

# San Francisco Bay Conservation and Development Commission

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## Agenda Item #11

May 1, 2020

**TO:** Commissioners and Alternates

**FROM:** Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)  
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**SUBJECT: Staff Report and Recommendation on Pending Legislation**  
(For Commission consideration on May 7, 2020)

### Summary and Recommendations

The following state and federal legislation is of interest to the Commission. Many of the bills will not be heard in the abbreviated legislative session.

The staff recommends that the Commission oppose unless amended, Assembly Bill 2809, (Mullin) *San Francisco Bay Conservation and Development Commission, Suisun Marsh Preservation Act of 1977*; support federal House of Representatives Bill 1132, (Speier) *The San Francisco Bay Restoration Act*, support if amended, Assembly Bill 2619, (Stone) *Coastal resources: Program for Coastal Resilience, Adaptation, and Access*; and continue to follow the other bills.

### Staff Report

There are several bills of interest to the Commission in the current second year of the Legislature's two-year session. Due to the COVID-19 crisis the Legislature has been in recess and now will hold an abbreviated legislative session. The Assembly is reconvening May 4th and the Senate will reconvene a week later. It is likely only a limited number of bills will be heard other than dealing with the current COVID-19 crisis, drought and wildfire.

#### **Assembly Bill 2809. *San Francisco Bay Conservation and Development Commission, Suisun Marsh Preservation Act of 1977***

Introduced by Assemblymember Kevin Mullin. This bill will be heard on May 13<sup>th</sup> in the Assembly Natural Resources Committee.

AB 2809 currently includes most of the recommendations for legislative action contained in the State Auditor's May 2019 report on BCDC's enforcement program. The bill would direct the Commission to create and implement by June 30, 2021: (1) a procedure to ensure that managers perform a documented review of staff decisions in enforcement cases; (2) timelines for resolving enforcement cases; and (3) a penalty matrix for assessing fines and civil penalties.



The Commission's Enforcement Committee and staff are already working to implement these audit recommendations and expect to have them completed before the bill would become law.

The bill would further allow the Commission, beginning July 1, 2022, to record notices of violations on the titles of properties that are the subject of a final order setting administrative liability. Recording notices of violations on titles is an enforcement tool that is presently used by the California Coastal Commission. The Coastal Commission's authorization to do this focuses on the process for the recordation, rather than the stage in the enforcement process, and includes provisions for expunging the notices when the violation is resolved. Staff has provided the Author with suggested language to reflect this approach and has also noted the benefits in expanding the authority to include both notices of violations and the standardized fine letters that staff commonly uses to commence enforcement actions.

AB 2809 would prohibit BCDC from using money appropriated from the Bay Fill Cleanup and Abatement (BFCA) Fund to pay for enforcement activities or enforcement staff salaries after June 30, 2021. Several BCDC enforcement staff are currently being paid using the BFCA fund moneys that were appropriated for BCDC's use. Assemblymember Mullin's staff has indicated that the Assemblymember will pursue alternative funding to replace the money appropriated from the BFCA prior to June 30, 2021. However, the state budget process requires the entire Legislature to approve provision of state funds and concurrence by the Governor. Given the tremendous costs to the state to respond to the COVID-19 crisis and the impending impact on state revenues, any new General Fund allocations beyond COVID-19, drought, and wildfire mitigation and response will be very difficult. However, the bill would preclude use of the BFCA for enforcement staff whether or not replacement funds are provided through the budget process. Staff believes this puts the Commission's enforcement program at risk.

Lastly, the bill amends the provision in the Suisun Marsh Preservation Act that currently requires the Commission to review the Local Protection Plan for the Suisun Marsh at least once every five years, to state that BCDC will conduct the review by July 1, 2021 and every five years thereafter. BCDC staff recently completed this review in January 2020.

Commission staff is presently discussing with Assemblymember Mullin's staff an additional State Auditor recommendation that would direct BCDC to adopt regulations for defining single violations and resolving minor violations through fines.

**Staff Recommendation.** Staff recommends opposing AB 2809 unless it is amended to remove the language limiting the use of money appropriated from the BFCA Fund because of the funding threat to the Commission's enforcement program. While not the basis for opposition, staff recommends amendments regarding the recordation of notice of violations on titles as described above and additional clarifying language.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB2809](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB2809)

**HR 1132. *The San Francisco Bay Restoration Act***

This bill was introduced in the U.S. Congress by Representative Jackie Speier. It has passed the U.S. House of Representatives.

The bill would provide \$25 million in federal funding annually for the restoration of the San Francisco Bay, for five years, resulting in a total of \$125 million to revive Bay Area wetlands, improve water quality and protect coastal communities from rising sea level. While it is likely that this legislative language will become part of a new Water Resources Development Act (WRDA) that is now being crafted, this bill would provide needed funds to restore and preserve the Bay.

**Staff Recommendation.** Staff recommends that the Commission support HR 1132.

<https://www.congress.gov/bill/116th-congress/house-bill/1132>

**Assembly Bill 2619. *Coastal resources: Program for Coastal Resilience, Adaptation, and Access***

Introduced by Assemblymember Mark Stone. This bill will be heard on May 13<sup>th</sup> in the Assembly Natural Resources Committee.

This bill would establish the Program for Coastal Resilience, Adaptation, and Access for the purpose of funding specified activities intended to help the state prepare, plan, and implement actions to address and adapt to sea level rise and coastal climate change. The bill would create the Coastal Resilience, Adaptation, and Access Fund in the State Treasury, and would authorize the California Coastal Commission, the Natural Resources Agency, the Ocean Protection Council, the Department of Parks and Recreation, the State Lands Commission, and the State Coastal Conservancy to expend moneys in the fund, upon appropriation in the annual Budget Act, to take actions to address and adapt to sea level rise and coastal climate change. The bill would require the California Natural Resources Agency to annually make available information regarding any activity funded under the program. The bill would also require the Director of State Planning and Research to consider the program in its administration of the Integrated Climate Adaptation and Resiliency Program.

While the bill would provide funding to the above-named state agencies for adaptation planning, it does not include BCDC's planning program to address resilience for the potential impacts to people, the economy, and natural resources along the Bay shoreline. Staff believes that BCDC should be included in the bill.

AB 2619 would require, for the 2021–22 fiscal year and for each fiscal year thereafter, an amount not less than thirty percent of certain funds received by the State Lands Commission and required to be deposited into the General Fund, except as provided, to be transferred to the Coastal Resilience, Adaptation, and Access Fund and made available, upon appropriation in the annual Budget Act, for expenditure for purposes of the Program for Coastal Resilience, Adaptation, and Access.

**Staff Recommendation.** Support if amended to include BCDC for Bay adaptation planning.

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB2619](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2619)

**Assembly Bill 2148. *Climate change: adaptation: regional plans***

Introduced by Assemblymember Bill Quirk. This bill has not yet been referred to a committee.

This is a spot bill for legislation that would: foster regional-scale adaptation; provide regions time to develop their regional plans; and consider, among other things, sea level rise and fire vulnerability.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB2148](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB2148)

**Assembly Bill 2089. *Environmental and Justice Empowerment Outreach Pilot Program***

Introduced by Assemblymember Luz Rivas. The bill has been referred to the Natural Resources Committee but not set for hearing.

This bill would establish an Environmental and Justice Empowerment Outreach Pilot Program within the Strategic Growth Council from January 1, 2021, through January 1, 2025, and would have the program be administered by the Council as a grant pilot program for eligible community-based organizations. The pilot program would provide a comprehensive suite of coordinated incentives and services to disadvantaged communities, at the resident household level, to provide economic savings, reduce greenhouse gas emissions and air pollution, and improve resiliency to the impacts of climate change. The bill would require the council to submit reports to the Legislature on the program no later than December 31, 2025.

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB2089](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2089)

**Assembly Bill 1992. *Transportation: asset management plan: California Transportation Plan: transportation infrastructure: climate change***

Introduced by Assemblymember Laura Friedman. This bill has been referred to the Assembly Committees on Transportation and Natural Resources but not set for hearing.

This bill would state the intent of the Legislature to enact legislation that would establish a new program to fund climate change adaptation planning for transportation impacts, data collection, modeling, and training. The bill would require both the 3rd update to the California Transportation Plan, which is due in 2025, and the Strategic Growth Council's report addressing the California Transportation Plan and specified sustainable communities strategies and alternative planning strategies, to include a forecast of the transportation impacts of climate change and measures to address those impacts.

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1992](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1992)

**Assembly Bill 1920. *Climate change: California Climate Adaptation Center and Regional Support Network***

Introduced by Assemblymember Boerner Horvath. This bill has been referred to the Assembly Natural Resources Committee for hearing on May 13th.

This bill would establish the Climate Adaptation Center and Regional Support Network in the Ocean Protection Council to provide local governments facing sea level rise challenges with the information and scientific expertise necessary to implement mitigation measures to address the effects of sea level rise by doing all of the following:

- (1) Provide technical support and information to local governments on adapting to climate change impacts, including sea level rise;
- (2) Connect practitioners undertaking adaptation work with state policy and guidance, useable scientific information, and technical assistance that is both easily accessible and applicable;
- (3) Address local governments' frequently expressed need for a point person to answer their questions and provide real-world advice, guidance, expertise, and examples on how to proceed with adaptation work; and
- (4) Establish formal partnerships with universities in the state to provide local governments with the latest scientific information regarding impacts of climate change.

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1920](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1920)

### **Assembly Bill 3256. *Climate risks: bond measure***

Introduced by Assemblymember Eduardo Garcia. This bill has been referred to the Assembly Natural Resources Committee for hearing on May 13th.

This spot bill would state the intent of the Legislature to enact a bond measure that would address climate risks to the State of California.

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB3256](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB3256)

### **Assembly Bill 352. *Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020***

Introduced by Assemblymember Eduardo Garcia. This is a two-year bill now in the Senate Environmental Quality Committee.

This bill would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$3,920,000,000 pursuant to the State General Obligation Bond Law to finance a wildfire prevention, safe drinking water, drought preparation, and flood protection program.

The bill would provide for the submission of these provisions to the voters at the November 3, 2020, statewide general election.

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB352](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB352)

### **Senate Bill 45. *Wildfire, Drought, and Flood Protection Bond Act of 2020***

Introduced by Senator Ben Allen, this is a two-year bill that is now in Senate Appropriations.

SB 45 would authorize the issuance of bonds to finance projects to restore fire-damaged areas, reduce wildfire risk, create healthy forests and watersheds, reduce climate impacts on urban areas and vulnerable populations, protect water supply and water quality, protect rivers, lakes, and streams, reduce flood risk, protect fish and wildlife from climate impacts, improve climate resilience of agricultural lands, and protect coastal lands and resources. The bill would provide \$970 million for coastal areas and \$240 million for regional climate resilience.

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB45](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB45)

**Assembly Bill 2371. *Climate change: adaptation***

Introduced by Assemblymember Laura Friedman. This bill has been referred to the Assembly Natural Resources Committee for hearing on May 13th.

This bill would require the Secretary of the Natural Resources Agency, by January 1, 2022, to review the Safeguarding California Plan and develop a strategic resiliency framework that, among other things, makes recommendations on actions that are necessary to prepare the state for the most significant climate change impacts modeled for 2025, 2050, and beyond, review available funding sources and make recommendations for aligning investments with the framework, and establish actions for community and economic resiliency, the ocean and coast, and terrestrial ecosystems.

The bill would require the Strategic Growth Council, by July 1, 2021, to convene a science advisory team of distinguished scientists to guide climate planning and adaptation efforts in the state and to, among other things, review and make recommendations to improve the plan and the framework. The bill would require each state agency identified in the framework to report to the Secretary on its progress in completing the recommendations and actions in the framework. The bill would require state agencies implementing the framework to engage regional agencies and communities that have been disproportionately impacted by environmental or socioeconomic burdens. The bill would require the Secretary to solicit feedback from the science advisory team on the development of the framework. The bill would require the updates to the plan to include a review of the progress made in implementing the past plans and a detailed description of the framework.

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB2371](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2371)

**Senate Bill 1293. *California Infrastructure and Economic Development Bank: Sea Level Rise Revolving Loan Program***

Introduced by Senator Ben Allen. This bill has been held at Senate Rules at the request of the Author.

The Bergeson-Peace Infrastructure and Economic Development Bank Act establishes the California Infrastructure and Economic Development Bank (I-Bank) in the Governor's Office of Business and Economic Development. Existing law, among other things, authorizes the I-Bank to make loans, issue bonds, and provide financial assistance for various types of projects that qualify as economic development or public development facilities.

This bill would create the Sea Level Rise Revolving Loan Program within the I-Bank to provide low-interest loans to local jurisdictions for the purchase of coastal properties in their jurisdictions identified as vulnerable coastal property. The bill would require the California Coastal Commission, before January 1, 2022, in consultation with the California Coastal Commission, the State Lands Commission, and any other applicable state, federal, and local entities with relevant jurisdiction and expertise, to determine criteria and guidelines for the identification of vulnerable coastal properties eligible for participation in the program (eminent domain would not be included in the program). The bill would authorize specified cities and counties to apply for, and be awarded, a low-interest loan under the program if the city or county develops and submits to the bank a vulnerable coastal property plan. The bill would

require the California Coastal Conservancy to review the plans to determine whether they meet the required criteria for vulnerable coastal properties to be eligible for participation in the program.

The bill would establish the Sea Level Rise Revolving Loan Account within the California Infrastructure and Economic Development Bank Fund, which, as described above, is a continuously appropriated fund. The bill would authorize the I-Bank to issue bonds and require the bond revenues be deposited in the Sea Level Rise Revolving Loan Account to be used for purposes of the Seal Level Rise Revolving Loan Program. The bill would also require that loan repayments, fees, and penalties be deposited in the revolving account.

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB1293](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB1293)