

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 21, 2015

AMENDED IN SENATE MARCH 19, 2015

**SENATE BILL**

**No. 233**

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**Introduced by Senator Hertzberg**

~~(Coauthor: Assembly Member Rendon~~ *Coauthors: Assembly Members  
Dababneh, Harper, and Rendon)*

February 13, 2015

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An act to amend Sections 6604, 6612, 6613, 6614, 6615, 6616, and 6618 of the Fish and Game Code, relating to ocean resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 233, as amended, Hertzberg. Marine resources and preservation.

(1) The California Marine Resources Legacy Act establishes a program, administered by the Department of Fish and Wildlife, to allow partial removal of offshore oil structures. The act authorizes the department to approve the partial removal of offshore oil structures, if specified criteria are satisfied. The act requires the first person to file an application to partially remove an offshore oil structure to pay, in addition to other specified costs, the startup costs incurred by the department or the State Lands Commission to implement the act, including the costs to develop and adopt regulations, and requires the payment of startup costs to be reimbursed by the department, as specified. The act requires an applicant, upon conditional approval for removal, to apportion a percentage of the cost-savings funds in

accordance with a prescribed schedule to specified entities and funds. The act defines “cost savings” to mean the difference between the estimated cost to the applicant of complete removal of an oil platform, as required by state and federal leases, and the estimated costs to the applicant of partial removal of the oil platform pursuant to the act.

Before the first application to partially remove an offshore oil structure is filed, this bill would authorize a prospective applicant to pay a portion of the startup costs in an amount determined by the department to be necessary for staff and other costs in anticipation of receipt of the first application. The bill would require an applicant, upon conditional approval for partial removal of an offshore oil structure, to apportion and transmit a portion of the cost savings to the department, instead of to the specified entities and funds. The bill would require the department to apportion those cost-savings funds received from the applicant in accordance with the prescribed schedule to the specified entities if certain criteria are satisfied. The bill would require the department to apportion the cost-savings funds received from *the applicant who elects to pay a portion of the startup costs before the first application is filed and who files* the first application in accordance with the prescribed schedule based on when the application was submitted rather than when the cost savings are transmitted. The bill would authorize the applicant to withdraw the application at any time before final approval and would require the department to return specified funds, including startup costs, submitted to process the application that have not been expended as of the date of receipt of the notification of withdrawal. The bill would require the department to promptly return the cost savings to the applicant if the partial removal of the offshore oil structure is not permitted by a court or governmental agency and the applicant is required to carry out full removal of the structure.

(2) Existing law requires the Natural Resources Agency to serve as the lead agency for the environmental review under the California Environmental Quality Act (CEQA) of a proposed project to partially remove an offshore oil structure pursuant to the California Marine Resources Legacy Act. Upon certification of environmental documents pursuant to CEQA, the California Marine Resources Legacy Act requires the State Lands Commission to determine the cost savings of partial removal compared to full removal of the structure and requires the Ocean Protection Council to determine whether partial removal provides a net environmental benefit to the marine environment compared to the full removal of the structure.

This bill would instead require the commission to serve as the lead agency for the environmental review under CEQA.

The bill would require the council, in determining whether partial removal of the structure would provide a net benefit to the marine environment compared to full removal of the structure, to take certain adverse impacts to air quality and greenhouse gas emissions into account and to consult with the State Air Resources Board, among other entities. In making that determination, the bill would require the council to determine the appropriate weight to be assigned to adverse impacts to air quality and greenhouse gas emissions as compared to adverse impacts to biological resources and water quality.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6604 of the Fish and Game Code is  
2 amended to read:

3 6604. (a) A proposed project to partially remove an offshore  
4 oil structure pursuant to this chapter is a project as defined in  
5 subdivision (c) of Section 21065 of the Public Resources Code  
6 and is therefore subject to the California Environmental Quality  
7 Act (Division 13 (commencing with Section 21000) of the Public  
8 Resources Code) and shall be reviewed pursuant to the time limits  
9 established in Section 21100.2 of the Public Resources Code.

10 (b) The commission shall serve as the lead agency for the  
11 environmental review of any project proposed pursuant to this  
12 chapter.

13 SEC. 2. Section 6612 of the Fish and Game Code is amended  
14 to read:

15 6612. (a) Upon receipt of an application to partially remove  
16 an offshore oil structure pursuant to this chapter, the department  
17 shall determine whether the application is complete and includes  
18 all information needed by the department.

19 (b) (1) Upon a determination that the application is complete,  
20 the applicant shall provide surety bonds executed by an admitted  
21 surety insurer, irrevocable letters of credit, trust funds, or other  
22 forms of financial assurances, determined by the department to be  
23 available and adequate, to ensure that the applicant will provide  
24 sufficient funds to the department, council, commission, and

1 conservancy to carry out all required activities pursuant to this  
2 article, including all of the following:

3 (A) Environmental review of the proposed project pursuant to  
4 Section 6604.

5 (B) A determination of net environmental benefit pursuant to  
6 Section 6613.

7 (C) A determination of cost savings pursuant to Section 6614.

8 (D) Preparation of a management plan for the structure pursuant  
9 to Section 6615.

10 (E) Implementation of the management plan and ongoing  
11 maintenance of the structure after the department takes title  
12 pursuant to Section 6620.

13 (F) Development of an advisory spending plan pursuant to  
14 Section 6621.

15 (G) Other activities undertaken to meet the requirements of this  
16 article, including the costs of reviewing applications for  
17 completeness, and reviewing, approving, and permitting the  
18 proposed project, which includes the costs of determining whether  
19 the project meets the requirements of all applicable laws and  
20 regulations and the costs of environmental assessment and review.

21 (2) The department shall consult with the council, commission,  
22 and conservancy in determining appropriate funding for activities  
23 to be carried out by those agencies.

24 (3) The funds provided pursuant to paragraph (1) shall not be  
25 considered in the calculation of cost savings pursuant to Section  
26 6614 or the apportionment of cost savings pursuant to Section  
27 6618.

28 (c) The first person to file an application on and after January  
29 1, 2011, to partially remove an offshore oil structure pursuant to  
30 this chapter, shall pay, in addition to all costs identified under  
31 subdivision (b), the startup costs incurred by the department or the  
32 commission to implement this chapter, including the costs to  
33 develop and adopt regulations pursuant to this chapter. Before the  
34 first application is filed, a prospective applicant may elect to pay,  
35 and the department may accept payment of, a portion of the startup  
36 costs, in an amount determined by the department to be necessary  
37 for staff and other costs in anticipation of receipt of the first  
38 application. The payment of startup costs shall be reimbursed by  
39 the department as provided in paragraph (3) of subdivision (e) of  
40 Section 6618.

1 (d) As soon as feasible after the applicant provides financial  
2 assurances pursuant to subdivision (b), the lead agency shall begin  
3 the environmental review of the proposed project as required  
4 pursuant to Section 6604.

5 (e) The applicant may withdraw the application at any time  
6 before final approval. Upon notification that the applicant has  
7 withdrawn the application, the department shall return to the  
8 applicant any funds provided by the applicant under subdivisions  
9 (b) and (c) that have not been expended as of the date of receipt  
10 of notification of withdrawal.

11 SEC. 3. Section 6613 of the Fish and Game Code is amended  
12 to read:

13 6613. (a) The council shall determine whether the partial  
14 removal of an offshore oil structure pursuant to this chapter  
15 provides a net benefit to the marine environment compared to the  
16 full removal of the structure.

17 (b) As a necessary prerequisite to determining net environmental  
18 benefit as required in subdivision (a), the council shall, upon receipt  
19 of its initial application from the department pursuant to Section  
20 6610, establish appropriate criteria, based on ~~the best available~~  
21 *credible* science, for evaluating the net environmental benefit of  
22 full removal and partial removal of offshore oil structures.

23 (1) The criteria shall include, but are not limited to, the depth  
24 of the partially removed structure in relation to its value as habitat  
25 and the location of the structure, including its proximity to other  
26 reefs, both natural and artificial.

27 (2) The criteria shall not include any consideration of the funds  
28 to be generated by the partial removal of the structure.

29 (3) In determining the criteria, the council shall consult with  
30 appropriate entities, including, but not limited to, the department,  
31 the commission, the State Air Resources Board, the California  
32 Coastal Commission, and the California Ocean Science Trust.

33 (4) The council shall establish the criteria in time to use them  
34 in making its initial determination of net environmental benefit  
35 pursuant to this section.

36 (c) Upon certification of environmental documents pursuant to  
37 the California Environmental Quality Act, the council shall, based  
38 on the criteria developed pursuant to subdivision (b) and other  
39 relevant information, determine whether partial removal of the  
40 structure would provide a net benefit to the marine environment

1 compared to full removal of the structure. In making the  
2 determination, the council shall, at a minimum, take into account  
3 the following:

4 (1) The contribution of the proposed structure to protection and  
5 productivity of fish and other marine life.

6 (2) Any adverse impacts to biological resources or water quality,  
7 air quality or greenhouse gas emissions, or any other marine  
8 environmental impacts, from the full removal of the facility that  
9 would be avoided by partial removal as proposed in the application.

10 (3) Any adverse impacts to biological resources or water quality,  
11 air quality or greenhouse gas emissions, or any other marine  
12 environmental impacts, from partial removal of the structure as  
13 proposed in the application.

14 (4) Any benefits to the marine environment that would result  
15 from the full removal of the structure or from partial removal as  
16 proposed in the application.

17 (5) Any identified management requirements and restrictions  
18 of the partially removed structure, including, but not limited to,  
19 restrictions on fishing or other activities at the site.

20 (d) In making the determination pursuant to subdivision (c), the  
21 council shall determine the appropriate weight, based on ~~the best~~  
22 ~~available~~ *credible* science, to be assigned to adverse impacts to air  
23 quality or greenhouse gas emissions as compared to adverse  
24 impacts to biological resources or water quality.

25 (e) Benefits resulting from the contribution of cost savings to  
26 the endowment shall not be considered in the determination of net  
27 environmental benefit.

28 (f) The council may contract or enter into a memorandum of  
29 understanding with any other appropriate governmental or  
30 nongovernmental entity to assist in its determination of net  
31 environmental benefit.

32 (g) The determination made pursuant to this section and  
33 submitted to the department by the council shall constitute the  
34 final determination and shall not be revised except by the council.

35 (h) The council shall take all feasible steps to complete its  
36 determination in a timely manner that accommodates the  
37 department's schedule for consideration of the application.

38 SEC. 4. Section 6614 of the Fish and Game Code is amended  
39 to read:

1 6614. (a) Upon certification of the appropriate environmental  
2 documents, the commission shall determine, or cause to be  
3 determined, the cost savings that will result from the partial  
4 removal of an offshore oil structure as proposed in the application  
5 compared to full removal of the structure.

6 (b) The commission shall ensure that any cost savings are  
7 accurately and reasonably calculated. The commission may contract  
8 or enter into a memorandum of understanding with any other  
9 appropriate governmental agency or other party, including an  
10 independent expert, to ensure that cost savings are accurately and  
11 reasonably calculated.

12 (c) The commission shall consider any estimates of cost savings  
13 made by any governmental agency, including, but not limited to,  
14 the Internal Revenue Service, the Franchise Tax Board, and the  
15 United States Department of the Interior. The commission shall  
16 include in its determination a written explanation, which shall be  
17 available to the public, of the differences, and the reasons for the  
18 differences, between the commission's determination of cost  
19 savings and any other estimates of cost savings the commission  
20 considered.

21 (d) The applicant shall provide all necessary documentation, as  
22 determined by the commission, to allow the commission to  
23 calculate the amount of cost savings. Failure to provide information  
24 requested by the commission in a timely manner may result in  
25 rejection of the application.

26 (e) The determination made pursuant to this section and  
27 submitted to the department by the commission shall constitute  
28 the final determination and shall not be revised except by the  
29 commission.

30 (f) The commission shall take all feasible steps to complete its  
31 determination in a timely manner that accommodates the  
32 department's schedule for consideration of the application.

33 SEC. 5. Section 6615 of the Fish and Game Code is amended  
34 to read:

35 6615. Prior to granting conditional approval of an application  
36 for partial removal of an offshore oil structure, the department  
37 shall do all of the following:

38 (a) Prepare a plan to manage the offshore oil structure after its  
39 partial removal. The plan shall include measures to manage fishery  
40 and marine life resources at and around the structure in a manner

1 that will ensure that the net benefits to the marine environment  
2 identified pursuant to Section 6613 are maintained or enhanced.  
3 Consistent with state and federal law, management measures may  
4 include a buffer zone in which fishing or removal of marine life  
5 is restricted or prohibited.

6 (b) Provide an opportunity for public comment on the  
7 application and environmental document pursuant to the California  
8 Environmental Quality Act.

9 (c) Hold public hearings for comment on the application and  
10 environmental document pursuant to the California Environmental  
11 Quality Act in the county nearest to the location of the offshore  
12 oil structure that is the subject of the application.

13 SEC. 6. Section 6616 of the Fish and Game Code is amended  
14 to read:

15 6616. The department may grant conditional approval of an  
16 application for partial removal of an offshore oil structure only if  
17 all of the following criteria are satisfied:

18 (a) The partial removal of the offshore oil structure and the  
19 planning, development, maintenance, and operation of the structure  
20 would be consistent with all applicable state, federal, and  
21 international laws, including, but not limited to, all of the  
22 following:

23 (1) The federal Magnuson-Stevens Fishery Conservation and  
24 Management Act (16 U.S.C. Sec. 1801 et seq.).

25 (2) The federal National Fishing Enhancement Act of 1984 (33  
26 U.S.C. Sec. 2101 et seq.).

27 (3) The federal Coastal Zone Management Act (16 U.S.C. Sec.  
28 1451 et seq.).

29 (4) The California Coastal Management Program.

30 (5) The Marine Life Management Act (Part 1.7 (commencing  
31 with Section 7050)).

32 (6) The Marine Life Protection Act (Chapter 10.5 (commencing  
33 with Section 2850) of Division 3).

34 (7) State and federal water quality laws.

35 (8) Navigational safety laws.

36 (b) The partial removal of the offshore oil structure provides a  
37 net benefit to the marine environment compared to full removal  
38 of the structure, as determined pursuant to Section 6613.

1 (c) The cost savings that would result from the conversion of  
2 the offshore oil platform or production facility have been  
3 determined pursuant to Section 6614.

4 (d) The applicant has provided sufficient funds consistent with  
5 subdivision (b) of Section 6612.

6 (e) The department and the applicant have entered into a  
7 contractual agreement whereby the applicant will provide sufficient  
8 funds for overall management of the structure by the department,  
9 including, but not limited to, ongoing management, operations,  
10 maintenance, monitoring, and enforcement as these relate to the  
11 structure.

12 (f) The department has entered into an indemnification  
13 agreement with the applicant that indemnifies the state and the  
14 department, to the extent permitted by law, against any and all  
15 liability that may result, including, but not limited to, active  
16 negligence, and including defending the state and the department  
17 against any claims against the state for any actions the state  
18 undertakes pursuant to this article. The agreement may be in the  
19 form of an insurance policy, cash settlement, or other mechanism  
20 as determined by the department. In adopting indemnification  
21 requirements for the agreement, the department shall ensure that  
22 the state can defend itself against any liability claims against the  
23 state for any actions the state undertakes pursuant to this article  
24 and pay any resulting judgments. The department shall consult  
25 with and, as necessary, use the resources of the office of the  
26 Attorney General in preparing and entering into the indemnification  
27 agreement.

28 (g) The applicant has applied for and received all required  
29 permits, leases, and approvals issued by any governmental agency,  
30 including, but not limited to, a lease issued by the commission if  
31 the proposed project involves state tidelands and submerged lands.  
32 For structures located in federal waters, all of the following  
33 requirements shall be met:

34 (1) The department and the owner or operator of the structure  
35 reach an agreement providing for the department to take title to  
36 the platform or facility as provided in Section 6620.

37 (2) The department acquires the permit issued by the United  
38 States Army Corps of Engineers.

1 (3) The partial removal of the structure is approved by the  
2 Bureau of Safety and Environmental Enforcement of the United  
3 States Department of the Interior.

4 SEC. 7. Section 6618 of the Fish and Game Code is amended  
5 to read:

6 6618. (a) The cost savings from the partial removal of an  
7 offshore oil structure, as determined pursuant to Section 6614,  
8 shall be apportioned and transmitted as described in this section.

9 (b) Except as provided in subdivision (c), upon receipt of  
10 conditional approval pursuant to Section 6617, the applicant shall  
11 apportion and directly transmit a portion of the total amount of the  
12 cost savings to the department as follows:

13 (1) Fifty-five percent, if transmitted by the applicant to the  
14 department before January 1, 2017.

15 (2) Sixty-five percent, if transmitted by the applicant to the  
16 department on or after January 1, 2017, and before January 1,  
17 2023.

18 (3) Eighty percent, if transmitted by the applicant to the  
19 department on or after January 1, 2023.

20 (c) Upon receipt of conditional approval pursuant to Section  
21 6617, the applicant *who elects to pay a portion of the startup costs*  
22 *pursuant to subdivision (c) of Section 6612 before the first*  
23 *application is filed and who files the first application to partially*  
24 *remove an offshore oil structure shall apportion and directly*  
25 *transmit a portion of the total amount of the cost savings resulting*  
26 *from the first application to the department as follows:*

27 (1) Fifty-five percent, if the application was submitted before  
28 January 1, 2017.

29 (2) Sixty-five percent, if the application was submitted on or  
30 after January 1, 2017, and before January 1, 2023.

31 (3) Eighty percent, if the application was submitted on or after  
32 January 1, 2023.

33 (d) If the department's final approval pursuant to Section 6619  
34 or any other federal, state, or local permit or approval required for  
35 the partial removal of the offshore oil structure is permanently  
36 enjoined, vacated, invalidated, rejected, or rescinded by a court or  
37 governmental agency as the result of litigation challenging the  
38 permit or approval, and the applicant is required to carry out full  
39 removal of the structure, the department shall promptly return the  
40 cost savings to the applicant.

1 (e) Upon final, nonappealable judicial decisions upholding the  
2 department’s final approval pursuant to Section 6619 and all  
3 permits and approvals required for the partial removal of the  
4 offshore oil structure or the running of the statutes of limitations  
5 applicable to all the permits and approvals, whichever is later, the  
6 department shall directly transmit the following amounts from the  
7 total amount of the cost savings transmitted pursuant to subdivision  
8 (b) or (c) to the following entities:

9 (1) Eighty-five percent shall be deposited into the California  
10 Endowment for Marine Preservation established pursuant to  
11 Division 37 (commencing with Section 71500) of the Public  
12 Resources Code.

13 (2) Ten percent shall be deposited into the General Fund.

14 (3) Two percent shall be deposited into the Fish and Game  
15 Preservation Fund for expenditure, upon appropriation by the  
16 Legislature, by the department to pay any costs imposed by this  
17 chapter that are not otherwise provided for pursuant to subdivision  
18 (b) of Section 6612 and subdivision (e) of Section 6616. Any  
19 moneys remaining in the Fish and Game Preservation Fund, after  
20 providing for these costs, shall be used, upon appropriation by the  
21 Legislature, first to reimburse the payment of the startup costs  
22 described in subdivision (c) of Section 6612, and thereafter to  
23 conserve, protect, restore, and enhance the coastal and marine  
24 resources of the state consistent with the mission of the department.

25 (4) Two percent shall be deposited into the Coastal Act Services  
26 Fund, established pursuant to Section 30620.1 of the Public  
27 Resources Code, and shall be allocated to support state agency  
28 work involving research, planning, and regulatory review  
29 associated with the application and enforcement of coastal  
30 management policies in state and federal waters pursuant to state  
31 and federal quasi-judicial authority over offshore oil and gas  
32 development.

33 (5) One percent shall be deposited with the board of supervisors  
34 of the county immediately adjacent to the location of the facility  
35 prior to its decommissioning. The amount paid to the county shall  
36 be managed pursuant to paragraph (1) of subdivision (d) of Section  
37 6817 of the Public Resources Code.

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THIRD READING

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Bill No: SB 233  
Author: Hertzberg (D), et al.  
Amended: 6/2/15  
Vote: 21

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SENATE NATURAL RES. & WATER COMMITTEE: 6-1, 4/28/15  
AYES: Stone, Allen, Hertzberg, Hueso, Monning, Wolk  
NOES: Jackson  
NO VOTE RECORDED: Pavley, Vidak

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/28/15  
AYES: Lara, Bates, Beall, Hill, Leyva, Mendoza, Nielsen

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**SUBJECT:** Marine resources and preservation

**SOURCE:** Coalition for Enhanced Marine Resources  
Sport Fishing Conservancy

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**DIGEST:** This bill modifies the rigs-to-reefs program by requiring that the decision to allow partial decommissioning consider air quality or greenhouse gas emissions (GHGs), designating the State Lands Commission (commission) as the lead agency for the purposes of California Environmental Quality Act (CEQA), and makes other clarifying and technical changes.

**ANALYSIS:** Existing federal law requires that “decommissioned” oil and gas platforms be removed at the end of production, and the surrounding marine environment be cleaned up and restored to a natural condition. Existing state and federal offshore oil leases generally require the removal of decommissioned oil platforms after the lease ends. Both federal regulations and provisions in state and federal leases allow the federal government to consider and approve alternative decommissioning methods other than complete removal. “Rigs-to-reefs” programs are widely used in the Gulf of Mexico, and Louisiana, Texas and Mississippi.

Existing state law:

- 1) Establishes the California Marine Resources Legacy Act (Fish and Game Code §§ 6600 *et seq.*) which established state policy to allow, on a case-by-case basis, the partial decommissioning of offshore oil and gas platforms. Partial decommissioning means removing the top part of the platform while leaving the lower portion behind to act as a subsurface “reef.” Not all platforms may qualify for partial decommissioning, however, as certain conditions must be met. These include, among others, that there be a net environmental benefit from the “reef” and that a portion of the cost savings to the platform owner from partial, as opposed to full, decommissioning be shared with the state and deposited in an endowment whose moneys would be used to the benefit of coastal marine resources. This “rigs-to-reefs” program is voluntary and platforms in both state and federal waters are eligible to participate. The legislative findings for the bill that established the “rigs-to-reefs” program (AB 2503, Perez, Chapter 687, Statutes of 2010) included that the costs of the program should be borne by the applicants.
- 2) Recognizes the multi-jurisdictional nature of platform decommissioning and the need for a viable rigs-to-reefs program to utilize the established expertise and authority of different state entities. AB 2503 split up program responsibilities between different regulators as follows:
  - a) The Department of Fish and Wildlife (department) has the primary authority, as specified, for carrying out the program,
  - b) The Natural Resources Agency serves as lead agency under CEQA,
  - c) The Ocean Protection Council (council) determines whether a net benefit to the marine environment from partial decommissioning exists,
  - d) The State Lands Commission (commission) determines the cost savings, and
  - e) The authority of the California Coastal Commission is acknowledged and information sharing, coordination and communication between the different entities is emphasized.
- 3) Provides that a rigs-to-reef application is complete when the applicant provides certain financial assurances that ensures that sufficient funds are available to pay for the cost of processing the application. The first AB 2503 applicant will also be required to pay the program’s set-up costs, although those are reimbursable.

- 4) Provides that conditional approval of a rigs-to-reef application may be provided when certain criteria, as specified, are met. When conditional approval is received, the owner or operator of the structure must transmit a portion of the total cost savings to the state on the following schedule: 55% by January 1, 2017, 65% between January 1, 2017 – January 1, 2023 and 80% after January 1, 2023.

This bill modifies the existing rigs-to-reefs program. Specifically, this bill:

- 1) Replaces the Natural Resources Agency as CEQA lead with the commission;
- 2) Allow the applicant to withdraw its rigs-to-reef application at any time and clarifies payment for start-up costs and reimbursement procedures, if applicable, for applicants;
- 3) Adds consultation with the Air Resources Board, as specified, in the calculation of net benefits to the marine environment;
- 4) Adds air quality or GHGs to the determination of the net benefit to the marine environment;
- 5) Adds a public meeting to review the environmental documents to the one already required on the application, as specified; and
- 6) Makes additional technical and clarifying changes.

## **Background**

There are 27 oil and gas platforms offshore California. Four of these platforms are in state waters at relatively shallow depths (approximately 200 feet or less). The remaining 23 platforms are over three miles from shore at depths reaching nearly 1,200 feet. Additionally, there are five more offshore “islands” (which are also platforms) in state waters. The platforms are located off the coasts of Los Angeles, Ventura and Santa Barbara counties. At least five offshore platforms, including one island, off the coast of California have been “decommissioned” and removed.

Rigs-to-reefs programs allow the oil industry to avoid the costs of full decommissioning, although full decommissioning was an agreed-upon lease condition. Estimates of the cost savings associated with partial decommissioning vary from tens of millions to hundreds of millions of dollars per platform. AB 2503 provided a financial incentive to the oil industry to submit partial

decommissioning applications by providing that a smaller fraction of the cost savings would be shared with the state in the early years of the program (55%) compared to later (80%).

Despite repeated assertions over at least the last 15 years that applications for partial decommissioning were imminent, no applications under AB 2503 have been filed with the state. (It is a fair point that no application has been developed pursuant to AB 2503, which this bill seeks to address.) The economic viability of any offshore platform and its oil and gas wells is a function of many factors. High prices for crude oil the last five years – prices of benchmark crudes often exceeded \$100/barrel – compared to approximately \$50/barrel in last several months with muted expectations of a substantial price rise in the short term are likely to have affected the outlook for the offshore California platforms.

## **Comments**

*The commission has experience as a CEQA lead agency for platform decommissioning.* Even in the event of an application for a rigs-to-reefs conversion in federal waters, it is likely that substantial elements of the decommissioning would be under the commission's jurisdiction.

*Air quality and the net environmental benefit.* The consideration of air quality, including GHGs, in decommissioning is a required element of the CEQA environmental analysis. The focus on biological resources and water quality – in other words on the proposed reef and its immediate subsurface environment – in the existing calculation of the net environmental benefit to the marine environment seeks to ensure the reef provides lasting benefits. It is highly likely that there will be a significant difference in total air emissions between partial and full decommissioning to the advantage of partial decommissioning. That said, the direct and indirect impacts from air emissions to the proposed reef and their duration are unclear, and the council will have to determine how to appropriately weigh these impacts in its calculations.

*The rigs-to-reef program is voluntary.* Circumstances may arise, such as advances in offshore oil production, where the platform owner may wish to keep the platform in operation despite having applied for partial decommissioning. Existing law is clear that the rigs-to-reefs program is voluntary, and the bill makes explicit that the platform owner may withdraw the program application.

*AB 2503's division of regulatory effort is appropriate given existing jurisdiction and expertise.* Offshore oil platforms operate under the jurisdiction of multiple regulators, as will their eventual partial or full decommissioning. There is substantial existing expertise and experience relevant to decommissioning already extant in state government. Coordination and communication are critical between the relevant entities as they utilize their existing expertise and exercise their independent judgment in processing a rigs-to-reef application. AB 2503 specifically provides for formal agreements to be used to ensure coordination and communication between entities and timely application processing. These have proven successful in many other circumstances.

*Recent platform decommissioning.* According to the commission, Belmont Island off the coast of Los Angeles County was decommissioned in the early 2000s and was the last offshore oil facility to be removed from California's waters. The commission found that complete removal of the island was the environmentally preferred option because there was no evidence that the island provided unique habitat in the area. Additionally, the Coast Guard determined, given the shallow depth, that leaving the base of the island behind would create a navigational hazard.

Prior to the Belmont Island decommissioning, the Chevron 4-H platforms off the coast of Carpinteria and Summerland were decommissioned in 1996. The commission acted as CEQA lead. During the platforms' operation, "shell mounds" built up under each one. The mounds are composed of materials from the periodic cleaning of the platform legs of marine life as well as other marine organisms. Additionally drilling fluids and drill cuttings were deposited on the sea floor underneath the platforms prior to this practice being banned. The drilling materials contain contaminants such as PCBs, hydrocarbons and metals. All of these materials are now bonded together in the mounds which were left in place when the platforms were decommissioned. The mounds are 25 – 28 feet high, and 200 – 250 feet in diameter. Decommissioning requirements included the full removal of the shell mounds and all site debris, and that a "trawl test" with standard equipment be performed. According to reports, the site is untrawlable. A decision has been made to leave the mounds in place, but it is unclear if all the necessary permits have been issued.

*Most of the offshore platforms are in federal waters and will need federal permits.* While close coordination and communication may be able to facilitate the necessary state permits for partial decommissioning, the state cannot compel the relevant federal entities to issue the applicable federal permits in a timely manner.

*Do rigs-to-reefs automatically mean there will be more fishing opportunities? Not necessarily. The department is authorized to limit fishing in the vicinity of the reef, if warranted (FGC §6613(c)).*

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, this bill has one-time costs in the low to mid tens of thousands of dollars, reimbursable by the project applicant, to the department and the Air Resources Board for new responsibilities in considering a partial decommissioning application

**SUPPORT:** (Verified 6/1/15)

Coalition for Enhanced Marine Resources (co-source)

Sport Fishing Conservancy (co-source)

Amigos Del Air Libre

Big Fish Bait and Tackle

Deep Blue Scuba and Swim Center

Get Wet Scuba

Harbor Breeze Corporation

Hubbs-Sea World Research Institute

Inland Empire Waterkeeper

Orange County Coastkeeper

Pierpoint Landing

Professional Association of Diving Instructors

San Diego County Wildlife Federation

22nd Street Landing Sportfishing

United Anglers

Valley Industry and Commerce Association

**OPPOSITION:** (Verified 6/1/15)

Citizens Planning Association of Santa Barbara County

Community Environmental Council

Environment California

Environmental Action Committee of West Marin

Environmental Defense Center

Food and Water Watch

Friends of the Sea Otter

Get Oil Out!

International Marine Mammal Project of Earth Island Institute  
Ocean Conservancy  
Ocean Conservation Research  
Pacific Coast Federation of Fishermen's Association  
Santa Barbara Channelkeeper  
Sierra Club – Los Padres Chapter  
Sierra Club California  
The Ocean Foundation  
Western Alliance for Nature  
Wholly H<sub>2</sub>O  
Two individuals

**ARGUMENTS IN SUPPORT:** According to the author, “in 2010, the Legislature passed AB 2503 by former Speaker John Perez, which enacted California’s rigs-to-reefs program. We are now nearing the point where the first of California’s offshore oil rigs will be ready for decommissioning in the next few years. It has become apparent through discussions with the Administration, that the permitting process is unworkable, both for practical reasons involving a lack of expertise and fiscal reasons as well. Senate Bill 233 is intended to make the current rigs-to-reefs permitting process more pragmatic without sacrificing any level of environmental review. As the bill moves along, we intend to work closely with a multi-agency group to review the rigs-to-reefs approval process and make recommendations for changes, the chairs of the policy committees, and stakeholders to make sure that we have a consensus approach to the decommissioning process [that] is both workable and protective of the environment.”

The author continues, “[t]he bill adds the impact of greenhouse gas emissions [which] should be considered in weighing the removal options for offshore oil rigs” in the calculation of the net environmental benefit and “has left open for negotiation moving back the various cut-off dates which encourage early retirement of oil rigs to accommodate the five years since the passage of AB 2503.”

“Overall, SB 233 seeks to take a critical look at the rigs-to-reefs program and to work to make the process better. Ultimately, if oil rigs are approved for conversion, a productive marine ecosystem will be saved from destruction and potentially hundreds of millions of dollars will be made available in perpetuity for funding ocean oriented environmental programs.”

**ARGUMENTS IN OPPOSITION:** In a joint opposition letter, the Environmental Defense Center and others note that this bill “is unnecessary, premature, and would undermine the provisions in existing law that require a balanced, thorough analysis of proposal to leave offshore oil platforms at sea. The bill is unnecessary because the legislature already passed AB 2503 in 2010. That bill followed many years of state-wide debate and was fashioned to include relevant agencies and stakeholders in a process that would address the many issues that will be raised if oil platforms are not removed from the ocean environment. These issues include legacy pollution resulting from residual toxins and contaminated debris left in the ocean, introduction of invasive species, attraction of fish away from productive natural reefs, safety and navigational risks, and increased liability to the state.”

The joint letter continues that this bill is premature because “no platforms are ready for decommissioning. [...] Clearly, there is no need to hasten to amend existing law.” While acknowledging that many of the letter signers did not support AB 2503 because “we believe the oil industry should comply with its original commitments to remove oil platforms at the end of their productive life and to restore the marine environment to a natural condition,” they note that “[e]xisting law is adequate to address the issues raised by proposals to avoid full decommissioning of offshore oil platforms.”

The Environmental Action Committee of West Marin identifies several issues in its letter, including, among others, concerns about the length of time considered in the net environmental benefit analysis, and the lack of public participation in the development of net environmental benefit criteria.

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