

SENATE BILL

No. 1184

Introduced by Senator Hancock

February 20, 2014

Amendments proposed to be submitted to Legislative Counsel. 5/13/2014

An act to add Section 66649 to the Government Code, relating to the San Francisco Bay Conservation and Development Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1184, as introduced, Hancock. San Francisco Bay Conservation and Development Commission: sea level rise: regional resilience strategy.

Existing law, the McAteer-Petris Act, establishes the San Francisco Bay Conservation and Development Commission, and requires the commission to regulate fill and development within a specified area in and along the shoreline of the San Francisco Bay area, and to implement comprehensive plans for the preservation and protection of the San Francisco Bay and the Suisun Marsh. Existing law authorizes the commission 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.

This bill would require the commission, in collaboration with various other state, regional, and local government agencies, to ~~take action to protect~~ develop data and technical expertise necessary to all such agencies identifying and analyzing options for protecting San Francisco Bay area residents from potential inundation and flooding resulting from sea level rise by preparing and to establish a regional resilience strategy that will enable all levels of government to evaluate options ~~methods for evaluating of options for~~ adapting to rising sea levels in the San Francisco Bay, containing specified components. The bill would require the commission, no

later than December 31, ~~2015, 2018~~ to complete the consultations with such agencies and draft a regional strategy and submit to the Legislature to inform its recommendations for future actions to be taken regarding sea level rise.

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: NO

BILL TEXT

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

SECTION 1.

The Legislature finds and declares all of the following:

(a) The San Francisco Bay Conservation and Development Commission is a state agency with responsibility for comprehensively managing the conservation and development of the San Francisco Bay and its shoreline, and the protection and preservation of the Suisun Marsh. The commission carries out this responsibility under the provisions of the McAteer-Petris Act (Title 7.2 (commencing with Section 66600) of the Government Code) (MPA), the policies of the San Francisco Bay Plan (Bay Plan), the Suisun Marsh Preservation Act of 1977 (Division 19 (commencing with Section 29000) of the Public Resources Code) (SMPA), and policies of the Suisun Marsh Protection Plan (Marsh Plan).

(b) The commission is composed of 27 members, appointed by a variety of authorities, including the Governor, the Speaker of the Assembly, the Senate Committee on Rules, the boards of supervisors of each of the nine San Francisco Bay area counties, the Association of Bay Area Governments, the Transportation Agency, the Department of Finance, the State Lands Commission, the Natural Resources Agency, the San Francisco Bay Regional Water Quality Control Board, the United States Army Corps of Engineers, and the United States Environmental Protection Agency.

(c) The commission's large and diverse membership, which includes representatives from diverse interests in the San Francisco Bay area, allows the commission to serve as a coordinator for affected agencies and the public, where the public and those agencies can collaborate and communicate their interests and perspectives, and reach consensus on how to address critical issues affecting the San Francisco Bay.

(d) The Legislature has directed the commission to keep the Bay Plan up to date so that it reflects the latest scientific research on the San Francisco Bay and addresses emerging issues that could impact the bay in the future. To accomplish this, the Legislature has empowered the commission to amend the Bay Plan if two-thirds or 18 of the 27 members of the commission vote for the amendment, after providing for public review and a public hearing. Section 66652 of the Government Code authorizes the commission to amend, or repeal and adopt a new form of all or any part of, the Bay Plan, but requires that those changes be consistent with the findings and

declarations of the policy contained in the MPA. Section 29202 of the Public Resources Code further authorizes the commission to amend provisions of the SMPA.

(e) When the MPA, SMPA, Bay Plan, and Marsh Plan were written, the commission was unaware of the dynamic forces driving changes to the San Francisco Bay and the Suisun Marsh. In the 1960s and 1970s, the San Francisco Bay and the Suisun Marsh were perceived as having static water levels that moved within predictable, stable tidal ranges. In 1989, the commission first recognized the potential effects of climate change and rising sea level on the San Francisco Bay, and amended the Bay Plan to incorporate changes to its safety of fills policies to ensure rising sea level was integrated into the San Francisco Bay fill project designs. However, a lack of scientific consensus and public acknowledgment of the problem made implementation of these policies difficult. By the mid-2000s, a scientific consensus had emerged that global climate was changing due to anthropogenic forces, and that these changes would lead to, among other things, significant sea level rise over time.

(f) Pursuant to Section 66646.2 of the Government Code, the commission has ~~general~~ authority ~~to plan for sea level rise, in coordination with local governments, regional councils of government, and other agencies and interested parties, to develop regional strategies to address the impacts of, and adapt to, the effects of sea level rise on the San Francisco Bay and affected shoreline areas. Such authority includes development of a plan that describes how to mitigate and adapt to projected sea level rise and other climate change impacts on the Bay and its shoreline, including protecting resources from erosion and inundation, and maintaining, restoring, or enhancing the productivity of Bay and shoreline environments.~~ The commission's 2011 study of sea level rise found that potential impacts could have profound effects on the bay's waterfront communities, economic sustainability, and ecology. The commission's regional assessment of the potential impacts to the bay shoreline, entitled "Living with a Rising Bay: Vulnerability and Adaptation in San Francisco Bay and on its Shoreline," identified the threat of global climate change and sea level rise on the bay's shoreline communities and ecology and found that over 280 square miles of shoreline land and over 250,000 residents are at risk of flooding at just moderate levels of sea level rise. The assessment also estimated that approximately \$62,000,000,000 would be needed to replace flooded business and residential structures as a result of sea level rise.

(g) When the commission amended the Bay Plan in 2011 to address climate change and sea level rise, it included a policy ~~exhorting~~ recommending that the region to formulate a regional sea level rise adaptation strategy for to protecting critical developed shoreline areas and natural ecosystems, ~~enhancing~~ the resilience of the bay and shoreline systems and ~~increasing~~ increase their adaptive capacity, and ~~specifying that, the strategy should be prepared by region (i.e., the commission in collaboration with the Bay Area Joint Policy Committee, other regional, state, and federal agencies, local governments, private property owners and businesses, non-profit organizations, and the general public), should prepare such a strategy.~~ The policy recommends, in part, that the strategy incorporate an adaptive management approach and be consistent with the goals of Chapter 728 of the Statutes of 2008 (SB 375), and that the principles of the strategy be updated regularly to reflect changing conditions and scientific information and include maps of shoreline areas that are vulnerable to flooding based on projections of future sea level rise and shoreline flooding, with particular attention given to identifying and encouraging the

development of long-term regional flood protection strategies- that may be beyond the fiscal resources of individual local agencies. In addition, the policy states that, ideally, the regional strategy will determine where and how existing development should be protected and infill development encouraged, where new development should be permitted, and where existing development should eventually be removed to allow the bay to migrate inland-

(h) Currently, the state is dedicating resources to statewide sea level rise adaptation planning in a manner that benefits the San Francisco Bay through the California Environmental Protection Agency's Office of Planning and Research, the Natural Resources Agency's Ocean Protection Council, the State Coastal Conservancy, and the State Lands Commission. The efforts of these programs will provide valuable resources to help support the San Francisco Bay area's regional efforts to prepare a regional strategy to adapt to sea level rise.

(i) Developing and implementing an effective and comprehensive regional sea level rise adaptation strategy presents an enormous challenge. It requires understanding the shoreline's vulnerabilities (both ecological and to the built environment), the technological options for providing protection and adaptation, the respective human and financial costs of protection and adaptation, funding sources and financing mechanisms, and a planning process that meaningfully engages local communities while recognizing the need for regional solutions. Selection of an adaptation strategy and implementing it will require extensive coordination among numerous local, regional, state and federal agencies. In order to carry out an effective planning process, it is important to first study and understand these issues so the public and decision makers have all necessary data and tools for making well-informed, realistic choices that then can be implemented.

SEC. 2.

It is the intent of the Legislature that, in light of the findings and declarations in Section 1, the commission shall prepare a regional strategy develop data and technical expertise to address identify options for responding and adapting to sea level rise, which shall be used in collaboration with affected regional and local governments and appropriate state and federal agencies to prepare a regional strategy, to be considered by the Joint Policy Committee and forwarded to the Legislature. The Legislature does not intend, and this Act shall not be construed, to either expand or reduce the geographic or regulatory jurisdiction of the commission. Neither the regional strategy nor any part of it shall have binding affect unless it is adopted in whole or part by a governmental agency(ies) applicable to such agency's jurisdiction and following appropriate procedures governing that agency.

SEC. 3.

Section 66649 is added to the Government Code, to read:

66649.

~~(a) The commission shall, in collaboration with state, regional, and local government agencies, take action to protect~~ (a) To identify strategies and options for protecting San Francisco Bay Area residents from potential inundation and flooding resulting from sea level rise by preparing a, ~~the commission, in collaboration with state, regional-resilience, federal and local government agencies (including the State Coastal Conservancy, the Ocean Protection Council, the State Lands Commission and the Office of Planning and Research), private property and business owners, non-profit organizations, and the general public, shall develop a draft regional strategy, based on data and technical expertise and collaboration with other regional, state and federal agencies to identify options, for adapting to rising sea levels in the San Francisco Bay. The main goal of this resilience-regional strategy shall be to increase the San Francisco Bay Area's area preparedness and resilience to climate change impacts by identifying recommendations for reducing the flood-risks to valuable shoreline development and protecting wetlands, transitional habitats, and bay-related wildlife posed by floods, storm surges and rising sea level.~~

~~(b) The commission shall work-collaborate with federal, state, regional, and local partners to conduct, property and business owners, non-profit organizations, and the general public, to develop data relating to shoreline adaptation planning, using tested planning processes and tools, to formulate a regional resilience strategy for the and San Francisco Bay and surrounding areas that are at risk that addresses flooding from vulnerabilities and technical expertise on options for responding and adapting to rising sea levels and storms, and shall assist local governments to craft local strategies to address the effects of sea level rise. The strategy. Such options shall include shoreline protection, appropriate development, and inland migration, and balancing these against the economic, environmental and human costs of such policies and shall examine funding and financing mechanisms for long-term regional flood protection strategies due to rising sea level that may be beyond the fiscal resources of individual local agencies. The work pursuant to this section may include, but need not be limited to, two integrated components:~~

~~(1) Community or agency-based planning efforts pilot programs undertaken in partnership with local governments and special districts that have volunteered to participate to increase the resilience of specific shoreline areas and assets. To the extent such programs involve local land use planning, no such local plan shall have legal effect unless it is also adopted by the local agency or special district. Community level planning efforts should be consistent with and inform existing local planning processes including, City and County general plans, and Local Hazard Mitigation Plans.~~

~~(2) A regional assessment of shoreline vulnerabilities and a planning process to identify and develop adaptation options necessary at the local and regional scale scales. Models, processes, and tools that address communication, community engagement, and decisionmaking decision-making will be used in collaboration with local partners and existing regional and community efforts.~~

~~(c)- Using the data and technical expertise developed pursuant to this process, working with federal, state, regional, and local partners (including the public and private sectors and non-profit organizations), the commission shall prepare a regional strategy for addressing the effects of sea level rise. The regional strategy shall be based on a planning process that meaningfully engages local jurisdictions and communities and include recommendations on the goals and objectives to~~

be achieved. Formulation of the regional ~~resilience~~ strategy shall, to the extent possible, ~~address~~ consider all of the following goals and objectives:

(1) Advance regional public safety and economic prosperity by protecting all of the following:

(A) Existing development that provides regionally significant benefits.

(B) New shoreline development that is consistent with the San Francisco Bay Plan and other applicable state policies.

(C) Infrastructure that is crucial to public health or the region's economy, such as airports, ports, regional transportation, wastewater treatment facilities, major parks, natural systems, recreational areas, and trails.

(2) Enhance the San Francisco Bay ecosystem by identifying areas where tidal wetlands and tidal flats can migrate landward; assuring adequate volumes of sediment for marsh accretion; identifying conservation areas that should be considered for acquisition, preservation, or enhancement; developing and planning for flood protection; and maintaining sufficient transitional habitat and upland buffer areas around tidal wetlands.

(3) Integrate the protection of existing and future shoreline development and infrastructure with the enhancement of the San Francisco Bay ecosystem, such as by using feasible shoreline protection measures that incorporate natural bay habitat for flood control and erosion prevention.

(4) Encourage innovative approaches to sea level rise adaptation, particularly multi-objective adaptation strategies and strategies that result in multiple benefits.

(5) Identify a framework for integrating the adaptation responses of multiple government agencies.

(6) Integrate regional mitigation measures designed to reduce greenhouse gas emissions with regional adaptation measures designed to address the unavoidable impacts of climate change.

(7) Address environmental justice and social equity issues.

(8) Integrate hazard mitigation and emergency preparedness planning with adaptation planning by developing techniques for reducing contamination releases, structural damage, and toxic mold growth associated with the flooding of buildings, and establishing emergency assistance centers in neighborhoods at risk from flooding and other mitigation measures.

(9) Advance regional sustainability, encourage infill development and job creation, provide diverse housing served by transit, and protect historical and cultural resources.

(10) Encourage the remediation and restoration of shoreline areas with existing environmental degradation and contamination in order to reduce risks to the San Francisco Bay's water quality in the event of flooding.

(11) Identify and pursue research that supports adaptive management of the strategy and that provides information useful for planning and policy development on the impacts of climate change on the San Francisco Bay, particularly those related to shoreline flooding.

(12) Identify actions to prepare and implement the strategy, including any needed changes in the law and policy and identify agencies responsible for implementing these actions and changes and a schedule for implementation of both.

(13) Identify mechanisms to provide information, tools, including spatial analyses, and financial resources to enable local governments to integrate regional climate change adaptation planning into local community planning processes.

(14) Integrate a framework to develop operational indicators and specific metrics to track the effectiveness of actions taken to reduce risk and enhance resilience.

(d) The commission shall prepare the strategy in close coordination with the Bay Area Joint Policy Committee, ~~the State Coastal Conservancy, the Ocean Protection Council, and the Office of Planning and Research,~~ and other partners and in such a way that the strategy may inform be adopted as the shoreline resiliency component of considered in part of the San Francisco Bay area's sustainable communities strategy pursuant to Section 65080.

~~(e) The commission shall, no later than December 31, 2015, complete the regional resilience strategy and shall submit to the Legislature its recommendations for future actions to be taken regarding sea level rise.~~

(e) No later than December 31, 2018, the commission shall prepare a report summarizing its findings and approve the draft regional strategy, which shall be by a two-thirds vote of all members of the Commission. Upon approval by the commission, it shall then submit the regional strategy to the Joint Policy Committee for review and comment. The Joint Policy Committee shall act on the regional strategy within ninety (90) days after its submission; failure to take action within such time shall be deemed approval of the regional strategy. The regional strategy, along with the comments provided by the Joint Policy Committee, shall then be expeditiously submitted to the Legislature for its consideration for providing future direction on actions to be taken regarding sea level rise. The legislature may also use the regional strategy for developing future legislation, such as directing the development of a shoreline resiliency plan.