

**CALENDAR ITEM
70**

A Statewide

04/06/11

S Statewide

J. DeLeon

PROPOSED LEGISLATION

INTRODUCTION:

State Lands Commission staff has been reviewing various legislative proposals introduced in the 112th Congress that involve lands under the Commission's jurisdiction. This report describes the proposed San Francisco Bay Restoration Act (Senate Bill 97- Feinstein), and proposes a Resolution for the Commission to consider adopting in support of the bill.

LEGISLATIVE PROPOSAL:

Senate Bill 97 (Feinstein): San Francisco Bay Restoration Act

SUMMARY:

The San Francisco Bay Restoration Act amends the Federal Water Pollution Control Act (commonly known as the Clean Water Act) by establishing a 10 year grant program administered by the Environmental Protection Agency (EPA) for the purpose of funding projects to improve water quality, wetlands health, and fish and wildlife habitats in and around the San Francisco Bay estuary. Primarily, the bill is focused on supporting efforts to implement the San Francisco Estuary Partnership's Comprehensive Conservation and Management Plan (CCMP), and instructs the EPA Administrator to establish an annual priority list of projects in consultation with the San Francisco Estuary Partnership, affected local governments, the State, and other interested stakeholders. The CCMP was mandated under the reauthorization of the Clean Water Act in 1987; it is a collaboratively produced, consensus-based agreement that addresses estuary restoration and was revised most recently in 2007. The bill is cosponsored by Senator Barbara Boxer. A similar bill introduced in the 111th Congress (H.R. 5061) but not signed in to law was supported by the Environmental Protection Agency, Pacific Environment, San Francisco Estuary Partnership, and the Bay Institute, among others.

OTHER PERTINENT INFORMATION:

California Environmental Quality Act (CEQA) compliance: Staff has determined this action by the Commission is not subject to the provisions of CEQA because it is not a "project" as defined in Section 15378 of the State CEQA Guidelines (Title 14, California Code of Regulations, section 15000 et seq.). Specifically, the proposed

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action by the Commission to adopt a resolution in support of S. 97 has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. Find that the activity is not subject to the requirements of CEQA because the activity is not a project as defined in Section 21065 of CEQA and Section 15378 of the State CEQA Guidelines;
2. Adopt the resolution in support of S. 97 attached hereto as Exhibit A.

**CALIFORNIA STATE
LANDS COMMISSION**

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AS PROPOSED BY STAFF

**RESOLUTION BY THE CALIFORNIA STATE LANDS
COMMISSION SUPPORTING THE SAN FRANCISCO BAY RESTORATION ACT
(S. 97), WHICH WOULD PROVIDE FUNDING FOR THE PURPOSES OF SAN
FRANCISCO BAY WATER QUALITY IMPROVEMENT; WETLAND, RIVERINE, AND
ESTUARY RESTORATION AND PROTECTION; AND NEARSHORE AND
ENDANGERED SPECIES RECOVERY**

WHEREAS, the quality of life of the San Francisco Bay area is dependent on and defined by the Bay with its wildlife refuges, parks and beaches, sweeping vistas, intimate coves and waterways, and bustling ports; and

WHEREAS, the San Francisco Bay Estuary, including the Sacramento and San Joaquin River Delta, is the largest estuarine system on the west coasts of both North and South America, a rich national treasure providing drinking water to 23 million Californians, irrigating 4.5 million acres of farmland, containing a majority of the state's remaining coastal wetlands, and serving as a major stopover for millions of shorebirds on their annual winter migration from Alaska and the Arctic to Mexico and beyond; and

WHEREAS, San Francisco Bay's wetlands serve as year-round habitat for various species of birds, mammals and other wildlife, and as nursery grounds for juvenile fish and crabs, allowing them to feed in the productive marshes and take refuge from predators until they grow large and strong enough to move to open waters; and

WHEREAS, the San Francisco Bay Estuary supports a number of important economic activities in the region, including commercial and recreational fishing, shipping, industry, recreation, tourism, and agriculture; and

WHEREAS, in 2009, the city of San Francisco alone hosted 15.4 million visitors who spent \$7.8 billion during their stay, making tourism one of the most important economic engines of the Bay Area; and

WHEREAS, the San Francisco Bay Area is the United States' fourth largest exporting region, accounting for 36 percent of California's exports; and

WHEREAS, the California State Lands Commission (Commission) has jurisdiction over San Francisco Bay public trust lands, which include the rivers, sloughs, marshes and other tide and submerged lands as well as the beds of navigable waterways; and

WHEREAS, the Public Trust Doctrine protects the basic right of the public to use its waterways to engage in commerce, navigation, and fisheries. This includes the right to use the navigable waters of the state to fish, bathe, swim, and use for boating and other water related recreational purposes. The Public Trust Doctrine includes the preservation of trust lands in their natural state, so that they may serve as ecological units for scientific study, as open space, and as environments that provide food and habitat for wildlife including mammals, birds; and

WHEREAS, San Francisco Bay has shrunk by a third in the last 150 years, and only approximately 25 percent of its original wetland, riparian, and tidal mudflat habitat remain; and

WHEREAS, today, most of the San Francisco Bay Estuary is under threat from pollution, contaminants in sediments, invasive species, sea level rise, population pressures, and habitat loss, which consequently compromise the Bay Area's economy, tourism, recreation, and public health; and

WHEREAS, the San Francisco Bay Restoration Act (S. 97), would establish a grant program administered by the Environmental Protection Agency for the purpose of assisting and supporting the implementation of ecosystem restoration projects such as water quality improvement, wetland, riverine, and estuary restoration and protection, and nearshore and endangered species recovery by public or nonprofit agencies, institutions, and organizations, including the San Francisco Estuary Partnership's Comprehensive Conservation and Management Plan; and

WHEREAS, S. 97 would appropriate such funds as are necessary annually for ten years for the implementation of the San Francisco Bay Restoration Act, based on an annual priority list of projects selected by the Administrator of the Environmental Protection Agency in consultation with the San Francisco Estuary Partnership, affected local governments, and the State; and

WHEREAS, the Commission believes that the implementation of a comprehensive plan to restore and maintain the chemical, physical, and biological integrity of San Francisco Bay would greatly improve the Public Trust value of these lands for the people of the State of California; now therefore, be it

Resolved by the California State Lands Commission that it supports the San Francisco Bay Restoration Act (S. 97), which would fund and implement projects, programs, and studies that address water quality improvement, wetland, riverine, and estuary restoration and protection, and nearshore and endangered species recovery in San Francisco Bay; and be it further

Resolved, that the Commission's Executive Officer transmit copies of this resolution to the President and Vice President of the United States, to the Governor of California, to the Majority and Minority Leaders of the United States Senate, to the Speaker and Minority Leader of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

Approved by the California State Lands Commission on April 6, 2011.