

Date of Hearing: June 12, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 360 (Blakespear) – As Amended April 18, 2023

SENATE VOTE: 36-0

SUBJECT: California Coastal Commission: member voting.

SUMMARY: Expands the list of entities that Coastal Commissioners could simultaneously serve on to include membership of a local area formation commission (LAFCO) and joint powers authority (JPA).

EXISTING LAW:

- 1) Establishes the California Coastal Act of 1976 (Coastal Act), establishes the California Coastal Commission (Commission), and prescribes the membership and duties of the Commission. (Public Resources Code (PRC) 30301)
- 2) Provides that provisions of the Coastal Act do not preclude or prevent any member or employee of the Commission who is also an employee of another public agency, a county supervisor or city councilperson, or a member of specified associations or organizations, and who has in that designated capacity voted or acted upon a particular matter, from voting or otherwise acting upon that matter as a member or employee of the Commission. (PRC 30318)
- 3) Prohibits a public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, from simultaneously holding two public offices that are incompatible. Offices are incompatible when specified circumstances are present, unless simultaneous holding of the particular offices is compelled or expressly authorized by law. (Government Code Section(GC) 1099)
- 4) Establishes the Joint Exercise of Powers Act to authorize two or more public agencies, by agreement, to jointly exercise any power common to the contracting parties, even though one or more of the contracting agencies may be located outside this state. (GC 6500.1)
- 5) Authorizes, under the Cortese-Knox-Hertzberg Local Government Reorganization Act, the formation of LAFCOs with planning and regulatory powers. (GC 56300)

THIS BILL:

- 1) Authorizes members of a JPA and a LAFCO to serve on the Commission and vote on matters related to the Commission.
- 2) Makes technical, nonsubstantive changes.

FISCAL EFFECT: This bill is nonfiscal.

COMMENTS:

- 1) **Coastal Commission.** The Commission was established by voter initiative in 1972 (Proposition 20) and later made permanent by the Legislature through adoption of the California Coastal Act of 1976. 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 (among others) 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 coastal permit from either the Commission or a local government's local coastal plan.

The Commission is an independent, quasi-judicial state agency. The Commission is composed of twelve voting members, appointed equally (four 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 State Transportation Agency, and the State Lands Commission.

- 2) **Doctrine of incompatible offices.** Current law codifies the common law prohibition against the holding of "incompatible offices." This doctrine restricts the ability of public officials to hold two different public offices simultaneously if the offices have overlapping and conflicting public duties. The consequence of holding an incompatible office is that the person is "deemed to have forfeited the first office upon acceding to the second."

The doctrine prevents the six locally elected officials who serve on the Commission from serving in any other public capacity that could overlap with their duties as Commissioners. However, the Coastal Act makes an exception for Commissioners from specific areas (Monterey and San Diego), allowing them to serve on a number of regionally-specific planning organizations. Specifically, that statute provides that a member of the Commission who is also an employee of another public agency, a county supervisor or city councilperson, member of the Association of Bay Area Governments, a member of the Association of Monterey Bay Area Governments, a delegate to the Southern California Association of Governments, or a member of the San Diego Association of Governments and who has in that designated capacity voted or acted upon a particular matter, does not have to recuse him/herself from voting or otherwise acting upon that matter as a member or employee of the Commission.

Commissioners who are locally elected officials from outside of those areas are precluded from serving on regional planning agencies.

SB 360 adds a member of a JPA and member of a LAFCO to the statutory list of offices on which a Coastal Commissioner can serve.

- 3) **Author's statement:**

SB 360 is a common sense change that allows an elected official who is serving on the Coastal Commission to concurrently serve on a Joint Powers Authority (JPA) or on LAFCO (Local Area Formation Commission). Currently, a Coastal Commissioner can serve concurrently on planning and transportation agencies but is prohibited from serving on a JPA or LAFCO. There appears to be no good

reason for this prohibition, which forces elected officials to make an either-or decision to serve on the Coastal Commission or a LAFCO or JPA when both could benefit greatly from their expertise on planning and zoning issues.

- 4) **Committee amendments.** The bill should read “a member of a LAFCO,” not “a member of the LAFCO” since there 58 LAFCOs across the state. The Committee may wish to make this technical correction.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Local Agency Formation Commissions
Orange County Local Agency Formation Commission

Opposition

None on file

Analysis Prepared by: Paige Brokaw / NAT. RES. /