

**Introduced by Senator Hancock**

February 19, 2016

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An act relating to ports and harbors.

LEGISLATIVE COUNSEL'S DIGEST

SB 1277, as introduced, Hancock. Ports and harbors: City of Oakland: coal shipment.

Existing law regulates the operation of ports and harbors. The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund and provided for allocation by the California Transportation Commission of \$2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement, and specified categories of projects eligible to receive these funds, including projects to enhance the capacity and efficiency of ports.

This bill would prohibit the shipment of coal to, or through, a certain port facility located in the former Oakland Army Base that has been funded in part by the proceeds of Proposition 1B.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Oakland.

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The City of Oakland has received substantial funding from
- 4 the California Transportation Commission for the development of

1 the Bulk and Oversized Terminal at the former Oakland Army  
2 Base. The funding has been provided from the proceeds of bonds  
3 sold pursuant to the Highway Safety, Traffic Reduction, Air  
4 Quality, and Port Security Bond Act of 2006 (Chapter 12.49  
5 (commencing with Section 8879.20) of Division 1 of Title 2 of  
6 the Government Code).

7 (2) According to the Legislative Analyst’s analysis of the  
8 Highway Safety, Traffic Reduction, Air Quality, and Port Security  
9 Bond Act of 2006, one of the goals of the act was to provide  
10 funding to projects to “improve air quality by reducing emissions  
11 related to goods movement.”

12 (3) In the agreement between the City of Oakland and a private  
13 developer for a project that includes the development of the Bulk  
14 and Oversized Terminal, paragraph D of the Recitals states that  
15 “the development of the project will provide many benefits to the  
16 City and the public including but not limited to: (1) mitigate or  
17 avoid potential significant environmental impacts; ... .” In  
18 paragraph 3.4.2 of that agreement, the City of Oakland reserves  
19 the right to apply regulations adopted after the effective date of  
20 the agreement if the city finds failure to apply those regulations  
21 “would place existing or future occupants or users of the Project,  
22 adjacent neighbors, or any portion thereof, or all of them, in a  
23 condition substantially dangerous to their health or safety.”

24 (4) There is a proposal to export coal from the Bulk and  
25 Oversized Terminal.

26 (5) Coal export poses unique and substantial dangers to citizens  
27 in adjacent neighborhoods, workers at the site, and to the Oakland  
28 community as a whole.

29 (6) Assuming that 10.5 million tons of coal is shipped annually,  
30 as much as 646 tons per year of fugitive coal dust may be generated  
31 by the movement of coal through the port facility.

32 (7) Coal dust poses serious health concerns for a neighborhood  
33 already burdened with a history of environmental injustices and  
34 ill equipped to cope with additional stresses.

35 (8) The American Lung Association considers coal dust a source  
36 of particulate matter that is dangerous to breathe.

37 (9) The World Health Organization cites coal dust, along with  
38 silica and asbestos, as responsible for most occupational lung  
39 diseases due to airborne particulate.

1 (10) The United States Environmental Protection Agency cites  
2 numerous scientific studies that link particulate matter with a series  
3 of significant health problems, including premature death in people  
4 with lung or heart disease, nonfatal heart attacks, irregular  
5 heartbeat, aggravated asthma, decreased lung function, and  
6 increased respiratory symptoms, such as irritation of the airways,  
7 coughing, or difficulty in breathing.

8 (11) There are no proven topping agents that have demonstrated  
9 effectiveness at reducing coal dust over long trips.

10 (12) Confined or covered coal transportation and terminal  
11 operations would shift the burden of toxic pollution to workers at  
12 the site while also exacerbating risks of fire during transport,  
13 storage, and loading.

14 (13) “Covered” and “clean” coal operations raise significant  
15 safety concerns for workers related to the increased likelihood of  
16 coal combustion when it is confined. Trains often have open-top  
17 cars as a technique to mitigate the chances of fires by allowing  
18 heat to escape. If these train cars and warehouse spaces are covered  
19 then risk of fire is likely to be higher.

20 (14) Coal transport, warehousing, and loading operations will  
21 increase worker exposure to coal dust due to inherent jostling of  
22 the commodity. Covering and confining the coal export terminal  
23 and its operations will only exacerbate these problems because  
24 dust will be more concentrated within the workspace.

25 (15) Coal presents transportation concerns because the weight  
26 of the trains increases stress on tracks and slows traffic, and  
27 because the dust damages rail tracks.

28 (16) Coal dust and leachates can pollute waterways, often with  
29 long-lasting impacts.

30 (17) The community of West Oakland, which is near the Bulk  
31 and Oversized Terminal, is already heavily and adversely impacted  
32 by goods movements through the community.

33 (18) The California Environmental Protection Agency, using  
34 the California Communities Environmental Health Screening Tool  
35 (CalEnviroScreen), a tool that assesses all census tracts in  
36 California, has identified the community of West Oakland as a  
37 disadvantaged community disproportionately burdened by, and  
38 vulnerable to, multiple sources of pollution.

39 (19) The residents of West Oakland breathe air containing three  
40 times the amount of diesel particulate matter than in other part of

1 the San Francisco Bay area, which translates to a 2.5 times greater  
2 risk of cancer. Children in West Oakland suffer from ailments like  
3 asthma at higher rates than children in other neighborhoods.

4 (20) The residents of West Oakland are two times more likely  
5 to go to a hospital emergency room with asthma as compared to  
6 residents in other parts of the County of Alameda. According to  
7 the Office of Statewide Health Planning and Development, in  
8 2009, for every 10,000 visits, 183 visits in West Oakland were due  
9 to asthma, whereas the statewide average is 48 visits. Those  
10 residents are also more likely to die of illnesses linked to air  
11 pollution like cancers, heart diseases, and other ailments.

12 (21) The residents of West Oakland are already impacted by  
13 goods movements, and do not deserve to bear the brunt of the  
14 health impacts of coal moving through their community.

15 (22) The transportation of coal through the Bulk and Oversized  
16 Terminal would present a substantially dangerous condition to the  
17 health and safety of the residents of Oakland along with the  
18 workers at the Port of Oakland and is contrary to the goals of the  
19 Highway Safety, Traffic Reduction, Air Quality, and Port Security  
20 Bond Act of 2006.

21 (b) Because of the substantial dangers to the City of Oakland  
22 and its residents associated with coal shipment and because this  
23 activity is contrary to the intent of the Highway Safety, Traffic  
24 Reduction, Act Quality and Port Security Act of 2006, coal shall  
25 not be transported to, or through, the Bulk and Oversized Terminal  
26 located in the former Oakland Army Base.

27 SEC. 2. The Legislature finds and declares that a special law  
28 is necessary and that a general law cannot be made applicable  
29 within the meaning of Section 16 of Article IV of the California  
30 Constitution because of the unique nature of the proposed coal  
31 shipment through the Bulk and Oversized Terminal located in the  
32 former Oakland Army Base in the City of Oakland.