

**CALENDAR ITEM
81**

A Statewide

05/24/12

S Statewide

S. Pemberton

PROPOSED LEGISLATION

INTRODUCTION:

State Lands Commission staff has been reviewing various legislative proposals introduced in the 2011-12 legislative session that involve lands under the Commission's jurisdiction. This report describes proposed legislation (SB 1360 – Simitian) that would remove the sunset date on the prohibition for large passenger vessels to release sewage into the marine waters of the state and the requirement for such vessels to notify the California Emergency Management Agency of any sewage release into the marine waters of the state. This report further proposes that the Commission consider adopting a support position on this legislation.

LEGISLATIVE PROPOSAL:

SB 1360 (Simitian): Vessels

SUMMARY:

SB 1360 deletes the sunset provisions in the California Clean Coast Act and revises the legislative intent to reflect a recent federal regulation banning sewage discharges in California's marine waters and establishing a no discharge zone along California's coast and surrounding islands.

BACKGROUND:

The Federal Water Pollution Control Act (Clean Water Act) authorizes the U.S. Environmental Protection Agency (U.S. EPA) to prohibit vessel sewage discharges into waters of any given state if, upon application by the state, the U.S. EPA determines that the protection and enhancement of water quality within that state require such a prohibition and there are adequate facilities for removal and treatment of sewage from vessels that are reasonably available where the prohibition would apply.

The California Clean Coast Act (Act) became effective on January 1, 2006. (Public Resources Code § 72400-72401). This Act prohibits oceangoing ships who call on

CALENDAR ITEM NO. 81 (CONT'D)

California ports from releasing, or permitting anyone to release, sewage sludge from the vessel into the marine waters of the state or a marine sanctuary, if specified circumstances occur; and prohibits the release of sewage from large passenger vessels. The Act also prohibits the release of sewage and gray water from oceangoing ships with sufficient holding tank capacity into the marine waters of the state. Additionally, the Act declares the intent of the Legislature to request Congress to amend the Clean Water Act to provide California with authority to regulate the release of sewage from large passenger vessels and oceangoing ships in the marine waters of the state. The Act requires the State Water Resources Control Board to determine whether federal authorization is necessary to regulate the discharge of sewage and sewage sludge and, if so, to apply to the federal government for such authorization. The Act further requires an owner or operator of a large passenger vessel to notify the California Emergency Management Agency of any sewage releases into the marine waters of the state. These requirements are scheduled to sunset on January 1, 2014.

The State Water Resources Control Board submitted an application to the U.S. EPA in September 2006. On February 9, 2012, the U.S. EPA approved regulations that ban sewage discharges from large passenger and oceangoing vessels in California's marine waters and established a no discharge zone along California's coast and surrounding islands. This action establishes a new federal regulation banning even treated sewage from being discharged in California's marine waters. The U.S. EPA estimates that the regulation will prohibit the discharge of over 22 million of the 25 million gallons of treated sewage that large vessels could otherwise legally discharge into California marine waters each year. Notably, this is the largest no discharge zone in the nation.

SB 1360 1) deletes the January 1, 2014, sunset on provisions of the California Clean Coast Act relating to release of sewage from a large passenger vessel or oceangoing ship; 2) revises legislative intent by referencing prohibition of all wastes that are covered under the Act into marine waters of the state and marine sanctuaries and adding legislative intent relative to the February 2012 federal action prohibiting sewage discharges from large passenger vessels and oceangoing ships and creating a no discharge zone along California's coast and surrounding islands; and, 3) makes corresponding technical and clarifying changes to the Act for consistency purposes.

The provisions of SB 1360 are beneficial to the State and its public trust resources because they protect and enhance the quality of marine waters in California by permanently prohibiting the release of sewage discharge, treated or otherwise, in these waters. SB 1360 will help protect marine species and habitats, have a positive impact on California's fishing industry, and promote commercial and recreational use of California coastal waters.

CALENDAR ITEM NO. 81 (CONT'D)

OTHER PERTINENT INFORMATION:

SB 1360 was approved by the Senate on May 7, 2012, on a 38-0 vote and is awaiting consideration in the Assembly. It is supported by the Ocean Conservancy and has no opposition.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. Adopt a support position on SB 1360 (Simitian).