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AMENDED IN SENATE MARCH 27, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL**NO. 704****Introduced by Senator Min****February 16, 2023**

An act to amend ~~Section 30335.5~~ Sections 30006.5, 30260, 30262, 30263, and 30701 of the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 704, as amended, Min. Coastal resources: ~~California Coastal Commission: scientific expertise:~~ California Coastal Act of 1976: industrial developments: oil and gas facilities: offshore wind.

(1) The California Coastal Act of 1976 regulates development along the state's coast and requires that oil and gas development be permitted in certain circumstances. The act requires that coastal-dependent industrial facilities be encouraged to locate or expand within existing sites, and, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of the act, they may nevertheless be permitted if (1) alternative locations are infeasible or more environmentally damaging, (2) to do otherwise would adversely affect the public welfare, and (3) adverse environmental effects are mitigated to the maximum extent feasible.

This bill would, in addition to the requirements listed above, allow permitting of new or expanded coastal-dependent industrial facilities only if the facility is not an oil and gas facility.

The act requires that oil and gas development be permitted in accordance with the above-described requirements for coastal-dependent industrial facilities, if specified conditions relating to safety and environmental mitigation are met, as prescribed.

This bill would prohibit new or expanded oil and gas development from being considered a coastal-dependent industrial facility, as provided, and would only permit those developments if they are found to be consistent with all applicable provisions of the act. The bill would instead require the repair and maintenance of existing oil and gas facilities to be permitted in accordance with the above-described requirements, if specified conditions are met.

The act requires the permitting of new or expanded refineries or petrochemical facilities not otherwise consistent with the act if, among other conditions, it is found that not permitting the development would adversely affect the public welfare.

This bill would remove authorization to permit new or expanded refineries or petrochemical facilities that are not consistent with the act. The bill would instead prohibit new or expanded refineries or petrochemical facilities from being considered a coastal-dependent industrial facility, as provided, and would only authorize the permitting of those facilities if they are found to be consistent with all applicable provisions of the act.

To the extent the bill would create additional duties for local governments, the bill would impose a state-mandated local program.

(2) *The act makes legislative findings and declarations relating to the California Coastal Commission and legislative findings and declarations relating to the ports of California, as provided.*

This bill would make revisions to these legislative findings and declarations to include provisions relating to offshore wind development and offshore wind energy generation facilities.

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~The California Coastal Act of 1976 establishes in the Natural Resources Agency the California Coastal Commission and provides for the planning and regulation of development in the coastal zone, as defined. The act requires the commission, if it determines that it has sufficient resources, to establish one or more scientific panels to review technical documents and reports, among other things. The act encourages the commission to use innovative techniques to increase effective communication between the commission and the scientific community, as provided.~~

~~This bill would require the commission, in implementing the above provisions relating to the establishment of scientific panels and the use of innovative techniques, where feasible and as applicable and appropriate, to use the scientific expertise and resources existing within state government.~~

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: ~~no~~yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 30006.5 of the Public Resources Code is amended to read:*

30006.5. The Legislature further finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions and that the commission should, in addition to developing its own expertise in significant applicable fields of science, interact with members of the scientific and academic communities in the social, physical, and natural sciences so that the commission may receive technical advice and recommendations with regard to its decisionmaking, especially with regard to issues such as coastal erosion and geology, agriculture, marine biodiversity, wetland restoration, sea level rise, *offshore wind development*, desalination plants, and the cumulative impact of coastal zone developments.

SEC. 2. *Section 30260 of the Public Resources Code is amended to read:*

30260. (a) Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. ~~However,~~

(b) Notwithstanding subdivision (a), where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if ~~(1) alternative~~ all of the following conditions are met:

- (1) Alternative locations are infeasible or more environmentally ~~damaging~~; (2) to damaging.*
- (2) To do otherwise would adversely affect the public ~~welfare~~; and (3) adverse welfare.*
- (3) Adverse environmental effects are mitigated to the maximum extent feasible.*
- (4) The new or expanded coastal-dependent industrial facility is not an oil and gas facility.*

SEC. 3. *Section 30262 of the Public Resources Code is amended to read:*

30262. (a) ~~Oil~~ ~~New or expanded oil and gas development shall not be considered a coastal-dependent industrial facility for the purposes of Section 30260, and may only be permitted if found to be consistent with all applicable provisions of this division. Repair and maintenance of existing oil and gas facilities may only be permitted in accordance with Section ~~30260~~; 30260~~ if the following conditions are met:

- (1) The development is performed safely and consistent with the geologic conditions of the well site.*
- (2) ~~New or expanded facilities~~ Activities related to that development are consolidated, to the maximum extent feasible and legally permissible, unless consolidation will have adverse environmental consequences and will not significantly reduce the number of producing wells, support facilities, or sites required to produce the reservoir economically and with minimal environmental impacts.*
- ~~(3) Environmentally safe and feasible subsea completions are used if drilling platforms or islands would substantially degrade coastal visual qualities, unless the use of those structures will result in substantially less environmental risks.~~*

~~(4) Platforms or islands will not be sited where a substantial hazard to vessel traffic might result from the facility or related operations, as determined in consultation with the United States Coast Guard and the Army Corps of Engineers.~~

~~(5)~~

(3) The development will not cause or contribute to subsidence hazards unless it is determined that adequate measures will be undertaken to prevent damage from that subsidence.

~~(6) With respect to new facilities, all~~

(4) All oilfield brines are reinjected into oil-producing zones unless the Geologic Energy Management Division of the Department of Conservation determines to do so would adversely affect production of the reservoirs and unless injection into other subsurface zones will reduce environmental risks. Exceptions to reinjections will be granted consistent with the Ocean Waters Discharge Plan of the State Water Resources Control Board and where adequate provision is made for the elimination of petroleum odors and water quality problems.

~~(7)~~

(5) (A) All oil produced offshore California shall be transported onshore by pipeline only. The pipelines used to transport this oil shall utilize the best achievable technology to ensure maximum protection of public health and safety and of the integrity and productivity of terrestrial and marine ecosystems.

(B) Once oil produced offshore California is onshore, it shall be transported to processing and refining facilities by pipeline.

(C) The following guidelines shall be used when applying subparagraphs (A) and (B):

(i) "Best achievable technology," means the technology that provides the greatest degree of protection taking into consideration both of the following:

(I) Processes that are being developed, or could feasibly be developed, anywhere in the world, given overall reasonable expenditures on research and development.

(II) Processes that are currently in use anywhere in the world. This clause is not intended to create any conflicting or duplicative regulation of pipelines, including those governing the transportation of oil produced from onshore reserves.

(ii) "Oil" refers to crude oil before it is refined into products, including gasoline, bunker fuel, lubricants, and asphalt. Crude oil that is upgraded in quality through residue reduction or other means shall be transported as provided in subparagraphs (A) and (B).

(iii) Subparagraphs (A) and (B) shall apply only to new or expanded oil extraction operations. "New extraction operations" means production of offshore oil from leases that did not exist or had never produced oil, as of January 1, 2003, or from platforms, drilling island, subsea completions, or onshore drilling sites, that did not exist as of January 1, 2003. "Expanded oil extraction" means an increase in the geographic extent of existing leases or units, including lease boundary adjustments, or an increase in the number of well heads, on or after January 1, 2003.

(iv) For new or expanded oil extraction operations subject to clause (iii), if the crude oil is so highly viscous that pipelining is determined to be an infeasible mode of transportation, or where there is no feasible access to a pipeline, shipment of crude oil may be permitted over land by other modes of transportation, including trains or trucks, which meet all applicable rules and regulations, excluding any waterborne mode of transport.

~~(8)~~

(6) If a state of emergency is declared by the Governor for an emergency that disrupts the transportation of oil by pipeline, oil may be transported by a waterborne vessel, if authorized by permit, in the same manner as required by emergency permits that are issued pursuant to Section 30624.

~~(9)~~

(7) In addition to all other measures that will maximize the protection of marine habitat and environmental quality, when an offshore well is abandoned, the best achievable technology shall be used.

(b) Where appropriate, monitoring programs to record land surface and near-shore ocean floor movements shall be initiated in locations of new large-scale fluid extraction on land or near shore before operations begin and shall continue until surface conditions have stabilized. Costs of monitoring and mitigation programs shall be borne by liquid and gas extraction operators.

(c) Nothing in this section shall affect the activities of any state agency that is responsible for regulating the extraction, production, or transport of oil and gas.

SEC. 4. *Section 30263 of the Public Resources Code is amended to read:*

30263. (a) New or expanded refineries or petrochemical facilities ~~not otherwise consistent with the provisions of this division shall be permitted if (1) alternative locations are not feasible or are more environmentally damaging; (2) adverse environmental~~

~~effects are mitigated to the maximum extent feasible; (3) it is found that not permitting such development would adversely affect the public welfare; (4) the facility is not located in a highly scenic or seismically hazardous area, on any of the Channel Islands, or within or contiguous to environmentally sensitive areas; and (5) the facility is sited so as to provide a sufficient buffer area to minimize adverse impacts on surrounding property.~~ shall not be considered a coastal-dependent industrial facility for the purposes of Section 30260, and may only be permitted if found to be consistent with all applicable provisions of this division.

(b) New or expanded refineries or petrochemical facilities shall minimize the need for once-through cooling by using air cooling to the maximum extent feasible and by using treated waste waters from inplant processes where feasible.

SEC. 5. Section 30701 of the Public Resources Code is amended to read:

30701. The Legislature finds and declares that:

(a) The ports of the State of California, including the Humboldt Bay Harbor, Recreation, and Conservation District, constitute one of the state's primary economic and coastal resources and are an essential element of the national maritime industry.

(b) The location of the commercial port districts within the State of California, including the Humboldt Bay Harbor, Recreation, and Conservation District, are well established, and for many years such areas have been devoted to transportation and commercial, industrial, and manufacturing uses consistent with federal, state, and local regulations. Coastal planning requires no change in the number or location of the established commercial port districts. Existing ports, including the Humboldt Bay Harbor, Recreation, and Conservation District, ~~shall~~ should be encouraged to modernize and construct necessary facilities within their boundaries in order to minimize or eliminate the necessity for future dredging and filling to create new ports in new areas of the state.

(c) Existing ports, including the Humboldt Bay Harbor, Recreation, and Conservation District, should be encouraged to pursue development that contributes to the construction and deployment of offshore wind energy generation facilities, consistent with the policies of this division.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1.~~Section 30335.5 of the Public Resources Code is amended to read:

~~30335.5.(a)The commission shall, if it determines that it has sufficient resources, establish one or more scientific panels to review technical documents and reports and to give advice and make recommendations to the commission before making decisions requiring scientific expertise and analysis not available to the commission through its staff resources. It is the intent of the Legislature that the commission base any such technical decisions on scientific expertise and advice. The panel or panels may be composed of, but not limited to, persons with expertise and training in marine biology, fisheries, geology, coastal geomorphology, geographic information systems, water quality, hydrology, ocean and coastal engineering, economics, and social sciences.~~

~~(b)Members of a panel, while performing duties required by this division or by the commission, shall be entitled to the same rights and immunities granted public employees by Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1 of the Government Code. Those rights and immunities shall attach to the member as of the date of appointment of the person to the panel.~~

~~(c)The commission is encouraged to seek funding from any appropriate public or private source, and may apply for and expend any grant or endowment funds, for the purposes of this section. Any funding made available to the commission for these purposes shall be reported to the fiscal committee of each house of the Legislature at the time the commission's budget is being formally reviewed.~~

~~(d)The commission is encouraged to use innovative techniques to increase effective communication between the commission and the scientific community, including the use of existing grant programs and volunteers, in order to improve and strengthen the technical basis of its planning and regulatory decisions.~~

~~(e)Where feasible in implementing this section and as applicable and appropriate, the commission shall use the scientific expertise and resources existing within state government.~~