
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Dave Min, Chair
2023 - 2024 Regular

Bill No:	AB 584	Hearing Date:	June 22, 2023
Author:	Hart		
Version:	March 6, 2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Katharine Moore		

Subject: California Coastal Act of 1976: coastal development: emergency waiver

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.

In the event of a disaster or similar situation where emergency work necessary to protect life and property and for repairs to certain public facilities and infrastructure, the commission has multiple mechanisms under law and regulation to authorize emergency actions or projects within the coastal zone. These include:

- Permitting exemptions for public agencies and public utilities for projects to protect public safety and the maintenance, repair, or restoration of certain public roads.
- Emergency permitting waivers for a person or public agency performing a public service where immediate action is needed to protect public safety or to restore, repair, or maintain public works, utilities, or services damaged by a natural disaster or other emergency where any permanent structures are valued at \$25,000 or less. Emergency permitting waivers are for work that is development, but does not raise any Coastal Act issues.
- Emergency CDPs where the proposed development is necessary to address a sudden unexpected occurrence, immediate action is necessary, the proposed development is the minimum necessary to respond to the emergency, and other

requirements are met. An emergency CDP requires a follow up CDP for the work to ensure that any work done under emergency conditions will be either removed or modified to be consistent with the Coastal Act in the long-term, if necessary.

As of February 3, 2023, the December 2022/January 2023 atmospheric rivers that struck California required the issuance of 10 Emergency CDPs and one emergency permitting waiver to public agencies for replacement of revetments and similar activities. In addition, Caltrans and other public agencies qualified for multiple permitting exceptions for roadway repair. Apparently it can be difficult for an entity to qualify for emergency permitting waivers due to the limitation on the value of the permanent structure which has not been increased in almost 50 years. While having a cap on the value of the permanent structure can help to ensure major development projects are not subject to the emergency permitting waiver, the \$25,000 may be overly restrictive given increasing construction costs and inflation, among other factors.

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) Requires the commission to provide, by regulation, for the issuance of an emergency coastal development permit, as provided, in certain situations. (PRC §30624)

- 5) Authorizes the waiver of the requirement of having to obtain a permit when immediate action by a person or public agency performing a public service is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster, serious accident, or in other cases of emergency, as specified. Provides that the waiver provision does not authorize the permanent erection of structures valued at more than \$25,000. (PRC §30611)

PROPOSED LAW

This bill would expand the eligibility criteria for certain coastal zone projects requiring immediate action for an emergency waiver of permitting requirements by increasing the value of permanent structures erected under an emergency permitting waiver to \$125,000 from \$25,000, and would authorize the annual indexing of the cap on the value of these structures based upon the Consumer Price Index, as provided.

ARGUMENTS IN SUPPORT

According to the author, "AB 584 is a common-sense measure that will update the value amount used to erect fallen structures in utilizing coastal emergency waivers. Since the Coastal Act was enacted in 1976, the value has not changed. AB 584 will update the threshold from \$25,000 to \$125,000 to reflect today's dollars, and update annually pursuant to inflation. At a time when climate change and natural disasters are affecting California's infrastructure and shores, emergency permits and waivers are critical resources to public agencies and regulatory bodies. AB 584 will allow California's agencies to clean-up our roads, trails, and oceans to ensure the safety of Californians."

ARGUMENTS IN OPPOSITION

None received

COMMENTS

The appropriate value for the permanent structure cap under the emergency permitting waiver?

The \$25,000 cap was set in 1976, and inflation over time makes that equivalent to approximately \$130,000 today. The new \$125,000 cap with annual indexing is roughly equivalent. The annual indexing should allow the cap to reasonably maintain its real value in constant dollars and expand the number of projects that qualify for the waivers, rather than Emergency CDPs.

SUGGESTED AMENDMENTS: none

SUPPORT

California Association of Realtors
California Special Districts Association
City of Carlsbad
City of Goleta
City of Rancho Palos Verdes
County of Santa Cruz
League of California Cities

OPPOSITION
None Received

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