

**STAFF REPORT
INFORMATIONAL
103**

A Statewide

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**INFORMATIONAL UPDATE ON AB 691 (2013, MURATSUCHI): STATE
GRANTED TRUST LANDS AND SEA-LEVEL RISE**

INTRODUCTION:

In 2013, the California State Legislature passed AB 691 (Muratsuchi, Chapter 592, Statutes of 2013; Public Resources Code section 6311.5) to require local trustees of granted Public Trust lands with gross revenues that average over \$250,000 annually to inventory their trust assets, assess their vulnerability to sea-level rise, and begin to formulate feasible and effective adaptation and resiliency measures. Assessments are due to the Commission no later than July 1, 2019. This report is an informational update on the progress local trustees have made and Commission staff's plans for next steps.

BACKGROUND:

The Legislature has granted sovereign Public Trust lands to over 80 local public entities, known as grantees or local trustees. The granted lands must be managed in trust for the people of California. The specific uses permitted in each granting statute vary. Some trust grants authorize the construction of ports, harbors, airports, wharves, docks, piers, and other structures necessary to facilitate commerce and navigation, while others allow only visitor-serving recreational uses or open space. All grants reserve to the people the right to fish in the waters over the lands and the right to convenient access to those waters for that purpose.

Local trustees manage granted lands in trust pursuant to the common law Public Trust Doctrine, the specific granting statute(s), the California Constitution, and other laws governing the trust and the trustee's fiduciary duties. While granted Public Trust lands and assets are managed locally, the Commission has residual and review authority over these granted lands. The Commission represents the statewide public interest to ensure that trustees manage their granted lands in conformance with applicable law.

AB 691 supports the Commission's oversight role over granted Public Trust lands by gathering information from grantees on the local and site-specific vulnerabilities associated with sea-level rise, as well as preferred strategies for safeguarding and adapting Public Trust lands and resources. Sea-level rise

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poses significant challenges to the management of granted and ungranted sovereign Public Trust lands and resources. Rapidly warming temperatures and rising waters will result in a wide range of impacts to critical infrastructure, commercial enterprises, navigational safety, public access, recreation and tourism, fisheries, and coastal ecosystems. The Commission and grantees have a responsibility to the public to ensure that Public Trust values and uses are carefully considered amid these challenges and that there is robust communication and coordination between the State and local jurisdictions so that planning and adaptation efforts are effective.

AB 691 provides that addressing the impacts of sea-level rise for all of its legislatively granted Public Trust lands shall be among the management priorities of a local trustee. It requires a local trustee whose gross Public Trust revenues average over \$250,000 annually between January 1, 2009, and January 1, 2014, to prepare and submit to the Commission, by July 1, 2019, an assessment of how it proposes to address sea-level rise. AB 691 permits, but does not require, a local trustee whose gross Public Trust revenues are less than \$250,000 to prepare and submit to the Commission an assessment. AB 691 requires a local trustee to consider and use relevant information from specified reports on sea-level rise in preparing the assessment and permits a trustee that has already completed an assessment on the impacts of sea-level rise to submit that assessment to the Commission. The Commission is required to make the assessments available to the public on its website and to send electronic copies to each member of the Climate Action team, the climate change program manager in the office of the Secretary for Environmental Protection, and the Governor's Office of Planning and Research.

AB 691 SUBMISSION PROCESS AND REVIEW:

AB 691 Submission Requirements

Local trustees must submit assessments to the Commission that satisfy the criteria in Chapter 592. There are four main criteria: 1) assess the impacts of sea-level rise, using the most recent version of the State of California Sea-Level Rise Guidance Document (currently, [State of California Sea-Level Rise Guidance, 2018 Update](#), by the Ocean Protection Council); 2) provide sea-level rise projection maps of 2030, 2050, and 2100 impacts, including potential impacts from 100-year storm events; 3) estimate the financial costs of sea-level rise, with consideration of repair costs, lost land and land use value, and anticipated costs to prevent or mitigate potential damages; and 4) describe how the trustee proposes to protect and preserve natural and built resources and facilities located on trust lands, including how wetlands restoration and habitat protection would mitigate sea-level rise impacts. Elaborating on these criteria, staff created a more detailed [criteria list](#) available to the public and grantees on

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its AB 691 webpage. The list provides grantees with comprehensive descriptions and recommendations for fulfilling each AB 691 requirement.

AB 691 permits grantees to use related sea-level rise vulnerability assessments and planning documents as part of their AB 691 submission, provided they satisfy the AB 691 criteria and address the specific granted land area. These related assessments and planning documents have generally been prepared for other state or federal agencies, as part of regulatory or policy requirements. For example, some vulnerability assessments were completed as precursors to Local Coastal Program updates for the California Coastal Commission, and some adaptation strategies were developed as part of broader Climate Action Plans to reduce greenhouse gas emissions, per AB 32 (Nunez, Chapter 488; Statutes of 2006; Health and Safety Code 38500) and SB 32 (Pavley, Chapter 249; Statutes of 2016; Health and Safety Code 38566) or for Local Hazard Mitigation Plans, as required by the Federal Emergency Management Agency, or other types of land use plans. Many grantees have chosen to prepare a unique assessment specifically for AB 691 because it best suits the planning needs for their granted lands, or because they have not previously been required to plan for sea-level rise.

There are 33 grantees subject to AB 691 based on the revenue threshold. Staff sent these grantees a copy of the legislation in June 2015 to familiarize them with the law and notify them of the assessment due date. Additional reminder letters were sent to grantees in January 2017, and February 2019. Staff corresponds with grantees on an as-needed basis before and after the receipt of the assessments. Common topics for correspondence before submission include inquiries related to granted lands boundaries and the Commission's jurisdiction, how to update older vulnerability assessments and projection maps using the newer state sea-level rise guidance (Ocean Protection Council, 2018), challenges preparing the financial cost estimate, and requests for deadline extensions. Other correspondence include updates on assessment reviews, recommendations for strengthening aspects of an assessment, and notification if the criteria have not been satisfied.

Local Trustees Subject to AB 691

Submitted

City of Benicia
City of Long Beach
City of Monterey
City of Morro Bay
City of Santa Barbara
City of Santa Cruz
Port of Los Angeles
San Mateo County Harbor District

Not Submitted

City of Alameda
City of Avalon
City of Berkeley
City of Carpinteria
City of Crescent City
City of Emeryville
City of Eureka
City of Newport Beach

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City of Oceanside
City of Redondo Beach
City of Redwood City
City of San Diego
City of Santa Monica
City of Sausalito
Crescent City Harbor District
Humboldt Bay Harbor Recreation
and Conservation District
Moss Landing Harbor District
Orange County
Orange County (Dana Point)
Port of Oakland
Port of San Francisco
Port San Luis Harbor District
San Diego Unified Port District
San Mateo County
Santa Cruz Port District

Resources and Assistance

Staff created and compiled multiple resources to assist local trustees with assessment development. An AB 691 [webpage](#) can be found through the Commission's website (www.slc.ca.gov), under the Information tab. This webpage includes sea-level rise vulnerability and adaptation policy guidance and planning examples for assessing sea-level rise impacts, information about Public Trust resources and the Public Trust Doctrine, web mapping applications and visualization tools, and resources to assist with estimating financial costs. The AB 691 legislation is available on the webpage, as well as the detailed criteria list, a list of local trustees subject to AB 691 by county, reviewed submissions, and recordings and slides of two webinars presented to local trustees.

The webinars were developed by Commission staff and California Sea Grant Fellows. The first webinar, held on June 26, 2018, provided an overview of AB 691, including information and available resources related to each of the assessment criteria, a review of previously submitted AB 691 assessments, the webpage, and time for questions and discussion. California Sea Grant Fellows from not only the Commission, but also the State Controller's office, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the California Coastal Conservancy, and the Ocean Protection Council, presented the webinar and helped make the connection between the AB 691 process and other sea-level rise planning efforts throughout the state. Before the first webinar, grantees were invited to take an online, anonymous survey to ascertain what topics they needed more assistance with and information about, and the stage of completion of their assessments. The survey responses shaped the two webinars. The second webinar, held on

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September 20, 2018, was presented by Commission staff, California Sea Grant Fellows from the Commission and the State Controller's office, and a senior economist with Earth Economics, a nonprofit organization specializing in natural capital and ecosystem services valuation. This webinar focused on the third assessment criteria, estimating financial costs of sea-level rise, and how to incorporate natural capital and ecosystem services valuation into cost and benefit analyses. It covered an introduction to natural capital and ecosystem services valuation, methodologies, applications, tools and resources, with time for questions and discussion at the end.

These resources are available to local trustees, and to the public, through the AB 691 webpage. The law requires all AB 691 submissions to be made available online, and staff has requested that, to the best of their ability, grantees ensure the submissions will be compliant with AB 434 (Baker, Chapter 780; Statutes of 2017; Government Code 11546.7).

NEXT STEPS:

The AB 691 assessments are valuable instruments for local jurisdictions and the State because they lay the foundation for building resiliency through adaptation planning for California's coastal and bayfront Public Trust lands and assets. The assessments are the first step in understanding sea-level rise risks and adaptation strategies considered most feasible at the local level. Next, the assessments will be used to develop a cumulative study and set of recommendations for how the State can support implementation of local adaptation plans. The California State Budget Act of 2018 appropriated \$500,000 to the Commission to assist with AB 691 implementation. The Commission will use the funds to work with a consultant to develop a cumulative study and recommendations and expand its staff resources and technical capacity by supporting California Sea Grant Fellowship positions and student GIS positions. In 2018, the Commission authorized the Executive Officer to solicit bids for consultant services ([August 23, 2018, Calendar Item 105](#)). In early 2019, staff released a bid solicitation, reviewed proposals, and selected a consultant. The contract is in the process of being finalized. Once signed, the contract will be in effect for 2 years, with an option to extend. The main tasks of the consultant will be to identify priority assets and preferred sea-level rise adaptation approaches, evaluate the economic impacts of sea-level rise, and recommend short and long-term actions to support local implementation. The recommended actions will reflect a systematic approach to implementing adaptation measures that are intended to provide long-term asset security and ensure public access and use rights.

The first deliverable, which is part of the cumulative study, will be a risk and evaluation report. The report will synthesize Public Trust resources and asset

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types involving granted lands that are vulnerable to sea-level rise and identify factors that contribute to the priority and risk level of an asset or resource type. It will describe selected adaptation strategies and approaches that are commonly preferred by grantees. It will outline the approach to submission evaluation and review, describe data and information gaps, discuss limitations that constrain analysis, and include an economic analysis of financial risks, adaptation costs, and benefits. The second deliverable, also part of the cumulative study, will be the adaptation summarization report. This report will analyze the tools and instruments available to support implementation of local adaptation strategies to safeguard and build resiliency for the highest-priority at-risk assets and resources detailed in the risk and evaluation report. The report will consider the utility of various tools and instruments related to governance, financing, and planning.

The third deliverable will be a report with recommendations to the State for supporting implementation of adaptation strategies and approaches to safeguard and build resiliency for Public Trust assets and resources within granted land areas. The report will rely on information in the cumulative study.

Throughout these next steps, the staff will continue to communicate and coordinate with local trustees and sister agencies. Staff will work with its consultant to explore interest in establishing an interagency advisory group that could include representatives from local, state, and federal agencies. The advisory group could provide input for the risk and evaluation study, as well as contribute expertise to inform the recommendations for the State to support local adaptation implementation.

OTHER PERTINENT INFORMATION:

1. This is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. This is consistent with Strategy 1.4 of the Strategic Plan to incorporate strategies to address climate change, adapt to sea-level rise, incentivize water conservation, and reduce greenhouse gas emissions and the generation of litter and marine debris into all the Commission's planning processes, project analyses and decisions. This is consistent with Strategy 1.4.1 to provide applicants and grantees with the best available science on the impacts of climate change, sea-level rise, and adaptation strategies. It is consistent with Strategy 1.4.2 to coordinate with lessees, grantees and agency partners to implement actions, and where appropriate require lessees, to address impacts of climate change, adapt to sea-level rise, promote and incentivize water conservation, reduce greenhouse gas emissions, and reduce generation of marine debris and

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litter. Finally, it is consistent with Strategy 1.4.3 from the Strategic Plan to adopt flexible, adaptive approaches to address sea-level rise that protect vulnerable populations and give priority to natural infrastructure solutions consistent with the public's trust needs and the State's climate change adaptation strategy "Safeguarding California" and Executive Order B-30-15 on climate adaptation.