for the State Coastal Conservancy (SCC) to administer and oversee the program established by this bill.
- One-time cost pressure of \$60,000 to \$80,000 and ongoing cost pressure of \$20,000 annually (SLRRLF) for the California Coastal Commission to provide input and coordinate with SCC on criteria and guidelines. While SCC would be required to also coordinate with other agencies, the Coastal Commission would likely be the most substantive participant given their existing regulatory authority and extensive work with local governments on sea level rise.
- The Ocean Protection Council (OPC) estimates that any cost pressure from this bill would be absorbable within existing programs.
- Unknown, likely significant ongoing cost pressure to provide funding for the loans established under this program.
- To the extent that this bill results in an increase or acceleration of adaptation activities, this bill could result in savings due to lowering the risk of loss or damage to state resources, mitigating potential negative impacts on the state economy, and avoiding some disaster response spending.

SUPPORT: (Verified 5/21/21)

Banning Ranch Land Trust
California Coastal Commission
California Coastal Protection Network
City of Santa Monica
Coastwalk/California Coastal Trail Association

Sierra Club California
South Bay Cities Council of Governments
Surfrider Foundation
The Nature Conservancy

OPPOSITION: (Verified 5/21/21)

None received

ARGUMENTS IN SUPPORT: According to the author, “California already faces grave impacts from climate change, which will only worsen as global temperatures climb and polar ice caps melt. As home to more coastal residents than any other state, California is uniquely vulnerable to the hazards posed by sea level rise, which has accelerated over the past decade. According to the Ocean Protection Council’s Science Advisory Team, projections for sea levels are expected to increase. The coastline could experience a half-foot rise by 2030, a two-foot rise by 2050, and surge up to nine feet by 2100. The Legislative Analyst’s Office estimates around \$8 billion to \$10 billion of existing properties in California are likely to be underwater by 2050.”

“Coastal communities have struggled to effectively prepare for sea level rise, grappling with controversial and costly options such as coastal armoring (seawalls), beach nourishment, and managed retreat. However, if California acts now to develop creative tools, we can be better prepared for advanced sea level rise impacts. SB 83 creates a revolving loan fund within the I-Bank to provide low-interest loans to local government. The loans would be used to buy properties that will be threatened in the next one or two decades, allowing the owners to sell while the property still has value. The local government can then rent out the property, repay the loan, and potentially earn additional revenue. Once the property is at risk of flooding from the rising sea, the property can be demolished without taxpayers bearing the cost.”

In a joint sign-on letter, the Nature Conservancy and others add, “California must act to protect coastal communities from climate change and SB 83 serves as a critical step in developing proactive strategies.”

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