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COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
NAIOP OF CALIFORNIA



CalChamber



California  
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Roundtable

March 22, 2024

TO: Chair Isaac Bryan, Assembly Natural Resources Committee  
Vice Chair Heath Flora and all members, Assembly Natural Resources Committee

FR: California Business Properties Association      Building Owners & Managers Assn of California  
California Hotel and Lodging Association      NAIOP California  
California Hospitality United Coalition      California Chamber of Commerce  
California Business Roundtable

**RE: AB 3192 (Muratsuchi): Major Coastal Resorts Environmental Accountability Act. – Oppose**

Dear Chair Bryan:

On behalf of the organizations above, we write to respectfully **OPPOSE ASSEMBLY BILL 3192 (Muratsuchi)**. There are four over-arching concerns with the legislation which render this legislation unnecessary and, in practice, detrimental to coastal conservation efforts.

First, the proposed legislation asserts, without adequate supporting evidence or scientific merit, that “major coastal resorts” pose more environmental impact than other developments along the coast. The proposed legislation does not include municipal, state, or local golf courses, private golf courses not associated with a hotel, recreational fields and parks, non-golf lodgings, industrial uses, and other facilities with similar, if not more intense, use patterns and potential effects on coastal resources. Instead, the legislation appears to unfairly target a small subset of visitor-serving businesses along the California coast. Many of these businesses have demonstrated for decades their leadership in environmental stewardship and have advanced Coastal Act policies by providing the opportunity for millions of people to responsibly visit and enjoy the coast.

Second, the proposed legislation fails to contemplate the exhaustive reporting, auditing processes, and other requirements already in place for pesticide use, water quality permitting and monitoring, employee protections under the Labor Code, and ecological resource protection. The existing regulatory framework in each of these important areas is necessarily complex, technical, and specialized. The bill would serve to add conflict to longstanding legal regimes and result in confusion to the highly complex matrix of regulatory compliance. Additionally, the review mandates imposed by this bill are likely so excessive in scope that the Coastal Commission may need to reallocate staff away from other investigation and enforcement actions to focus on routine compliance review – undermining the agency’s ability to protect California’s coastal resources.

Third, privatizing the “audit” process currently conducted by highly trained and expert agency staff is a disservice to those agencies and the public. The proposed private consultant “auditor” (paid for by the resort) would not have the breadth of expertise and deep knowledge of the regulatory regimes that the regulatory agency staff of County Environmental Health Bureaus, California Department of Pesticide Regulation, County Agricultural Commissioners, California Department of Food & Agriculture, Regional Water Quality Control Boards, and the State Water Resources Control Boards maintain. Moreover, private audits conducted without the benefit of expert staff certainly will lead to inconsistent interpretation and application of regulations leading both to confusion and arbitrary enforcement. It will also require the Commission staff in charge of overseeing the compliance audit to develop a comprehensive and deep understanding of a number of regulatory compliance arenas that fall outside of the Commission’s primary areas of expertise, including matters within the jurisdiction of the agencies listed above and the California Labor Commissioner.

Finally, this measure proposes encouraging employees to make complaints in the media, potentially instead of with an enforcement agency, while retaining low-bar good faith-style language originally designed to protect reports to enforcement agencies for no reasonable purpose. In doing so, this proposal fails to adequately weigh the reputational risk to a business with the benefit of reporting suspected violations to the media (this also raises the risk of undue pressure upon regulatory agencies for a particular outcome) and should be rejected.

### **Coastal Development Permitting and Reporting:**

The current Coastal Development Permit process, including the process for amending existing permits, already requires coastal resorts to ensure that they do not have adverse impacts on coastal resources, including special status species. In those areas where ongoing monitoring and oversight is necessary, Coastal Development Permits require that condition compliance reports be submitted to the Coastal Commission for review and potential enforcement when compliance has not been achieved. Further, the Coastal Act broadly defines “development” to include “construction, reconstruction, demolition or alteration of the size of any structure,” and prohibits such development without appropriate authorization under the Coastal Act. Therefore, as coastal resorts built before the Coastal Act update and modernize their coastal visitor-serving facilities over time, they will be, and in many cases are, subject to today’s Coastal Act standards, including any associated coastal resource protection planning, monitoring, and reporting requirements.

On top of these existing safeguards in the Coastal Act, the Act should not be expanded to usurp the land use and regulatory authority of other agencies as AB 3192 proposes. In particular, the California Environmental Quality Act (“CEQA”) vests lead agencies with the authority to ensure that mitigation measures are implemented in a manner consistent with a mitigation monitoring program adopted pursuant to CEQA. For coastal developments, lead agencies are typically the local government in which the project is located. It would therefore conflict with CEQA for the Coastal Commission to have independent enforcement authority over mitigation measures adopted by a different agency that has its own, independent enforcement regime. Moreover, the Coastal Act itself delegates enforcement authority to local governments with certified Local Coastal Programs – and in those circumstances only permits the Commission to commence enforcement where the local government consents or declines to enforce. Therefore, it would run contrary to the Coastal Act’s intent to have the Coastal Commission conduct parallel enforcement of CEQA compliance – essentially divesting the local government of its own local enforcement authority.

### **Pesticide Use and Reporting:**

The use of “pesticides” as defined in AB 3192 is regulated through the California Department of Pesticide Regulation and locally enforced by County Agricultural Commissioners. Coastal resorts are required to comply with audits by the County Agricultural Commissioner and annually report their pesticide use. These annual reports are publicly available. Both the use and regulation of pesticides is highly specialized, scientific, and requires professional certification by California Department of Food and Agriculture. Coastal resorts would gladly rely only on organic products if organic alternatives were available and effective in addressing the pest pressures faced by coastal golf course turf crops. If the State Legislature wishes to encourage the use of organic pesticides, it would be more effective to streamline the pesticide registration process in California, such that organic and the least toxic materials are promptly available in the marketplace. ***Absent effective organic alternatives, the proposed legislation would render it impossible to maintain professional tour-worthy golf courses and would stop events which draw visitors from around the world. In turn, this would devastate both the hotels, as well as the local governments and economies which rely upon these resources and events (these resorts generate upwards of 20% of local government tax revenue in select jurisdictions).***

It is also perplexing as to why the proposed legislation would not require municipal, state, or local golf courses, private golf courses not associated with a hotel, recreational fields and parks, and every other commercial business with landscaping along the coast to meet the same organic-only standard. Responsible pest management is best achieved through a holistic, science-based strategy administered through the California Department of Pesticide Regulation – the state agency with the appropriate expertise in this area – and not on an ad hoc basis.

### **Water Quality Protection and Monitoring:**

The proposed legislation would require the Coastal Commission to verify that major coastal resorts have been issued or are in the process of being issued (1) waste discharge requirements (“WDRs”), (2) a waiver of WDRs, or (3) a National Pollutant Discharge Elimination System (“NPDES”) permit for stormwater discharges; **or** verification that no WDRs or NPDES permit is required. The proposal is, at a minimum, unnecessary given the State Water Resources Control Board (“SWRCB”) and nine regional water quality control boards (“RWQCBs”) primary oversight role in regulating discharges, including stormwater discharges, to federal and state waters. AB 3192 would also require CDPs to specify ongoing monitoring and reporting requirements for the coastal resort’s stormwater discharges. This proposed requirement is duplicative to monitoring requirements overseen by the SWRCB/RWQCBs for coastal golf courses and other uses set forth in the Water Quality Control Plan, Ocean Waters of California (“Ocean Plan”). Of note, the Ocean Plan recognizes that “regional monitoring provides information necessary to make assessments over large areas and serves to evaluate cumulative effects of all anthropogenic inputs” and “assists in the interpretation of core monitoring studies.” Appendix III, § 3.3. Requiring additional monitoring of stormwater discharges from the limited major coastal resorts beyond what is already contemplated in the Ocean Plan and overseen by the SWRCB/RWQCBs is not only duplicative but would also result in inconsistent application and enforcement of Ocean Plan requirements by different state agencies.

**Single-Use Plastics and Single-Serve Items:**

California’s existing beverage container deposit program has a 70+ percent collection and recycling rate and a requirement to use recycled content. There are no studies or indications that coastal resorts are unique or otherwise fail to meet/exceed those recycling levels. Indeed, a number of these properties have been recognized for their efforts to protect the local environment. Further, the enactment of Senate Bill 54 (Allen) last year imposes significant new single use packaging waste reduction and recycling requirements on producers which will have several far-reaching consequences. Given current plastic bottle laws and that SB 54 is just now being implemented by CalRecycle, we believe any new requirements on these types of materials is premature.

**Unreasonable Expansion of Whistleblower Laws to Include Media:**

Under the current measure, persons with “*reasonable cause*” to believe that there is a violation of rules or regulations may receive whistleblower protections if they provide information about their belief with the media or a non-profit. This provision is a solution in search of a problem and unduly disadvantages a select group of businesses without clear purpose or benefit. Further, this element represents a significant expansion of the eligible entities to whom a whistleblower may normally report potential violations under Section 1102.5 and encourages them to spread potentially unproven beliefs with parties that lack any oversight or regulatory authority over the business.

Traditionally, employees are protected by whistleblower laws where they report the perceived violations to the entities charged with regulating the business – a reasonable protection which provides authorities with the information they need to begin investigating and remediating violations of law. Under this system, businesses are afforded the right to an investigation and a neutral truth finder (the entity tasked with enforcing the law or regulation) is able to conduct its investigations without undue pressure. For those businesses which enforcement agencies find are in violation of rules or regulations, there is normally a public mechanism by which the agency may report its findings after the conclusion of its investigation.

However, this measure proposes providing employees who make public allegations in the media with whistleblower protections, regardless of whether a genuine issue exists. Further, it does this while retaining the low-bar good faith-style language, which is present in existing statute where the employee is reporting to an enforcement agency, and without evidence of lack of enforce-ability or even reasonable purpose. In doing so, this proposal fails to adequately weigh the reputational risk to a business with the benefit of reporting suspected violations to the media (this also raises the risk of undue pressure upon regulatory agencies for a particular outcome) and should be rejected.

As written, this measure threatens businesses without clear reason or benefit. While we urge the committee to vote against this measure, we note that this element can be removed to align with Section 1102.5.

**Conclusion:**

The undersigned businesses strongly **OPPOSE ASSEMBLY BILL 3192 (Muratsuchi)** and hope that upon careful consideration, the Natural Resources Committee, will recognize that the bill unnecessarily privatizes regulatory enforcement auditing and duplicates existing regulatory frameworks. Coastal resorts have been stewards of the California coast for generations. These resorts are leaders in environmental stewardship and sustainability, and they advance the policies adopted by the legislature in the Coastal Act by providing the opportunity for millions of people to experience the coast in unique and meaningful ways. Burdening these businesses with costly new requirements that do not apply to uses that have similar or greater impacts on coastal resources is arbitrary and does not advance resource protection in a meaningful and cohesive way.

For these reasons, we urge you to **OPPOSE ASSEMBLY BILL 3192 (Muratsuchi)**.

CC: Assemblymember Muratsuchi  
Members – Assembly Committee on Natural Resources  
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