

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 06/21/2012
POSITION: Neutral
SPONSOR: State Lands Commission

BILL NUMBER: AB 2082
AUTHOR: Atkins, Toni

BILL SUMMARY: Public Lands: State Lands Commission: Violations.

Existing law authorizes the State Lands Commission (SLC) jurisdiction over all ungranted tide and submerged lands owned by the state, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits. In addition, existing law provides that trespassers on land under the jurisdiction of the SLC are liable to the state for damages.

This bill expands the restrictions of trespassing to also prohibit a person from constructing, placing, maintaining, owning, using, or possessing a structure or facility on land that is under SLC jurisdiction and owned by the state, without first obtaining all necessary easements, leases, or permits from the SLC, except for specified facilities owned by an electrical or gas corporation. This bill would establish civil penalties for violations.

FISCAL SUMMARY

The SLC staff indicate this bill would not result in a fiscal impact but instead provide some minor savings. The Department of Finance concurs.

This bill would result in reduced workload for SLC and the Attorney General (AG). The bill would provide an alternative to filing civil actions, thereby reducing costs to the AG's office. In addition to reducing costs to the AG, which historically exceed \$100,000 in General Fund costs, the bill would enable the SLC to focus more of its staff time on lease compliance and revenue generation. Since litigation is the SLC's only option under current law, SLC staff expend significant time and resources conducting fact gathering, discovery work, and conducting the legal research and analysis in support of the AG's office. The bill would provide an alternative to costly litigation, which would allow staff of both departments to focus on other critical issues.

Any costs associated with the administrative process in the bill would be offset by the reduced litigation costs noted above. Staff already bring these type of cases to the SLC to receive authorization to initiate litigation, which involves a thorough analysis of the law and the facts. For many cases, the SLC is briefed more than once in closed session. Additionally, the SLC provides public notice of the item on its "Regular Calendar." The process proposed under this bill would be a redirection of those activities and costs.

The General Fund would receive revenue generated as a result of any fines levied or rent revenue generated by bringing trespassers under lease. The SLC is unable to estimate the amount of this revenue.

COMMENTS

Finance is neutral on this bill and notes the bill would provide the SLC with an alternative to expensive litigation. Additionally, the bill would result in revenue to the General Fund.

Analyst (621) K. Madison	Date	Program Budget Manager Karen Finn	Date
Department Deputy Director			Date
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

Atkins, Toni

06/21/2012

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COMMENTS (continued)

The bill is intended to address the costly and time consuming legal process required to address illegal structures or facilities on lands under the state's jurisdiction and to deter trespassing. This bill is also intended to provide the SLC the administrative enforcement tools already available to the California Coastal Commission and the San Francisco Bay Conservation and Development Commission.

The bill would allow the SLC to impose administrative penalties against a person who illegally constructs, places, maintains, owns, uses, or possesses a structure or facility on land under the SLC jurisdiction. The penalty would be limited to not more than \$1,000 a day, or a monthly use and occupancy fee that is not more than 60 percent higher than the full fair market rental for each day that a violation occurs.

The bill would require the SLC, in determining the appropriate penalty, to consider six different mitigating factors, including the following:

- The physical extent of the violation.
- The degree of culpability of the violator.
- The degree of cooperation of the violator.
- The violator's prior violations of statutes, rules, orders, or leases pertaining to lands under the SLC jurisdiction and that are owned by the state.
- The impact the violation causes on the environment, to lawful public access, the public trust, or other property interests under the SLC jurisdiction and that are owned by the state.
- Any other factors determined by the SLC to be relevant and consistent with the policy of the SLC.

Telephone and telegraph corporations undertaking specified action and a franchised cable television corporation usage of poles, conduits, cables, wires, and associated equipment would be exempt from penalties.

Electrical and gas corporations will not be subject to penalties if the corporation can demonstrate that it has not received notice that it did not have adequate existing land rights for its structure or facility, and if it remedies the violation within six months from the date of the violation.

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	(Fiscal Impact by Fiscal Year)			Fund Code
				(Dollars in Thousands)			
				2011-2012 FC	2012-2013 FC	2013-2014	
3560/Lands Comm	SO	No		-----	No/Minor Fiscal Impact	-----	0001
1644/Civ Crim Vio	RV	No		-----	See Fiscal Summary	-----	0001