

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1227

Introduced by Assembly Member Huber

February 18, 2011

~~An act to amend Section 14501 of the Public Resources Code, relating to recycling.~~ *An act to repeal Article 5 (commencing with Section 14380) of Chapter 3 of Division 5 of the Financial Code, to amend Section 4351 of the Food and Agricultural Code, to amend Section 11121.1 of the Government Code, to amend Sections 62.9, 63.6, 71.4, 71.7, 72.6, 76.5, and 76.6 of, to amend the heading of Division 1 (commencing with Section 30) of, to repeal Sections 31 and 704 of, and to repeal Chapter 3 (commencing with Section 80) of Division 1 of, the Harbors and Navigation Code, relating to committees and commissions.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1227, as amended, Huber. ~~California Beverage Container Recycling and Litter Reduction Act.~~ *Committees and commissions: repeal.*

(1) Existing law establishes the Credit Union Advisory Committee in the Department of Financial Institutions. The duties of this committee include advising the commissioner and the Deputy Commissioner of Financial Institutions for the Division of Credit Unions on matters relating to credit unions and the credit union business.

Existing law establishes the Boating and Waterways Commission in the Department of Boating and Waterways. The duties of this committee include advising the department, recommending proposed changes to regulations, and causing studies and surveys to be made of the need for small craft harbors and connecting waterways throughout the state.

This bill would, as of January 1, 2014, abolish the Credit Union Advisory Committee and the Boating and Waterways Commission and the duties and responsibilities carried out by each.

(2) Existing law establishes the State Race Track Leasing Commission and repeals the commission on January 1, 2013.

This bill would delete the repeal date, thereby indefinitely extending the existence of the commission.

~~The California Beverage Container Recycling and Litter Reduction Act requires every beverage container sold or offered for sale in this state to have a minimum refund value. The act also makes various findings and declarations regarding beverage container recycling.~~

~~This bill would make technical, nonsubstantive changes to those findings and declarations.~~

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

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

1 *SECTION 1. Article 5 (commencing with Section 14380) of*
 2 *Chapter 3 of Division 5 of the Financial Code is repealed.*

3 *SEC. 2. Section 4351 of the Food and Agricultural Code is*
 4 *amended to read:*

5 4351. ~~(a)~~—There is hereby created the State Race Track Leasing
 6 Commission which shall be composed of the Director of Food and
 7 Agriculture, the Director of Finance, and the Director of General
 8 Services and three individuals, appointed by the Governor, who
 9 are members of the Board of Directors of the 22nd District
 10 Agricultural Association. The Director of Finance shall serve as
 11 chairperson of the commission. All meetings of the commission
 12 shall be open and public.

13 ~~(b) This section shall remain in effect only until January 1, 2013,~~
 14 ~~and as of that date is repealed, unless a later enacted statute, that~~
 15 ~~is enacted before January 1, 2013, deletes or extends that date.~~

16 *SEC. 3. Section 11121.1 of the Government Code is amended*
 17 *to read:*

18 11121.1. As used in this article, “state body” does not include
 19 any of the following:

20 (a) State agencies provided for in Article VI of the California
 21 Constitution.

1 (b) Districts or other local agencies whose meetings are required
2 to be open to the public pursuant to the Ralph M. Brown Act
3 (Chapter 9 (commencing with Section 54950) of Part 1 of Division
4 2 of Title 5).

5 (c) State agencies provided for in Article IV of the California
6 Constitution whose meetings are required to be open to the public
7 pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2
8 (commencing with Section 9027) of Chapter 1.5 of Part 1 of
9 Division 2 of Title 2).

10 (d) State agencies when they are conducting proceedings
11 pursuant to Section 3596.

12 (e) State agencies provided for in Section 109260 of the Health
13 and Safety Code, except as provided in Section 109390 of the
14 Health and Safety Code.

15 ~~(f) The Credit Union Advisory Committee established pursuant
16 to Section 14380 of the Financial Code.~~

17 *SEC. 4. The heading of Division 1 (commencing with Section
18 30) of the Harbors and Navigation Code is amended to read:*

19

20 **DIVISION 1. DEPARTMENT OF BOATING AND**
21 **~~WATERWAYS AND THE BOATING AND WATERWAYS~~**
22 **COMMISSION**

23

24 *SEC. 5. Section 31 of the Harbors and Navigation Code is*
25 *repealed.*

26 ~~31. “Commission” means the Boating and Waterways~~
27 ~~Commission.~~

28 *SEC. 6. Section 62.9 of the Harbors and Navigation Code is*
29 *amended to read:*

30 62.9. Upon request, the department shall make available to
31 persons owning or operating small craft harbors, ~~such~~ information
32 ~~as is available to the commission~~ concerning the following:

33 (a) The maintenance and improvement of existing small craft
34 harbor facilities.

35 (b) The application of new technical materials and concepts.

36 (c) The preparation of feasibility reports, environmental impact
37 reports, permits, and other steps required to develop new small
38 craft harbor facilities.

39 *SEC. 7. Section 63.6 of the Harbors and Navigation Code is*
40 *amended to read:*

1 63.6. (a) (1) On or before January 15 of each odd-numbered
2 year, the director shall make a report to the ~~commission, the~~
3 Legislature; and the Governor covering the operations of the
4 department for the preceding biennium.

5 (2) With respect to Article 5 (commencing with Section 76),
6 the report shall include all of the following:

7 (A) The total amount of loans made in each of the two fiscal
8 years immediately preceding the preparation and submission of
9 the report.

10 (B) For each recipient of a loan during each of the two fiscal
11 years immediately preceding the preparation and submission of
12 the report, the recipient's name, the location of the marina for
13 which the loan was made, and the amount of the loan.

14 (C) The financial status of each loan.

15 (D) Any legislative recommendations.

16 (3) The report shall also include the status of the department's
17 activities related to the monitoring of rates pursuant to Section
18 71.4 and subdivision (d) of Section 76.7.

19 (4) The report shall also include an evaluation of the public
20 participation in the personal watercraft education course developed
21 by the department pursuant to subdivision (b) of Section 668.3
22 and a determination of the effect of the course on personal
23 watercraft safety in California.

24 (b) The department shall also make any special reports that are
25 requested by the Secretary of Resources or the Governor.

26 *SEC. 8. Section 71.4 of the Harbors and Navigation Code is*
27 *amended to read:*

28 71.4. (a) (1) The department, subject to the approval of the
29 Legislature in accordance with Section 85.2, may make loans to
30 qualified cities, counties, or districts having power to acquire,
31 construct, and operate small craft harbors, for the design, planning,
32 acquisition, construction, improvement, maintenance, or operation
33 of small craft harbors and facilities in connection with the harbors,
34 and connecting waterways, if the department finds that the project
35 is feasible.

36 (2) The minimum annual rate of interest charged by the
37 department for a loan shall be set annually ~~by the commission and~~
38 ~~shall be~~ based on the Pooled Money Investment Account interest
39 rate.

1 (b) The department shall establish, by rules and regulations,
2 policies and standards to be followed in making loans pursuant to
3 this section so as to further the proper development and
4 maintenance of a statewide system of small craft harbors and
5 connecting waterways. To the greatest extent possible, the
6 department shall adhere to customary commercial practices to
7 ensure that loans made pursuant to this section are adequately
8 secured and that the loans are repaid consistent with the terms of
9 the loan agreement. Any rules and regulations shall include policies
10 and standards for restrooms, vessel pumpout facilities, oil recycling
11 facilities, and receptacles for the purpose of separating, reusing,
12 or recycling all solid waste materials.

13 (c) The department shall develop weighing and ranking criteria
14 to qualify and prioritize the public loans.

15 (d) A loan under this section shall be repaid as provided in
16 Section 70.

17 (e) Rates to be charged for the use of the boating facilities shall
18 be established by the city, county, or district, subject to the approval
19 of the department, in every loan contract. The department shall
20 concern itself with the rates charged only as prescribed in Section
21 71.8. The rates set shall be based on a monthly berthing charge,
22 and the department shall monitor these rates to ensure that the
23 berthing charges are sufficient to ensure timely and complete
24 repayment of the loan.

25 (f) The department shall submit any project for which it
26 recommends any loan be made to the Governor for inclusion in
27 the Budget Bill.

28 (g) The department may restate an existing loan under this
29 article, upon written request by the borrower, ~~and upon approval~~
30 ~~by the commission.~~

31 *SEC. 9. Section 71.7 of the Harbors and Navigation Code is*
32 *amended to read:*

33 ~~71.7. Notwithstanding any other provision of this chapter,~~
34 ~~Section 82, or any contract or agreement to the contrary, loan~~
35 ~~payments on the loan on behalf of Spud Point Marina in the County~~
36 ~~of Sonoma, as authorized by Schedule (b)(8) of Item 3680-101-516~~
37 ~~of Section 2.00 of the Budget Act of 1982, and administered by~~
38 ~~the department, may be renegotiated by the department and the~~
39 ~~County of Sonoma, with the advice and consent of the commission,~~
40 ~~to solve the fiscal problems involving the marina existing on the~~

1 effective date of this section as enacted during the 1994 portion
2 of the 1993–94 Regular Session.

3 *SEC. 10. Section 72.6 of the Harbors and Navigation Code is*
4 *amended to read:*

5 72.6. Transfers pursuant to Section 70, loans pursuant to
6 Section 71.4, and grants pursuant to Section 72.5 shall be made
7 by the department with the advice and consent of the commission
8 department.

9 *SEC. 11. Section 76.5 of the Harbors and Navigation Code is*
10 *amended to read:*

11 76.5. In processing applications under this article, the
12 department shall give priority to applications from qualified private
13 marina owners who have not received previous loans from the
14 department. ~~If the department finds a proposed loan project is~~
15 ~~feasible, the loan request shall be submitted to the commission for~~
16 ~~its advice and consent.~~

17 *SEC. 12. Section 76.6 of the Harbors and Navigation Code is*
18 *amended to read:*

19 76.6. Loans made under this article shall include, but are not
20 limited to, the following terms and conditions:

21 (a) The minimum annual rate of interest charged by the
22 department for a loan shall be set annually ~~by the commission and~~
23 ~~shall be~~ at a rate equal to 1 percent per annum plus the prime or
24 base rate of interest.

25 (b) The department shall require collateral in a minimum amount
26 of 110 percent of the loan.

27 (c) The repayment period of a loan shall not exceed 20 years,
28 or be longer than the length of the borrower’s leasehold estate,
29 including renewal options, if the loan is based upon a leasehold
30 estate of the borrower.

31 (d) All loans shall amortize the principal over the term of the
32 loan. However, a loan shall become due and payable in full if the
33 borrower sells or otherwise transfers the recreational marina
34 developed with departmental funds, unless the transfer is, by reason
35 of the death of the borrower, to the borrower’s heirs.

36 (e) The department’s loans shall not be subordinated to any
37 future loans obtained by a private marina owner, except in those
38 cases involving loans acquired for refinancing previous senior
39 loans.

1 (f) The department may allow assumption of loans from the
2 original borrower by future parties, subject to completion of the
3 application process and upon approval by the department ~~and the~~
4 ~~commission.~~

5 (g) The department may, upon written request by the borrower,
6 and upon the approval of the commission, restate an existing loan.

7 *SEC. 13. Chapter 3 (commencing with Section 80) of Division*
8 *1 of the Harbors and Navigation Code is repealed.*

9 *SEC. 14. Section 704 of the Harbors and Navigation Code is*
10 *repealed.*

11 ~~704. In accordance with the provisions of Section 82 of this~~
12 ~~code, the commission shall advise the department with respect to~~
13 ~~all matters relating to the administration of this act. The department~~
14 ~~shall submit any proposed regulations or changes in regulations~~
15 ~~pertaining to this act for review and comment by the commission~~
16 ~~prior to enactment.~~

17 *SEC. 15. Section 1 and Sections 3 to 14, inclusive, of this act*
18 *shall become operative on January 1, 2014.*

19 ~~SECTION 1. Section 14501 of the Public Resources Code is~~
20 ~~amended to read:~~

21 ~~14501. The Legislature finds and declares as follows:~~

22 ~~(a) Experience in this state and others demonstrates that financial~~
23 ~~incentives and convenient return systems ensure the efficient and~~
24 ~~large-scale recycling of beverage containers. Accordingly, it is the~~
25 ~~intent of the Legislature to encourage increased, and more~~
26 ~~convenient, beverage container redemption opportunities for all~~
27 ~~consumers. These redemption opportunities shall consist of dealer~~
28 ~~and other shopping center locations, independent and industry~~
29 ~~operated recycling centers, curbside programs, and other recycling~~
30 ~~systems that assure all consumers, in every region of the state, the~~
31 ~~opportunity to return beverage containers conveniently, efficiently,~~
32 ~~and economically.~~

33 ~~(b) California grocery, beer, soft drink, container manufacturing,~~
34 ~~labor, agricultural, consumer, environmental, government, citizen,~~
35 ~~recreational, taxpayer, and recycling groups have joined together~~
36 ~~in calling for an innovative program to generate large-scale~~
37 ~~redemption and recycling of beverage containers.~~

38 ~~(c) This division establishes a beverage container recycling goal~~
39 ~~of 80 percent.~~

1 ~~(d) It is the intent of the Legislature to ensure that every~~
2 ~~container type proves its own recyclability.~~

3 ~~(e) It is the intent of the Legislature to make redemption and~~
4 ~~recycling convenient to consumers, and the Legislature hereby~~
5 ~~urges cities and counties, when exercising their zoning authority,~~
6 ~~to act favorably on the siting of multimaterial recycling centers,~~
7 ~~reverse vending machines, mobile recycling units, or other types~~
8 ~~of recycling opportunities, as necessary for consumer convenience,~~
9 ~~and the overall success of litter abatement and beverage container~~
10 ~~recycling in the state.~~

11 ~~(f) The purpose of this division is to create and maintain a~~
12 ~~marketplace where it is profitable to establish sufficient recycling~~
13 ~~centers and locations to provide consumers with convenient~~
14 ~~recycling opportunities through the establishment of minimum~~
15 ~~refund values and processing fees and, through the proper~~
16 ~~application of these elements, to enhance the profitability of~~
17 ~~recycling centers, recycling locations, and other beverage container~~
18 ~~recycling programs.~~

19 ~~(g) The responsibility to provide convenient, efficient, and~~
20 ~~economical redemption opportunities rests jointly with~~
21 ~~manufacturers, distributors, dealers, recyclers, processors, and the~~
22 ~~Division of Recycling in the Department of Resources Recycling~~
23 ~~and Recovery.~~

24 ~~(h) It is the intent of the Legislature, in enacting this division,~~
25 ~~that all empty beverage containers redeemed shall be recycled,~~
26 ~~and that the responsibilities and regulations of the department shall~~
27 ~~be determined and implemented in a manner that favors the~~
28 ~~recycling of redeemed containers, as opposed to their disposal.~~

29 ~~(i) This division shall not be interpreted as affecting the current~~
30 ~~business practices of scrap dealers or recycling centers, except~~
31 ~~that, to the extent they function as a recycling center or processor,~~
32 ~~they shall do so in accordance with this division.~~

33 ~~(j) The program established by this division will contribute~~
34 ~~significantly to the reduction of the beverage container component~~
35 ~~of litter in this state.~~

O