

An act to add Title 7.05 (commencing with Section 66499.900) to the Government Code, and to add Article 8 (commencing with Section 21159.40) to Chapter 4.5 of Division 13 of the Public Resources Code, relating to land use.

LEGISLATIVE COUNSEL’S DIGEST

Bill No.

as introduced, _____.

General Subject: Solano Maritime Projects: water-dependent industrial uses; California
Environmental Quality Act: Solano Maritime Projects

(1) Existing law sets forth various procedures and requirements relating to the use of land within cities and counties, including, but not limited to, the Planning and Zoning Law. The Planning and Zoning Law requires, among other things, that a city or county adopt a general plan and zoning code for land use development within its boundaries that includes certain elements. The Planning and Zoning Law also sets forth requirements for the permitting of various types of construction.

The bill would require the board of supervisors of County of Solano to amend its general plan by overriding County Ordinance 2008-01, approved by the voters at the November 4, 2008 as Measure “T”, and zoning code to accommodate development of maritime uses in certain areas, for a period from now until January 1, 2029. By imposing additional duties on the county, the bill would impose a state-mandated local program.

This bill would provide that contiguous lands, as defined, located in the water-dependent industrial area as designated by Solano County’s general plan that are under the same fee ownership shall be eligible to operate energy systems, as described, and to operate and manage thermal districts using surplus heat from maritime and industrial facilities for purposes of efficiently heating and cooling building structures.

(2) This bill would require, until a specified date, the environmental review set forth in the Solano County General Plan Final EIR to be conclusively presumed to satisfy the requirements of CEQA for maritime projects that are located in the water-dependent industrial area, infrastructure supporting such projects, and the County of Solano’s amendment of its general plan, zoning, and other ordinances, as specified.

The bill would require that any responsible agency other than Solano County shall complete its review of, and to take final action on, an application for an approval, permit or other action relating to Solano Maritime Project within 90 days of the date of a completed application. The bill would require a dispute between Solano County and one or more responsible agencies, or between an applicant and one or more responsible agencies, to be submitted in writing as a dispute resolution request to the Governor and would require the Governor to resolve the dispute within 45 days, as specified.

By requiring a lead agency to determine the applicability of the above-described streamlining pathways and by increasing the duties of a lead or responsible agency, the bill would impose a state-mandated local program.

(3) The bill would make related legislative findings and declarations.

(4) This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Solano.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Solano Maritime Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) America faces a major shipbuilding challenge as the People's Republic of China now builds more than 1,000 commercial and naval ships every year while America builds only about 5. To counter this disparity and reinforce national security, new shipbuilding and maritime hubs are needed, especially on the west coast of the United States.

(b) Investments are being made by shipbuilders and by federal government shipbuilding projects. Much of the focus is on the Pacific region, and California has a unique opportunity to restore its legacy in shipbuilding. During World War II, there were 220,000 people who worked in shipbuilding in the Bay Area alone. For the current wave of investments, the focus is on projects that can break ground and produce ships quickly.

(c) One of the largest possible sites for shipbuilding is in the County of Solano, where long-range planning documents, starting with the 1979 Collinsville-Montezuma Hills Area Plan prepared for the county's Department of Resource Management and followed up by a series of general plans, identified a portion of the county as the largest remaining maritime industrial area on the west coast.

(1) At the time of this act's enactment, the County of Solano's general plan designates certain lands in the Collinsville Special Study Area for water-dependent industrial uses, surrounded by land designated for agricultural uses.

(2) This general area is one of the largest vacant sites on the West Coast that is designated for and is suitable for heavy maritime industrial uses. This act provides a path for adjusting the location and shape (but not the aggregate acreage) of this water dependent industrial use within the Collinsville Special Study Area, and for expedited permitting on a portion of this area, while continuing to require compliance with all of California's environmental and health permitting laws, regulations, and rules.

(3) Development of maritime uses in this area is urgent and a matter of statewide importance due to the urgent need to build ships and to maintain maritime industrial base and related or supportive uses and infrastructure for national security.

(d) Therefore, the Legislature hereby enacts the Solano Maritime Act for purposes of adjusting the location and size of the water-dependent industrial area in Solano County and for purposes of clarifying reliance on the most recent Environmental Impact Report.

SEC. 3. Title 7.05 (commencing with Section 66499.900) is added to the Government Code, to read:

TITLE 7.05. SOLANO WATER DEPENDENT INDUSTRIAL AREA

66499.900. For purposes of this title, the following definitions apply:

(a) "County" means the County of Solano.

(b) "Solano County General Plan FEIR" means the final environmental impact report for the county's general plan (State Clearinghouse No. 2007122069) that was certified by the county's board of supervisors on July 21, 2008.

(c) "Maritime uses" includes the following land uses:

(1) Shipbuilding, including facilities, equipment, and infrastructure to manufacture, fabricate, assemble, and maintain ships, including ship components.

(2) Maritime operations, including docks, bays, and other similar facilities, equipment, and infrastructure.

(3) Advanced manufacturing including development, testing, manufacturing, fabrication, assembly, research, logistics, and related equipment and operations for shipbuilding, maritime, and other naval national security or defense industrial base facilities.

(4) Related or supportive uses for the uses identified in subparagraphs (1) to (3) above, such as commercial, industrial, retail, overnight accommodation, other supporting infrastructure, public services such as safety, fire and emergency prevention and response, law enforcement, health services, and workforce training facilities, provided that these uses collectively not exceed twenty (20) acres in the area (or such higher acreage as approved by the county in furtherance of this Article) within the water-dependent industrial area. All related or supportive uses will be subject to the county's conditional use permit process.

(5) Infrastructure located on, connected to, or providing service to projects with maritime uses as described in paragraphs (1) to (4), including roads, rail, ferry, transit, and any other transportation facilities, energy transmission and distribution (but not generation), water, wastewater, stormwater, flood protection, communications, and other utilities and public service facilities. Except as described in Section 21159.41, nothing in this paragraph exempts such

infrastructure from being legally required to obtain permits or authorization from Solano County and other agencies as required by environmental and other public health laws, including but not limited to protection of endangered species and air and water quality.

66499.901. (a) Notwithstanding any other law, specifically Solano County Ordinance 2008-01, the County's board of supervisors shall, no later than December 31, 2026, (i) amend its general plan, zoning, and other local codes to adjust the location and shape of the approximately 1,305 acres of water-dependent industrial area within the Collinsville Special Study Area (as the same is defined in Solano County General Plan) that are located east of Collinsville Road to such location and shape that the County determines best supports development of Maritime uses while also considering other physical factors in the area, without increasing the aggregate acreage of the water-dependent industrial area. The specific shape and scale of the boundary change shall consider needs and requirements of the shipbuilding industry while balancing other county policies and objectives, public health, and environmental considerations such as slope modification, drainage, and biological resources. Areas shifted from the water-dependent industrial designation in conjunction with the boundary reconfiguration shall be designated as agricultural. The county may consider, conduct, or procure studies that inform the determination of the optimal location and shape of any boundary adjustment and shall have the right to require that the affected landowners reimburse the county for its costs of the foregoing actions as a condition to completing the same. If the affected landowners are not willing to provide such reimbursements, the obligations of the county under this subsection (a) shall cease. If the actions taken pursuant to the preceding sentences of this subsection (a) are challenged in court, the county shall not have an obligation to defend the same; however, the county may, in its sole discretion, elect to defend any such action, provided that the affected landowners shall be responsible for all costs and expenses of the defense, including, but not limited to, attorneys' fees, expert fees, and court costs, pursuant to a mutually agreeable reimbursement agreement acceptable to the county and to the affected landowners. Should the county not elect to defend such action or should the county and the affected landowners not agree on terms of a reimbursement agreement, the landowners of the affected parcels shall have the right to assume the defense at their own expense.

(b) The county may require, as part of the amended zoning code, that individual Maritime use projects shall require use permits. Nothing in this section requires the County to approve or conditionally approve a use or otherwise authorize, an application for a project for Maritime use in the water-dependent industrial area as defined in this section. If the County decides, at its sole discretion, to approve or conditionally approve, an entitlement of a project, inclusive any of any land use, then notwithstanding any other law the County may require as condition of such use (i) a plan for provision and funding of infrastructure, including energy, water, wastewater, and transportation, for the project, acceptable to the County, (ii) the execution of a development agreement, prior to or concurrent with the first entitlement approval, acceptable to the County at its sole discretion, to ensure that the project and subsequent projects, supporting infrastructure, and public service demands are cost neutral to Solano County and on and off-site infrastructure impacts are addressed.

(c) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

66499.902. (a) Notwithstanding any law, contiguous lands within the water-dependent industrial designated area under the same fee ownership shall be eligible to operate energy systems, including, but not limited to, electricity power distribution and sale to maritime and other users within the water-dependent industrial area, and to operate and manage thermal districts using surplus heat from maritime and industrial facilities for purposes of efficiently heating and cooling building structures within the water-dependent industrial area.

(b) For purposes of this section, “contiguous lands” shall include lands bisected by public roads.

SEC. 4. Article 8 (commencing with Section 21159.40) is added to Chapter 4.5 of Division 13 of the Public Resources Code, to read:

Article 8. Solano Maritime Projects

21159.40. For purposes of this article, the following definitions apply:

(a) “Approval, permit, or other action relating to a Solano Maritime Project” means an approval, permit, or other action authorizing, permitting, or otherwise advancing or supporting the implementation, construction, development, modernization, or operations of a Solano Maritime Project, inclusive of a plan, activity, or a specific development project, to construct, finance, maintain, operate, or modify facilities, infrastructure, or equipment.

(c) “Solano Maritime Project” means (i) a project for Maritime uses, as defined in Section 66499.900(d) of the Government Code, located in the water-dependent industrial designated area in Solano County’s general plan, or (ii) infrastructure supporting a project described in clause (a), located inside the water-dependent industrial designated area.

(d) “Solano County General Plan FEIR” has the same meaning as defined in Section 66499.900 of the Government Code.

21159.41. (a) Notwithstanding any other law, including Section 21166, the environmental review set forth in the Solano County General Plan FEIR shall be conclusively deemed sufficient for full compliance with this division, and no further environmental review under this division is required, for both of the following:

(1) The County of Solano’s entitlement of any Solano Maritime Project, including any approval, permit, or other action authorizing or otherwise furthering or supporting the construction and operation of such projects.

(2) Any actions taken by Solano County pursuant to Title 7.05 (commencing with Section 66499.900) of the Government Code, including the County of Solano’s amendment of its general plan, zoning, and other ordinances, including actions and studies undertaken by the County of Solano to adjust location or shape of the water-dependent industrial designation in the County’s General Plan and zoning code, and authorization of Maritime uses within such area.

(b) Before amending its general plan, zoning, or other ordinances for purposes of a Solano maritime project, the County of Solano shall determine that sufficient, enforceable mitigation measures have been adopted. The county shall update its technical and other studies, and adopt or amend associated mitigation measures, to account for new information in environmental impact reports and standards issued after 2008 covering all or a portion of the land included in the Solano maritime project.

(c) (1) A responsible agency other than Solano County shall process an application for an approval, permit, or other action relating to a Solano Maritime Project pursuant to the legal obligations of the agency under applicable state laws and regulations, special agency district rules or regulations, and local ordinances and rules.

(2) A responsible agency other than Solano County shall complete its review of, and take final action on, the application within the following timeframes: 90 days of the date the application is submitted for ministerial permits and 180 days for discretionary approvals or permits, measured from the date the application is deemed complete. These periods may be extended by mutual agreement for one additional 30-day period.

(3)(A) A dispute may be submitted for resolution only if it arises between a lead agency and one or more responsible agencies, or between an applicant and one or more responsible agencies, in connection with a Solano Maritime Project, and relates to implementation matters including, but not limited to, sequencing of approvals, timelines, construction oversight, documentation requirements, or funding schedules.

(B) A dispute under this paragraph shall be submitted in writing to the Office of Land Use and Climate Innovation ("LCI") within ten (10) days of the disputed action or inaction. Upon receipt, LCI shall appoint a special master from a list maintained by the Office of Administrative Hearings, which may include retired judges, administrative law judges, or other qualified neutrals with relevant expertise.

(C) The special master shall consult with the agencies and applicant, as applicable, and issue a written determination within 45 days of appointment. The determination shall:

(1) establish a binding schedule for completion of any required review or action; or

(2) clarify which agency has jurisdiction to act; or

(3) resolve the sequencing of approvals or other implementation matters identified in subparagraph (A).

(D) A determination issued by the special master shall be binding on the agencies and compliance with that determination shall be deemed full compliance with this division for purposes of agency timelines.

(E) A determination issued by the special master shall not be subject to judicial review under this division.

(d) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 5. The sum of 250,000 dollars is hereby appropriated from the General Fund to Solano County for work pursuant to this bill that is not legally reimbursable by the landowner or applicant.

SEC. 6. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstance of a pending national shipbuilding project for which the County of Solano maritime industrial zone is the principal candidate in California

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.