

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 83 (Allen) – As Amended May 20, 2021

**SENATE VOTE:** 35-2

**SUBJECT:** Sea Level Rise Revolving Loan Program

**SUMMARY:** Requires, upon appropriation, the Ocean Protection Council (OPC), in consultation with the State Coastal Conservancy (SCC), to develop the Sea Level Rise Revolving Loan Program (Program) to provide low-interest loans for the purchase of vulnerable coastal property, as specified.

**EXISTING LAW:**

- 1) Requires the California Coastal Commission to protect, conserve, restore, and enhance the state's coastal resources.
- 2) Authorizes the San Francisco Bay Conservation and Development Commission (BCDC), in coordination with local governments, regional councils of government, and other agencies and interested parties, to develop regional strategies for addressing the impacts of, and adapting to, the effects of sea level rise and other impacts of global climate change on the San Francisco Bay and affected shoreline areas.
- 3) Requires state agencies to take into account the current and future impacts of climate change when planning, designing, building, operating, maintaining and investing in state infrastructure.
- 4) Requires the Natural Resources Agency (NRA) to update its climate adaptation strategy, the Safeguarding California Plan (Plan), by July 1, 2017, and every three years thereafter, by coordinating adaptation activities among lead state agencies in each sector.
- 5) Establishes the Climate Ready Program to be administered by the SCC.
- 6) Requires the OPC to develop and implement a coastal climate change adaptation, infrastructure, and readiness program to recommend best practices and strategies to improve the climate change resiliency of the state's coastal communities, infrastructure, and habitat.
- 7) Protects, pursuant to the common law doctrine of the public trust (Public Trust Doctrine), the public's right to use California's waterways for commerce, navigation, fishing, boating, natural habitat protection, and other water-oriented activities. The Public Trust Doctrine provides that filled and unfilled tide and submerged lands and the beds of lakes, streams, and other navigable waterways (public trust lands) are to be held in trust by the state for the benefit of the people of California.
- 8) Requires the State Lands Commission (SLC) to be the steward and manager of the state's public trust lands. SLC has direct administrative control over the state's public trust lands

and oversight authority over public trust lands granted by the Legislature to local governments.

- 9) Requires a local trustee of granted public trust lands whose annual gross public trust revenues exceed \$250,000 to prepare and submit to the SLC an assessment of how it proposes to address sea level rise.

**THIS BILL:**

- 1) Defines “local jurisdiction” to mean a city, county, or resource conservation district (RCD) in which a vulnerable coastal property is located. Authorizes a county, RCD, or joint powers authority, which may include a state agency, to act as the local jurisdiction for a city or county upon implementation of a memorandum of understanding between the two jurisdictions.
- 2) Requires the OPC, in consultation with the SCC, to develop the Program. Requires the Program to provide low-interest loans to local jurisdictions for the purchase of vulnerable coastal property in their jurisdictions.
- 3) Requires, before January 1, 2023, OPC, in consultation with the Office of Planning and Research, the Strategic Growth Council, the Commission, SLC, and the BCDC to do both of the following:
  - a) Adopt criteria and guidelines for the Program, including, but not limited to, all of the following:
    - i) Required conditions for coastal properties to be identified as vulnerable coastal properties;
    - ii) Specific information required to be included in a vulnerable coastal property plan created by a local jurisdiction in order to determine the risks of sea level rise and related risks to that community, including, but not limited to, flooding and erosion; and,
    - iii) Criteria, including existing applicable laws and other standards, to identify when a vulnerable coastal property is no longer habitable.
  - b) Post all criteria and guidelines on the OPC’s internet website.
- 4) Authorizes a local jurisdiction to apply for, and be awarded, a low-interest loan through the Program only if the local jurisdiction does the following:
  - a) Develops and submits to the SCC a vulnerable coastal property plan, as specified; and,
  - b) Other requirements imposed by the SCC.
- 5) Requires the SCC to review a vulnerable coastal property plan submitted by a local jurisdiction, and determine the plan meets the criteria and guidelines. Requires the SCC to approve or return the plan with an explanation of why the plan fails to meet the criteria.

- 6) Requires, if awarded a loan, a local jurisdiction must use the loan to purchase the vulnerable coastal property through a fair and transparent purchase process.
- 7) Prohibits the local jurisdiction from using eminent domain to acquire vulnerable coastal properties.
- 8) Establishes the Sea Level Rise Revolving Loan Fund (Fund), to be administered by the SCC, for purposes of providing low-interest loans to eligible local jurisdictions pursuant to the provisions of this bill.
- 9) Requires the California Infrastructure and Economic Development Bank to make specified recommendations regarding the successful administration of the Fund.
- 10) Authorizes the SCC to use the Fund, upon appropriation, for administrative costs incurred implementing the Program.
- 11) Makes the Program contingent upon appropriation by the Legislature.

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- 1) Ongoing cost pressure of \$907,000 annually (Fund) for the SCC to administer and oversee the program established by this bill.
- 2) One-time cost pressure of \$60,000 to \$80,000 and ongoing cost pressure of \$20,000 annually (Fund) for the 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.
- 3) The OPC estimates that any cost pressure from this bill would be absorbable within existing programs.
- 4) Unknown, likely significant ongoing cost pressure to provide funding for the loans established under this program.
- 5) 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.

**COMMENTS:**

1) **Author's statement:**

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 a nine feet by 2100. The Legislative Analyst's Office estimates around \$8 billion to \$10 billion worth 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 State Coastal Conservancy to provide low-interest loans to local governments. 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.

- 2) **Sea level rise.** According to the Fourth Climate Change Assessment, California is one of the most "climate-challenged" regions of North America and must actively plan and implement strategies to prepare for and adapt to extreme events and shifts in previously "normal" averages. The report stated that climate change impacts are here, including the following:
  - a) Temperatures are warming, heat waves are more frequent, and precipitation has become increasingly variable.
  - b) Glaciers in the Sierra Nevada have lost an average of 70% of their area since the start of the 20th century.
  - c) The sea level along the central and southern California coast has risen more than 5.9 inches over the 20th century. Recently, even moderate tides and storms have produced extremely high sea levels—La Jolla's all time highest sea level occurred in November 2015 under a high astronomical tide and a moderate storm.

Climate risks in California include sea level rise, changes in precipitation that increase the risk of both drought and flooding, and increases in temperatures that can affect air quality and habitat.

While Climate scientists have developed a consensus that one of the effects of a warming planet is that global sea levels will rise. The degree and timing of sea level rise, however, is still uncertain, and depends in part, upon whether global greenhouse gas (GHG) emissions and temperatures continue to increase. The magnitude of sea level rise is projected to be about a half-foot in 2030 and as much as seven feet by 2100.

The potential changes in sea levels and coastal storms will impact both human and natural resources along the coast. These events will increase the risk of flooding and inundation of buildings, infrastructure, wetlands, and groundwater basins. A 2015 economic assessment by the Risky Business Project estimated that if current global GHG emission trends continue, between \$8 billion and \$10 billion of existing property in California is likely to be underwater by 2050, with an additional \$6 billion to \$10 billion at risk during high tide. A recent study by researchers from the U.S. Geological Survey (USGS) estimates that by 2100,

roughly 6 feet of sea level rise and recurring annual storms could impact over 480,000 California residents (based on 2010 census data) and \$119 billion in property value (in 2010 dollars). When adding the potential impacts of a 100-year storm, these estimates increase to 600,000 people and over \$150 billion of property value.

Rising seas will also erode coastal cliffs, dunes, and beaches—affecting shorefront infrastructure, houses, businesses, and recreation. The state’s Safeguarding California Plan cites that for every foot of sea level rise, 50 to 100 feet of beach width could be lost. Moreover, a recent scientific study by USGS researchers predicted that under scenarios of three to six feet of sea level rise—and absent actions to mitigate such impacts—up to two-thirds of Southern California beaches may become completely eroded by the year 2100.

In December 2019, the Legislative Analyst Office (LAO) released a report entitled “Preparing for Rising Seas: How the State Can Help Support Local Coastal Adaptation Efforts” which outlined the impacts and issues facing state, regional, and local government related to sea level rise. The report stated that “coastal adaptation activities can help lessen sea level rise impacts” and made several policy recommendations to plan and reduce sea level rise impacts.

Sea Level Rise also threatens the state’s infrastructure, such as water and transportation infrastructure, located within and near the coastal zone and in the BCDC’s jurisdiction. The OPC’s State of California Sea-Level Rise Guidance and the CCC’s Sea Level Rise Policy Guidance recommend evaluating the expected impacts to infrastructure caused by approximately 10 feet of sea level rise over the next 80 years, using what is known as the H++ scenario, along with other sea level rise scenarios. In addition, in May 2020, the CCC adopted “Making California’s Coast Resilient to Sea Level Rise: Principles for Aligned State Action” which recommends addressing a minimum of 3.5 feet of sea level rise in the next 30 years.

- 3) **Buy to rent.** Three options exist for adapting to sea level rise – build barriers for protection, adapt to accommodate regular or periodic flooding, or 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, 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.

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. Since the 1980s, the Federal FEMA has funded over 43,000 buyouts, in which local or state governments purchase flood-damaged properties from willing sellers at pre-flood values and preserve the land as open space. But once a property is included in a request for FEMA funding, homeowners can be kept in limbo for years, waiting to find out if their homes will or won't be purchased. In the meantime, the home may flood—and be rebuilt—yet again.

The LAO noted that creative and innovative solutions could help address the risks posed by rising sea level. This bill provides a creative and innovative solution that could provide farmers of coastal agricultural land, hotel and motel owners, and possibly home owners an option to receive funding from a local jurisdiction now when the property could still be rented out to the owner or another tenant as part of a plan to transition the land to more appropriate uses as sea level rise increases.

This bill does not clearly define which vulnerable coastal properties would be eligible for loans and does not provide direction to the OPC on what factors to consider when determining eligibility. The author and committee *may wish to consider* amending the bill to outline some factors the OPC must consider when determining which properties are eligible for this Program. Factor should include, but not be limited to, the following:

- a) Whether the property will be able to generate enough revenue to repay the loan;
- b) The cost effectiveness of providing the property a loan;
- c) Whether the property is part of the implementation of a local or regional plan to address the impacts of sea level rise; and,
- d) The public benefits of buying the property.

If there is an appropriation for this bill, the SCC will be required to review a vulnerable coastal property plan submitted by a local jurisdiction and either approve or return the plan with specified comments. However, it is not clear how the SCC would handle a situation where it is appropriated a limited amount of money that is unable to keep up with demand for the program. The author and committee *may wish to consider* amending the bill to allow the OPC to consider its available resources when developing criteria and allowing the SCC to consider available resources when deciding to approve or return a plan. Finally, the author and committee *may wish to consider* allowing the SCC to pause the program when the Fund is diminished to a point where there is an insufficient balance to continue providing loans.

#### 4) **Related/prior legislation.**

AB 897 (Mullen) requires OPR to facilitate the creation of regional climate networks and create standards for the development of a regional climate adaptation action plan to support the implementation of regional climate adaptation efforts. This bill is awaiting hearing in the Senate Environmental Quality Committee.

AB 1500 (E. Garcia) would, subject to approval by the voters in the June 7, 2022 primary election, authorize a \$7.08 billion general obligation bond to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat

mitigation, sea level rise, and workforce development programs. This bill has been referred to the Assembly Rules Committee.

SB 1 (Atkins) establishes the California Sea Level Rise Mitigation and Adaptation Act of 2021 (Act) and declares the purpose of the Act is to establish new planning, assessment, funding, and mitigation tools for California to address and respond to sea level rise. This bill requires the Commission to take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, mitigate the adverse effects of sea level rise. This bill is also scheduled to be heard in this committee on June 23.

SB 45 (Portantino) would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, subject to approval by the voters in the November 8, 2022 general election, would authorize the issuance of \$5.59 billion in general obligation bonds to finance projects for wildfire prevention, safe drinking water, sea level rise, drought preparation, and flood protection. This bill is on the Senate Floor.

SB 576 (Umberg), Chapter 374, Statutes of 2019, establishes the Climate Ready Program to be administered by the SCC. This bill requires the OPC to develop and implement a coastal climate change adaptation, infrastructure, and readiness program to recommend best practices and strategies to improve the climate change resiliency of the state's coastal communities, infrastructure, and habitat.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Banning Ranch Land Trust  
California Coastal Commission  
California Coastal Protection Network  
City of Santa Monica  
Coastwalk  
Newport Banning Ranch, LLC  
Sierra Club California  
South Bay Cities Council of Governments  
Surfrider Foundation  
The Nature Conservancy

### **Opposition**

None on file

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