

# San Francisco Bay Conservation and Development Commission

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**TO:** Commissioners and Alternates

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**SUBJECT: Staff Report and Recommendation on Pending Legislation**  
(For Commission consideration on September 17, 2015)

## Summary and Recommendations

The staff recommends that the Commission support: (1) Senate Bill 246, *Climate Change Adaptation*, introduced by Senator Bob Wieckowski; and (2) Assembly Bill 1482, *Climate Adaptation*, introduced by Assemblymember Rich Gordon.

## Report

On April 10, 2015 the Commission considered a number of bills in the current legislative session that would affect the Commission and the Bay. The Commission voted to support some bills and to track and work with legislative staff on other bills. While the status of all the bills is discussed below, in particular the Commission directed staff to work with Senator Wieckowski and Assemblymember Gordon on SB 246 and AB 1482, respectively. The two bills took differing, but also overlapping, approaches to coordinating state climate adaptation efforts. These bills have since been amended several times, and their latest amendments in early September have now more clearly differentiated them—AB 1482 focuses on coordination of state adaptation efforts, while SB 246 focuses on coordination of local and regional adaptation efforts with state efforts. Staff recommends that the Commission support both bills. Bill language can be accessed using the internet links provided, or by contacting BCDC staff.

**Senate Bill 246.** Senator Bob Wieckowski introduced Senate Bill 246, *Climate change adaptation*. The bill, as amended, recognizes that the state must support integrated adaptation planning with coordinated strategies across state, regional, and local governments in order to provide for cohesive and comprehensive climate change adaptation. To accomplish this, it establishes the Integrated Climate Adaptation and Resiliency Program to be administered by the Governor's Office of Planning and Research (OPR), which would coordinate regional and local efforts with state climate adaptation strategies. It also places an emphasis on climate

equity considerations across sectors and regions, and strategies that combine greenhouse gas mitigation with adaptation. The Program will: (1) provide tools and guidance; (2) promote and coordinate state agency support for local and regional efforts; and (3) inform state-led programs regarding local and regional adaptation goals, efforts and challenges, through regular coordination with state agencies. The bill also establishes an advisory council whose members will have expertise in a wide range of areas, from public health to local government. Additionally, OPR will establish and maintain a clearinghouse of information relevant to adaptation planning.

Finally, SB 246 bill directs the state Office of Emergency Services, in coordination with the Natural Resources Agency, OPR and other relevant agencies and private entities, to update the Adaptation Planning Guide whenever the *Safeguarding California Plan* is updated. The bill also establishes necessary components to be included in the updates, and requires public meetings to be held throughout the state to provide input to the Guide.

SB 246 recognizes the importance of integrated local, regional and state planning for adaptation and provides for concrete steps to foster that integration. Staff recommends that the Commission support SB 246.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB246&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB246&search_keywords=)

**Assembly Bill 1482.** Assemblymember Rich Gordon has introduced Assembly Bill 1482: *Climate adaptation*. The bill directs the Natural Resources Agency to update the *Safeguarding California Plan* every three years, release a draft of the strategy for public review and comment, and hold at least three public hearings on it across the state. The Agency is directed to report annually to the Legislature regarding the actions taken by state agencies to implement the *Safeguarding plan*.

The bill directs state agencies to maximize the following objectives:

1. Use *Safeguarding* to inform planning decisions and state investments. Furthermore it promotes use of natural systems and natural infrastructure in such adaptation planning whenever feasible.
2. Encourage collaborative regional planning efforts to address adaptation.
3. Ensure a continuing repository for scientific data on climate change adaptation.
4. Educate the public about climate change impacts.
5. Promote drought resiliency.
6. Build resilient communities through urban greening and infill development.
7. Protect and enhance habitat and wildlife corridors.
8. Promote actions to foster social equity in adaptation planning.

The Strategic Growth Council (SGC) was established by SB 732 (Steinberg, 2008) and includes agencies and departments within Business, Consumer Services and Housing, Transportation, Natural Resources, Health and Human Services, Food and Agriculture, and Environmental Protection, and the Governor's Office of Planning and Research. The SGC's mandate is to coordinate the members' programs to improve air and water quality, improve natural resource protection, increase the availability of affordable housing, improve transportation, meet the goals of the California Global Warming Solutions Act of 2006, encourage sustainable land use planning, and revitalize urban and community centers in a sustainable manner, including policy direction and providing grants.

AB 1482 would expand the duties of the SGC to include identifying and reviewing the activities and funding programs of all state agencies in meeting the goals of the *Safeguarding* strategy. There could be significant benefits from having the SGC integrate adaptation coordination with its other mandated efforts, including the potential for greater funding for adaptation efforts. However, to date, the SGC has not had a central role in coordinating state adaptation efforts—that has been the role of the Climate Action Teams (CATs) led by the state Environmental Protection Agency—so it remains unclear how the actions of the SGC would be harmonized with or supplant the role of the CATs.

AB 1482 provides for updating the *Safeguarding California Plan* and a strong focus on mainstreaming climate change adaptation into state planning and investments, with a focus on regional planning, natural solutions, and social equity. Staff recommends that the Commission support SB 1482.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB1482&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1482&search_keywords=)

**Senate Bill 379.** (*Status: Was supported by the Commission and has passed the legislature.*) Senator Hannah-Beth Jackson introduced Senate Bill 379: *Land use: general plan: safety element*. The State Planning and Zoning law currently provides for local governments to prepare and maintain General Plans. This bill would require, when housing elements of a General Plan are revised on or after January 1, 2017, that the safety element be reviewed and updated by the local government as necessary to address climate adaptation and resiliency strategies. The bill would require the update to include a set of goals, policies, and objectives based on the most current information available regarding climate change adaptation and resiliency.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB379&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB379&search_keywords=)

**Senate Bill 718.** (*Status: was supported by the Commission but was held in Senate Appropriations.*) Senators Mark Leno and Lonnie Hancock introduced Senate Bill 718: *Hazardous Materials Response and Restoration Subaccount* to address non-petrochemical oil spills, to state waters. The state Oil Spill Response Trust Fund (OSRTF) provides funding to cover the costs to respond, contain and clean up petrochemical oil spills in state waters. However, if the spill substance is not petrochemicals, the OSRTF could not be used to cover the costs. The

bill would allow up to \$500,000 to be loaned annually from the OSRTF into the state Hazardous Materials Response and Restoration Subaccount, to be used to reimburse wildlife rescue and rehabilitation organizations for expenses incurred by rescue and rehabilitation stations for wildlife injured by non-petroleum oil spills. If the funds could not be recovered from those responsible for the spill within 10 years, the funds would be repayed from the General Fund.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB718&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB718&search_keywords=)

**Assembly Bill 746.** (*Status: was supported by the Commission, passed the legislature and was signed into law by Governor Brown.*) Assemblymember Phil Ting introduced Assembly Bill 746: *San Francisco Bay Restoration Authority*. The San Francisco Bay Restoration Authority (Authority) is currently established under state law (Lieber, 2008) to raise and distribute funds for the restoration, enhancement, protection, and enjoyment of Bay wetlands and wildlife habitats. As stated by the state legislative analyst, the bill would: (1) delete the requirement that one member of the board, who serves as the chair, be a resident of the San Francisco Bay area and would instead require that member to be an elected official of a bayside city or county; (2) delete the limit on the authority's total amount of bonded indebtedness based on prior fiscal year revenues; (3) extend to January 1, 2019, the provision authorizing the authority to reimburse county elections officials for the incremental costs of submitting a special tax measure to the voters; and (4) postpone to January 1, 2049, the repeal date for the act, and would make related conforming changes.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB746&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB746&search_keywords=)

The Commission directed the staff to work with the authors on the following bills:

**Senate Bill 709.** (*Status: has not moved since introduction.*) Senator Fran Pavley has introduced Senate Bill 709: *Natural disaster resilience projects*. This bill would state the intent of the Legislature to enact legislation that would enhance private financing of natural disaster resilience projects using state and local authorities. The bill is a spot bill with no further detail. Such funding would increase resilience to climate change impacts including rising sea level.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB709&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB709&search_keywords=)

**Assembly Bill 1362.** (*Status: has not moved since introduction.*) Assemblymember Rich Gordon introduced Assembly Bill 1362: *Local government: assessments, fees, and charges: stormwater definition*. The state Constitution requires that assessments, fees and charges be submitted to property owners for a vote after written notice and a public hearing. State Proposition 218 further provided for procedures and definitions for local governments to comply with the Constitution. AB 1362 would define "stormwater" for purposes of Proposition 218 to mean any system of public improvements or service intended to provide for the quality, conservation, control, or conveyance of waters that land on or drain across the natural or man-

made landscape. This bill would become operative only if a proposed constitutional amendment of the 2015–16 Regular Session is approved by the voters. However, the proposed constitutional amendment has not yet been introduced.

If the bill and constitutional amendment were to pass, the result would make it easier to fund flood control improvements. Because flooding from sea level rise would be exacerbated by stormwater runoff, this would also potentially provide for funds to increase resilience to sea level rise.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB1362&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1362&search_keywords=)

**Assembly Bill 435.** (*Status: was held in Senate Appropriations.*) Assemblymember Ling-Ling Chang has introduced Assembly Bill 435: *California Environmental Protection Agency: Natural Resources Agency: Web casts of public meetings and workshops.* AB 435 would require all boards, departments and commissions within the Environmental Protection Agency and the Natural Resources Agency to provide live webcasts of all public meetings in a manner that enables listeners and viewers to ask questions and provide public comment by phone or email. The bill would require the agencies to archive the webcasts for later viewing by the public.

Staff supports webcasting the Commission’s meetings. However, while the bill states that “[t]he deputy secretary for external affairs [of CalEPA and Resources] shall be responsible for implementation...,” the bill does not specify the source of funding for the webcasting. BCDC does not webcast its meetings because it does not have adequate funding to do so. The cost of complying with the bill’s requirements could be substantial. The bill was amended to provide an exception to its provisions for meetings held at non-agency sites.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB435&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB435&search_keywords=)