



4/14/2023

Senator John Laird

1021 O Street, Suite 8720  
Sacramento, CA 95814  
Submitted via email

**RE: SB 272 Sea Level Rise: Planning and Adaptation – SUPPORT**

Dear Senator Laird,

Our organizations support SB 272 because we recognize the need to create stronger governance tools to protect communities along the San Francisco Bay and California coast from the impacts of sea level rise. The “governance gap” on sea level rise has been a particular challenge for the San Francisco Bay region, and we are grateful for the opportunity this bill provides to introduce accountability and consistency in this process.

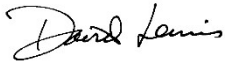
The San Francisco Bay Area is estimated to bear ⅔'s of the state's socioeconomic risk from sea level rise. Our region has a long history of working on these issues, but also unique challenges related to our heavily urbanized and politically fragmented governance structure. Our core challenge as a region is to find ways to adapt to sea level rise in a manner that ensures resilience for both our communities and the San Francisco Bay ecosystem. Meeting this challenge requires new governance structures with clear guidance from the State of California to reinforce these coequal goals.

The San Francisco Bay Conservation & Development Commission (BCDC) has begun creating advisory guidance for local government sea level rise plans. Under SB 272, BCDC would have new authority to ensure that local governments put this guidance into practice and develop resilience plans using the best available science. It is crucial that BCDC is empowered to provide oversight and accountability to accelerate consistent, equitable, and effective shoreline resilience plans that protect vulnerable communities.

As the guidelines and local plans are developed, we remain committed to working with the administration and BCDC to ensure the formalization of clear requirements emphasizing the need to incorporate nature-based shoreline protections and a strong public engagement process that prioritizes the needs of front-line at-risk communities from the outset.

As this winter's storms have made clear, the impacts of climate change are increasing annually, and we do not have time to wait to plan for the rising tides that will occur in our region. The approach taken by SB 272 provides an important step toward our shared goal of protecting Bay Area communities and building a more resilient shoreline.

Sincerely,



**David Lewis**  
Executive Director  
Save the Bay



**Zoe Siegel**  
Sr Director of Climate Resilience  
Greenbelt Alliance



March 17, 2023

**To:** Senator Dave Min, Chair  
Members of the Committee  
California State Senate Committee on Natural Resources and Water  
1021 O Street, Room 3220  
Sacramento, CA 95814

**Subject:** SB 272 (Laird) – Sea Level Rise: Planning and Adaptation

**Position:** Oppose Unless Amended

Dear Chair Min and Members of the Committee:

The signatory organizations respectfully submits the following comments to express our opposition unless amended for Senate Bill 272. While our organizations acknowledge climate change and support sound actions to limit its effects, SB 272 would circumvent existing collaborative multi-year efforts to establish agreeable adaptation guidelines. Moreover, as drafted, SB 272's ambiguous language presents additional obstacles for implementation of the state-mandated local program.

### **Recognition of Existing Sea Level Rise Planning Efforts**

As drafted, SB 272 does not acknowledge two existing sea level rise planning efforts, developed with widespread agreement on key principles and direction for action from a diverse group of public and private stakeholders. One effort was led by the California Coastal Commission and the other by the San Francisco Bay Conservation and Development Commission (BCDC). In the case of the Coastal Commission-led effort, these include the *Local Government Working Group: 2021 Work Products*, published December 3, 2021. In the case of BCDC, these include the *Bay Adapt Regional Strategy for a Rising Bay: Joint Platform* adopted by BCDC on October 21, 2021. While we are supportive of the bill's call for the Coastal Commission and BCDC to adopt guidelines against which local governments' sea-level rise plans will be reviewed for purposes of establishing future funding priority, it is critical that each agency's respective guidelines recognize and reflect the consensus principles that have been developed.

## **Identification of Infrastructure Projects for Economic Analysis**

Considering that both public and private infrastructure projects will be impacted by sea level rise, we believe it is important that SB 272's economic analysis expressly be made applicable to essential private infrastructure, including existing and planned employment centers and housing. Moreover, to address ambiguity, this analysis should incorporate and explicitly identify facilities such as transit, airports, and ports, which are vital for community safety and a sustainable economy.

## **Clarification of Consequences for Non-Compliant Local Governments**

It is our understanding that as drafted, SB 272 is intended to be entirely incentive-based in that the sole consequence for a local government that does not adopt and submit a local plan determined to be consistent with the applicable guidelines of the Coastal Commission or BCDC is that it shall not be prioritized for sea level rise funding appropriated by the Legislature. We believe it is important to make clear that nothing in the bill establishes any other form of penalty or consequence, including any restriction or limitation on planning and development approvals.

## **Conclusion**

While the signatory organizations agree that resiliency planning and implementation are necessary to protect our communities and infrastructure, SB 272 fails to recognize the Coastal Commission-led effort and the ongoing BCDC Bay Adapt Joint Platform, which identify consensus principles as a result of diverse stakeholder engagement. Moreover, with ambiguous language concerning the economic analysis of incorporated infrastructure and consequences for the lack of compliance from local governments, additional clarification is needed. In closing, the Bay Area Council, the Building Industry Association of the Bay Area, the Bay Planning Coalition and the California Building Industry Association respectfully oppose Senate Bill 272 as drafted. We look forward to meeting with the bill author to discuss our concerns in more detail and share specific language that if accepted would remove our opposition.

Sincerely,



Adrian Covert  
*Senior Vice President, Public Policy*  
Bay Area Council



Paul Campos  
*Senior Vice President of Governmental Affairs  
& General Counsel*  
Building Industry Association, Bay Area



John Coleman  
*Chief Executive Officer*  
Bay Planning Coalition



P. Anthony Thomas  
SVP of Legislative Affairs  
California Building Industry Association

# SB 272 Proposed Amendments

## SECTION 1. (UNCODIFIED)

(a) In enacting the parts of Division 20.6.9 dealing with the San Francisco Bay Conservation and Development Commission and the local governments lying, in whole or in part, within its jurisdiction, the Legislature finds and declares:

(1) The San Francisco Bay Area is a vibrant, diverse, ecologically unique, innovative, and pioneering region that will be deeply and deleteriously affected by climate change without tremendous effort and investments to adapt to a constantly changing shoreline. The San Francisco Bay shoreline constitutes approximately one-third of the California coastline, but the Bay Area is estimated to experience two-thirds of the negative economic impacts due to the flooding that would occur absent adequate measures to adapt and protect people, places, and habitat; and

(2) The Bay Area region's most socioeconomically vulnerable frontline communities are at the greatest risk of exposure to climate threats, and the impacts of historic and ongoing social and economic marginalization will compound the risks posed by flooding to those communities by reducing a community's or individual's ability to prepare for, respond to, and/or recover from a flood event; and

(3) The Bay ecosystem is already stressed by human activities that drastically lower its adaptive capacity, and climate change will further alter that ecosystem by inundating or eroding remaining wetlands, changing sediment dynamics, altering species composition, raising the acidity of Bay waters, changing freshwater flows and/or salinity, altering the food web, and impairing water quality. Moreover, further loss of tidal wetlands will increase the risk of shoreline flooding; and

(4) Flood damage to vital shoreline development, public infrastructure, and facilities such as neighborhoods, commercial centers, airports, seaports, regional transportation facilities, landfills, contaminated lands, and wastewater treatment facilities absent adaptation will require costly repairs and likely will result in the interruption or loss of vital services and/or degraded environmental quality; and

(5) The increasingly frequent and severe impacts of climate change in the Bay Area do not conform to jurisdictional boundaries or the planning and regulatory authorities of any one agency or organization; and

(6) There are multiple local, regional, state, and federal government agencies with authority over the Bay and its shoreline, and while local governments have broad authority over shoreline land use, they have limited resources to address climate change adaptation and their individual actions, absent a regional context in which to make policy decisions, would lead to a "tragedy of the commons"; and

(7) In 2019, the Commission, in collaboration with a Leadership Advisory Group comprised of 35 Bay Area public, private, and non-profit leaders embarked on the development of "Bay Adapt," a consensus-driven strategy for regional sea level rise adaptation. The Leadership Advisory

Group includes representatives from numerous public agencies, including the Association of Bay Area Governments/Metropolitan Transportation Commission (MTC/ABAG), San Francisco Bay Regional Water Quality Control Board, State Coastal Conservancy, Caltrans, BARC, BART, East Bay Regional Parks, US Army Corps of Engineers, San Francisco Bay Restoration Authority, San Francisco Public Utility Commission, Marin County, and BCDC, as well as environmental justice, environmental, business, scientific, civic, organizations, local government and flood manager networks, and academia; and

(8) In 2020 and 2021, hundreds of stakeholders participated in the creation of the “Bay Adapt Joint Platform” through nine Leadership Advisory Group meetings, two public forums, many expert Working Group meetings, ten community and stakeholder focus groups, over 50 presentations around the region, and a month-long public feedback opportunity. The Commission also received numerous briefings on Bay Adapt throughout its development; and

(9) The Bay Adapt Joint Platform lays out a set of guiding principles, priority actions, and vital tasks whose implementation will enable the region to adapt faster, better, and more equitably to a rising San Francisco Bay. If fulfilled, it will reduce flood risks for communities, businesses, infrastructure, and habitat; protect natural areas and wildlife; recognize and equitably support low-income, frontline communities; robustly integrate adaptation into community-focused local plans; accelerate permitting and project construction; and increase technical assistance for local governments and funding for adaptation.

(b) In enacting the parts of Division 20.6.9 dealing with the California Coastal Commission, and the local governments lying, in whole or in part, within its jurisdiction, the Legislature finds and declares:

(1) The California Coastal Commission’s Local Government Working Group comprises local elected officials, Commission staff, and two Coastal Commissioners. In November 2020, the Coastal Commission, League of California Cities, and the California State Association of Counties asked the Working Group to develop principles and strategies for incorporating sea level rise into Local Coastal Program updates.

(2) In December 2021, the Local Government Working Group released four work products:

(A) A framework for a phased approach to LCP updates for sea level rise;

(B) A call for Regional Approaches to resiliency and adaptation;

(C) An elevation and concurrence process to support efficient LCP updates; and

(D) A ‘quick links’ reference document including resources for SLR planning and LCP updates.

(3) The Local Government Working Group has affirmed its commitment to the development and advancement of tools which provide local flexibility for adaptation planning while also serving consistent application of the Coastal Act statewide.

## **SECTION 2 ~~1~~.**

Division 20.6.9 (commencing with Section 30985) is added to the Public Resources Code, to read:

### **DIVISION 20.6.9. SEA LEVEL RISE PLANNING AND ADAPTATION**

#### **30985.**

(a) A local government lying, in whole or in part, within the coastal zone or within the jurisdiction of the San Francisco Bay Conservation and Development Commission shall implement sea level rise planning and adaptation through submitting either of the following, as applicable:

(1) A local coastal program to the California Coastal Commission, subject to approval review for consistency with the guidelines established pursuant to subdivision (a) of Section 30985.2. by the California Coastal Commission.

(2) A subregional San Francisco Bay shoreline resiliency plan to the San Francisco Bay Conservation and Development Commission, subject to approval review for consistency with the guidelines established pursuant to subdivision (b) of Section 30985.2 by the San Francisco Bay Conservation and Development Commission.

(b) The sea level rise planning and adaptation required pursuant to subdivision (a) shall include, at a minimum, all of the following:

(1) The use of the best available science.

(2) A vulnerability assessment that includes efforts to ensure equity for at-risk communities.

(3) A sea level rise adaptation plan.

(4) Identification of lead planning and implementation agencies.

(5) A timeline for updates, as needed, based on conditions and projections and as determined by the local government in agreement with the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as applicable, for the sea level rise planning and adaptation elements included in paragraphs (2) to (4), inclusive.

(c) A timeline for sea level rise planning and adaptation updates, as required pursuant to paragraph (5) of subdivision (b), shall include, to the maximum extent practicable, applicable implementation approaches that build upon both of the following:

(1) The sea level rise adaptation plan, as required pursuant to paragraph (3) of subdivision (b).

(2) Economic analyses of essential existing and planned ~~critical public~~ infrastructure.

(d) (1) Notwithstanding paragraph (2), it is the state's goal to implement the requirements of this section by January 1, 2029.

(2) All local governments subject to the requirements of subdivision (a) shall comply with this section by January 1, 2034.



(e) For purposes of this section, “~~critical public~~ essential existing and planned infrastructure” includes, but is not limited to, transit, roads, housing, airports, ports, workplaces, water storage and conveyance, wastewater treatment facilities, landfills, power plants, and railroads.

#### **30985.2.**

(a) On or before December 31, 2024, the California Coastal Commission ~~and the San Francisco Bay Conservation and Development Commission~~, in close coordination with the Ocean Protection Council and the California Sea Level Rise State and Regional Support Collaborative, shall establish guidelines for the preparation of the sea level rise planning and adaptation required pursuant to subdivision (a) of Section 30985. The guidelines shall recognize and reflect the Baseline Policies as described in the Local Government Working Group: 2021 Work Products published by the California Coastal Commission on December 3, 2021.

(b) On or before December 31, 2024, the San Francisco Bay Conservation and Development Commission shall establish guidelines for the preparation of the sea level rise planning adaptation required pursuant to subdivision (a) of Section 30985. The guidelines shall recognize and reflect the guiding principles as described on page 16 of the *Bay Adapt Regional Strategy for a Rising Bay Joint Platform* adopted by the San Francisco Bay Conservation and Development Commission on October 21, 2021.

#### **30985.4.**

This division does not reduce, alter, or diminish the authority of a state or local agency. Except for the funding priority described in Section 30985.5, this division shall not be interpreted to establish any penalty or other consequence, including any restriction or limitation on planning and development approvals, for a local government’s failure to comply with this section.

#### **30985.5.**

Local governments ~~that~~ shall submit their sea level rise adaptation plan for review to receive approval by the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as applicable, pursuant to subdivision (a) of Section 30985 on or before January 1, 2029. , Local governments whose sea level rise adaptation plans are reasonably determined to be consistent with the applicable guidelines established pursuant to subdivision (a) of Section 30985 shall be prioritized for sea level rise funding, upon appropriation by the Legislature, for the implementation of projects in the local government’s approved sea level rise adaptation plan.

#### **30985.6.**

The operation of this division is contingent upon an appropriation for its purposes by the Legislature in the annual Budget Act or another statute.

#### **30985.8.**

For purposes of this division, the following definitions apply:

(a) “California Sea Level Rise State and Regional Support Collaborative” means the California Sea Level Rise State and Regional Support Collaborative created pursuant to Section 30972.

(b) "Coastal zone" has the same meaning as defined in Section 30103.

(c) "Jurisdiction of the San Francisco Bay Conservation and Development Commission" means the area described in Section 66610 of the Government Code.

(d) "Local coastal program" has the same meaning as defined in Section 30108.6.

(e) "Local government" has the same meaning as defined in Section 30109.

**SEC. 3. 2.**

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.