Assembly.

Second, the law directed the Commission to develop Interim and Final Plans of State Development Policy by September 1, 1972 and December 1, 1973, respectively. Third, it required the Commission to develop a series of standards and guidelines for various units of governments in the state. The Commission is to develop model subdivision regulations for the counties. "For all levels of government the Commission is required to develop a system for monitoring growth and change in the state, a means of evaluating the impact on proposed development, a system for identifying environmental concerns and relating them to development, and a system for documenting the state's existing land use control policies and planning."* Finally, the legislation requires the Commission to develop flood plain control standards and criteria and to recommend critical conservation and recreation areas.

The Commission can make recommendations to the Governor on development policy. The Governor has the power to restrain any land development activity which "constitutes a danger or potential danger of irreparable injury, loss, or damage of serious proportions to the public health, safety and welfare."**

CONTROLS AND CRITERIA

The controls are primarily focused at the county level. The Land Use Act requires all counties to create planning commissions, and it requires them to maintain either building permits or improvement notices for their entire area of jurisdiction. "By July 1, 1972, each county must further promulgate subdivision regulations, which must include minimum standards and technical procedures applicable to drainage maps, sewer plans and designs for water systems.

*Ibid., p. 300.
**Ibid.

If such regulations are not so promulgated, then the Commission is empowered to do so for any tardy county."*

The Act sets up a fund to aid counties in planning activities. It establishes a $200,000 fund for any county, municipality or regional planning agency which the Commission has designated as an area of critical planning need. There is a stipulation that the planning aid must be used for a work program agreed to by the municipality, county or agency and the Commission.

The winter olympics of 1976 will take place in the Denver region. The legislation emphasizes land use controls in those areas. The Land Use Commission is to evaluate the community impact and the potential land consumption rate as well as the public investment programming and planning. It will indicate to the Governor the information necessary for it to carry out its duties, and the Governor will require the Denver olympics organizing committee or any state agency to furnish information to the Commission.

The Commission will cooperate and consult with local officials in communities where olympic events are located to develop land use controls, and it will ensure that these controls are adequate to protect the environment. If these local municipalities or counties in which the olympic events are scheduled fail to provide land use controls with adequate environmental safeguards, the Commission, after a recommendation from the governor, can set up land use regulations for these areas.

The Commission notifies the board of county commissioners in any county where there is a land development activity threatening the public health, welfare or safety. If the county board does not remedy the situation, the

*Ibid., p. 301.

Commission reviews the facts about the activity. The governor can then direct the Land Use Commission to issue a cease and desist order requiring the developer to immediately discontinue operations. If the development is continued, the Commission will request a temporary restraining order, preliminary injunction or permanent injunction from the appropriate district court. After the cease and desist order or court action, the Commission will establish the planning criteria necessary to eliminate or avoid the dangerous effects of the development.

ASSESSMENT

The Colorado Land Use Act provides for strong state leadership in establishing guidelines, criteria, and identification of areas of critical environmental concern.

It maintains on-going planning and permit functions at the local level but ensures assertive state role by providing for commission monitoring and follow-up in areas of critical concern when local agencies are not responsive.

DIRECT STATEWIDE CONTROL IN SELECTED AREAS

A large number of states have enacted legislation dealing with the management of specific geographic or critical areas. These laws regulate the development of coastal zones, wetlands, new communities and power plant siting. To date this type of management program has proven to be the most prevalent form of state activity.

MASSACHUSETTS

ADMINISTRATION

Massachusetts has several laws that protect its coastal wetlands. The Jones

Act, passed in 1963, requires developers who seek to alter the coastal wetlands to apply for a permit from the Massachusetts Department of Natural Resources. The Act is designed to limit developments sufficiently to help preserve the ecological conditions necessary for shell fish and marine fisheries.

The Coastal Wetlands Act of 1965 is gradually replacing the limited protection set up by the Jones Act. The Coastal Wetlands Act institutes "protective orders" which are issued by the Department of Natural Resources. These orders prohibit any alteration of coastal wetland areas except under carefully controlled circumstances. The Act defines coastal wetlands as any bank, marsh, swamp, meadow, flat or other low land subject to tidal action or coastal storm flowage and necessary contiguous land.

"Protective orders (conservation restrictions) have been recorded against 17,915 acres of coastal wetland and orders are currently pending against another 25,446 acres. In the near future, therefore, the Department will have recorded conservation restrictions covering 44,000 of the approximately 60,000 acres of coastal wetlands in Massachusetts. Thus, the Jones Act will soon be obsolete, except where landowners manage to prevent their wetland property from being included in a coastal protective order."* The statute does not require any participation by local governments. The Department of Natural Resources could complete a protective order restricting uses in coastal wetlands without even consulting local governments.

In actual practice, however, the Department has informal consultation with local authorities at various stages of the order process. The Department does not ask for recommendations while the order is being prepared; but state officials meet with the local governing body before the hearing to explain the

*Fred Bosselman and David Callies, op. cit., p. 205.

operation of the protective order.

Local governments can establish more restrictive provisions over area already under a protective order. If local authorities want to set up this type of regulations, the state's orders do not pre-empt their regulations.

Some local governments have asked the state to include provisions limiting the real estate tax assessment that can be imposed on private property under protective orders. "Under present arrangements the valuation lies within the discretion of the local board of assessors, and some town governments ask that the state take affirmative action to guarantee tax relief to owners of restricted property. Such a guaranty they maintain, would reduce objections of local property owners. (This apparent anomaly of local legislative bodies actively seeking what amounts to a reduction in their tax income can be explained by the fact that most wetlands are assessed at a fairly low level in the first place.)"*

After a final order has been recorded, an objecting landowner may request judicial review. The Coastal Wetlands Act indicates that the owner can petition the superior court for a review of the order as it effects his land. The only remedy the court can make must apply to the petitioners property.

Any petition must be filed within 90 days after the owners affected by a protective order have been notified. The protective orders are essentially free from judicial challenge shortly after they are finalized.

If the superior court finds that an order is "an unreasonable exercise of the police power because (it) constitutes the equivalent of a taking without compensation," the act, indicates that the court should enter a finding that the

*Ibid., p. 214.

order will not apply to that land.* If the court reaches this decision then the Department of Natural Resources can institute eminent domain proceedings to take the property. "However, the Department has never had to exercise its eminent domain powers in any of the 14 coastal areas where protective orders have been issued, and a number of factors appear to have contributed to this situation: caution on the part of the Department in drawing up the orders, the burdensome procedures a landowner would have to follow if he wished to challenge an order, and general acceptance by owners of the restrictions imposed."**

Only about 20 owners of the several thousand affected by the coastal orders have gone to court. All but one of these cases was settled before going to trial. The small number of objections to the protective orders may indicate owner acceptance or it may indicate that owners who might object are deterred by the required court actions.

CONTROLS AND CRITERIA

The Coastal Wetlands Act states that the purpose of the protective orders is to protect wildlife and marine fisheries. The powers of the Department of Natural Resources are quite broad including both the definition of coastal wetlands which may be protected and the type of regulation which can be imposed.

The Department's first step in protecting the coastal wetlands is to gather information necessary to locate wetlands, decide the precise areas to be protected and determine the land ownership in these areas. The Department conducts on-site inspection of the areas under consideration. It then prepares

*130 Massachusetts General Laws Ann., Section 105.
**Fred Bosselman and David Callies, op. cit., p. 216

a tentative map of the area to be protected and uses local assessors maps to determine ownership. The owners are notified that a hearing will be held on the proposed order. After a public hearing and negotiations with land owners are complete, the orders are recorded at a local assessor's office.

The local hearing process takes a large amount of time. "It has taken the Department more than five years to hold 25 hearings covering approximately two-thirds of the coastal wetlands in the state and to record final protective orders covering approximately one-third."*

A coastal protective order consists of a written order accompanied by a map outlining the protected wetlands. The orders outline uses which are allowed without qualification, uses which are allowed subject to certain restrictions and uses which are allowed only by special permit. The permit allows uses with conditions or by special permit solely to maintain strict control over any filling and dredging activity, not to control the location of uses. The orders provide generally that "no person shall perform any act or use said wetland in a manner which would destroy the natural vegetation of the wetland--or otherwise alter or permit the alteration of the natural and beneficial character of the... wetland."**

The boundaries of the orders reflect negotiations with landowners. "Where it seems clear to the Department that no economic use will remain for a given parcel, and the owner is threatening to protest, the Department would probably alter the boundaries of the order to allow an economic use or exempt the entire parcel from the order."***

---

*Ibid., p. 209.
**Massachusetts Department of Natural Resources, Order No. 768-71 for the town of Harwick.
***Fred Bosselman and David Callies, op. cit., p. 212.

So far, very few landowners have raised objections. Only a few property owners in an area covered by a proposed protection order even request an on-site visit by a state official. These requests usually constitute only about 5 per cent of the affected landowners.

The most important requests for on-site visits are from those who strongly oppose the restrictions. Apparently, the Department has made very few important concessions. "If a negotiated settlement acceptable to the owner cannot be achieved, the difficult review procedure acts as an effective deterrent to continued objection in many cases. Consequently, the number of formal objections that are eventually filed is very low."*

ASSESSMENT

The Department of Natural Resources does not have an investigative force to ensure compliance with conditions or to supervise land under protective orders. The Department has encouraged the public to notify the agency about unauthorized projects. "There have been no reported complaints concerning violations of protective orders under the Coastal Wetlands Act. With no comprehensive surveillance system, Department officials admit that they do not know how accurately this reflects actual activities in the protected areas; but they believe that it indicates general compliance."**

The private sector has also assisted in obtaining compliance with protective orders. Many large financial institutions require developers to comply with protective orders before they will grant a loan.

*Ibid., p. 213.
**Ibid., p. 225.

The coastal protective orders have apparently been effective. More than two-thirds of the coastal wetlands are covered by protective orders, either recorded or pending, and the major problem has been the large amount of time required to issue the orders. "Satisfaction has been expressed by both conservationists and the Department personnel that actual negotiations have been required with only about 100 owners and that only one objection will come to trial in the courts."*

DELAWARE

ADMINISTRATION

The Delaware Coastal Zone Act specifically seeks to prohibit new heavy industry along the entire coast of the state. Heavy industry and various offshore facilities are entirely prohibited, and all other types of manufacturing facilities must obtain a permit.

The Delaware legislature passed the Coastal Zone Act in 1971. It assigned the administration of the act to the State Planning Office. The State Planner considers all requests for permits for manufacturing land uses. These requests must be in writing and must include (1) evidence of approval by the appropriate county or municipal zoning authorities, (2) a detailed description of the proposed manufacturing facility and (3) an environmental impact statement.** The State Planner must either grant, deny or modify the permit within 90 days of receipt.

The Act also establishes a State Coastal Zone Industrial Control Board. The State Planner will propose to the Board a comprehensive plan and guidelines concerning types of manufacturing uses deemed acceptable in the Coastal Zone.

*Ibid., p. 225.
**Volume 58, Law of Delaware, Chapter 175, Section 7005.

These plans and guidelines will become binding regulations upon adoption by the Board after a public hearing. The Board can alter these regulations at any time after a public hearing.*

The State Coastal Zone Industrial Control Board has ten voting members. The governor appoints five of these. The other five are the Secretary of Natural Resources and Environmental Control, the Secretary of Community Affairs and Economic Development and the planning commission chairman in each of Delaware's three counties. No compensation is given to the Board members. Any member with a conflict of interest in a matter under consideration by the Board must disqualify himself.**

The Coastal Zone Industrial Control Board hears appeals from decisions of the State Planner. The Board can modify any permit, grant a permit which has been denied, deny a permit or confirm a permit. Any appellant must file his appeal within 14 days after the State Planner's decision. The Board then must hold a hearing within 60 days. All hearings must be public.

Anyone who has appealed to the Board and is not satisfied with the Board's decision may appeal to the superior court. The State Planner may also appeal any modification of his decision to the superior court. The appeals to superior court must be filed within 20 days after the Board's decision. The court may affirm, modify or reverse the Board's ruling.***

If the court determines that a permit's denial or restrictions imposed by a granted permit is an unconstitutional taking without just compensation, the Secretary of the Department of Natural Resources and Environmental Control

---

*Ibid.
**Ibid., Section 7006.
***Ibid., Section 7008.

may acquire fee simple or any lesser interests in the land through negotiations or condemnation proceedings. The Secretary must use this authority within five days after the courts ruling.*

The law empowers the Attorney General to issue a cease and desist order to anyone violating the stipulations of the law. The cease and desist orders expire 30 days after issuance, but the courts can then issue an injunction.

Anyone violating a provision of the act will be fined not more than $50,000 for each offense. If a prohibited activity is continued during any part of a day, it will constitute a separate offense.

CONTROLS AND CRITERIA

The purpose of the Act is to control the location, extent and type of industrial development in Delaware's coastal zone. The Act defines the coastal zone as the area between the territorial limits of Delaware in the Delaware River, Delaware Bay and Atlantic Ocean and a line formed by designated highways and roads. The definition of this inland line is precisely indicated in the law with each boundary road from the Pennsylvania state line to the Maryland state line clearly indicated.**

The Coastal Zone Act prohibits heavy industry not in operation at the time the law was enacted. It defines heavy industry as "a use characteristically involving more than twenty acres, and characteristically employing some but not necessarily all of such equipment such as, but not limited to, smoke stacks, tanks, distillation or reaction volumns, chemical processing equipment scrubbing towers, pickling equipment, and waste treatment lagoons; which industry, although conceivably operable without polluting the environment, has

*Ibid., Section 7009.
**Ibid., Section 7002.

the potential to pollute when equipment malfunctions or human error occurs."* This definition would include oil refineries, steel plants, chemical plants and paper mills. Off-shore gas, liquid or solid bulk product transfer facilities are also prohibited in the coastal zone.

The act requires all other types of manufacturing facilities to obtain permits to build new operation in the coastal zone. All non-conforming uses in existence at the time of enactment are not prohibited. The law also requires a permit for expansions or extensions of these non-conforming manufacturing uses.

The State Planner and the State Coastal Zone Industrial Control Board are to "consider" as opposed to mandatory, inflexible language in the initiative the following factors in passing on permit requests:

(1) "Environmental impact, including but not limited to, probable air and water pollution likely to be generated by the proposed use under normal operating conditions as well as during mechanical malfunction and human error; likely destruction of wetlands and flora and fauna; impact of site preparation on drainage of the area in question, especially as it relates to flood control; impact of site preparation and facility operations on land erosion; effect of site preparation and facility operations on the quality and quantity of surface ground and sub-surface water resources, such as the use of water for processing, cooling, effluent removal, and other purposes; in addition but not limited to, likelihood of generation of glare, heat, noise, vibration, radiation, electro-magnetic interference and noxious odors.

(2) "Economic effect, including the number of jobs created and the

*Ibid.

income which will be generated by the wages and salaries of these jobs in relation to the amount of land required, and the amount of tax revenues potentially accruing to the state and local government.

(3) "Aesthetic effect, such as impact on scenic beauty of the surrounding area.

(4) "Number and type of supporting facilities required and the impact of such facilities in all factors listed in this subsection.

(5) "Effect on neighboring land uses including, but not limited to effect on public access to tidal waters, effect on residential areas, and effect on adjacent residential and agricultural areas.

(6) "County and municipal comprehensive plans for the development and/or conservation of their areas of jurisdiction."*

ASSESSMENT

Since the program's inception, there have been no appeals by heavy manufacturing firms. Three light manufacturing firms have applied for permits; and all three applications are still under consideration. The State Planner has apparently received good cooperation from local agencies.

OTHER STATES WITH SELECTIVE CONTROLS

This type of control is used by a large number of states for a variety of uses. States have enacted legislation for critical areas, coastal zones and wetlands, power plant siting and other uses.

CRITICAL AREAS

New Jersey and New York have established multi-county areas which serve critical uses. In 1968, the New Jersey legislature passed the Hackensack Meadowlands Reclamation and Development Act. The Hackensack Meadowlands Development

*Ibid., Section 7004.

District is an 18,000 acre area which has remained undeveloped because of low elevation and periodic flooding.

The act creates a commission to prepare and adopt a master plan. Local codes will not apply within the Hackensack District unless they are consistent with the master plan. The Commission is also authorized to provide solid waste disposal facilities, and it may undertake its own reclamation or redevelopment projects.*

The New York legislature established the Adirondack Park Agency in 1971. The agency is to develop a comprehensive plan for the private land within the nearby six million acre park and to establish interim safeguards against "improvident uses" of the parklands. "The master plan for private lands must divide the park into areas and establish regulations to control the intensity of land use and development in each area, including the type, character and extent of development. The recommendations for implementation must include specific legislative, administrative and budgetary recommendations for private land and state action. Values to be protected include scenic and historic as well as ecological and natural.**

The agency must present the plan to the legislature in January 1973. Until the plan is submitted, any developer must submit a project description. After a public hearing, the agency can prohibit the development if it finds that the project would have an adverse impact on the park. The prohibitions continue in effect until January 1973. The interim regulations do not apply to localities having zoning and subdivision control regulations.

*Fred Bosselman and David Callies, op. cit., p. 293.
**Ibid., p. 297.

WETLAND AND SHORELAND LAWS

Laws governing the development in coastal areas, such as Massachusetts coastal protection law, have been passed by over a dozen states in the past few years. Most of these programs do not have sufficient experience to judge their efficiency.

The North Carolina General Assembly enacted a shoreland protection measure in 1971. The legislation contains several protective measures. A Board of Water and Air Resources is authorized to set up and adopt regulations for protection of shorelands in any county that has not done so by the end of 1971. Anyone undertaking any excavation or filling project in estuarine waters must obtain a permit from the Department of Conservation. The permit review is based on the projects effect on:

(1) the use of water by the public;
(2) the value and enjoyment of the property of any riparian owners;
(3) public health, safety and welfare;
(4) the conservation of public and private water supplies; and
(5) wildlife or fresh water, estuarine or marine fisheries.*

In addition to the permit system, the Department of Conservation is empowered to regulate, restrict, or prohibit dredging, filling, removing or otherwise altering coastal wetlands. The wetlands include contiguous land as deemed necessary.

The Rhode Island legislature passed a shoreland protection system in January 1971. The act sets up a 15 member Coastal Resources Management Council with responsibility for planning and management of the resources of the coastal region. "Any person proposing development or operation within, above

*Ch. 113-229, General Statutes of North Carolina, Subsection (a).

or beneath the tidal water below the mean high tide mark must demonstrate that the proposal doesn't conflict with any management plan or program, or make the area unsuitable for the uses provided in the program, or damage the environment of the coastal region. Regardless of their actual location, the Council can approve, modify, set conditions for, or reject the design, location, construction, alteration, and operation of specified activities or land uses when these are related to a water area under the agency's jurisdiction."*

Connecticut passed a law in 1969 that requires a permit from the Commissioner of Agricultural and Natural Resources before any draining, filling, or any other type of development can take place. "Under a 1971 amendment to the above legislation, the Commissioner may temporarily designate an un-inventoried and unmapped area of wetland if he finds the area is in immediate danger of being despoiled by any activity which would require a permit if such area were designated a wetland."**

Many states regulate a filling and dredging on wetlands. The Coastal Marshlands Protection Act, passed by the Georgia legislature in 1970, requires that no person can remove, fill, dredge, drain or alter any marshlands without first obtaining a permit from the Coastal Marshlands Protection Agency.

Maryland prohibits dredging or filling on state wetlands without a license. In addition, the Secretary of Natural resources has authority to establish rules governing the dredging, filling or polluting of private wetlands. "After inventorying private wetlands, holding hearings and promulgating regulations, any activity not permitted of right thereon is subject to a permit application."***

*Ibid., p. 305.
**Ibid.
***Ibid., p. 306.

The Washington legislature has passed two separate coastal management bills. One will be selected in the state general election this fall. One of the main differences between the two bills is the level of state control. One bill would require the state to set up criteria for local plans and controls and the other would require a state agency to draw up plans and controls for shoreline areas.

POWER PLANT SITING

"Significant state activity has also occurred with respect to siting power plants and regulation of utility transmission lines."* Maryland, Vermont and Wisconsin have laws through which they can control or directly influence the location of power plants of any type. Washington has control over the location of thermal power plants and Illinois and Oregon have laws relating to siting of nuclear power plants. "New York's Siting and Operation of Major Utility Transmission Facilities Law requires utilities to obtain an environmental compatability certificate from the State before construction. Also in New York a state authority is permitted under a 1965 law to acquire and develop sites for future nuclear plants and then sell or lease them to power producers."**

STATEWIDE CRITERIA AND STANDARDS IN SELECTED AREAS

Several states have developed criteria for local decisions on particular types of uses or in particular areas. These criteria are generally only binding on local agencies if the local agency fails to act.

WISCONSIN

*Land Resource Policies and Programs, Pennsylvania State Planning Board, August 1971, p. 22.
**Ibid.

ADMINISTRATION

Wisconsin's Water Resources Act of 1966 set up a pollution prevention and abatement program that reorganized and strengthened the state's regulatory, planning and coordinating functions in the area of water resources.* The Water Resources Act treats shorelands as a management unit to minimize pollution and preserve natural beauty and wildlife assets. The Act requires counties to enact regulations for the protection of all shorelands in unincorporated areas in order to "... further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty.**

The Act states that is is in the public interest "to make studies, establish policies, make plans and authorize municipal shoreland zoning regulations, in order to give effect to the anti-pollution and preservation purposes enumerated earlier ."*** It empowers counties to enact separate zoning regulations affecting all unincorporated land in their jurisdiction within 1,000 feet of a lake, pond or flowage and 300 feet of a navigable river or stream, or the landward side of the flood plain, whichever distance is greater.**** If a county does not adopt effective shoreland protection regulations, the act authorizes the State Department of Natural Resources is authorized to impose these regulations.

The Division of Environmental Protection in the Department of Natural Resources has the responsibility for administering the act. The direct administration of the shoreland management program is under the Flood Plain and Shoreland Management Section of the Bureau of Water and Shoreland Management.

*The section on Wisconsin is based on a chapter in The Quiet Revolution in Land Use Control by Fred Bosselman and David Callies.
**Wisconsin Statutes Ann., Section 144.26 (1).
***Fred Bosselman and David Callies. op. cit., p. 236.
****Wisconsin Statutes Ann., Section 59.971 (1).

According to the act, the administration of the shoreland zoning regulations should be in accordance with the normal zoning ordinance procedure for counties. The Department of Natural Resources is to prepare criteria for the county ordinances giving particular attention to: "Safe and healthful conditions for the enjoyment of aquatic recreation, the demands of water traffic, boating, and water sports; the capability of the water resource; requirements necessary to assure proper operation of septic tank disposal fields near navigable waters; building set backs from the water; preservation of shore growth and cove; conservancy uses for low lying lands; shoreland layout for residential and commercial development; suggested regulations and suggestions for the effective administration and enforcement of such regulation."*

If a county does not zone the shoreland corridors, the act provides a remedy for the state. "If any county does not adopt an ordinance... or if the Department of Natural Resources, after notice and hearing determines that a county has adopted an ordinance which fails to meet reasonable minimum standards in accomplishing the shoreland protection objectives of S. 144.26(1)... the Department of Natural Resources shall adopt such ordinance."**

CONTROLS AND CRITERIA

The Division of Environmental Protection has published criteria to guide counties in drawing up the shoreland zoning ordinances.

These criteria:

(1) "Require the establishment of appropriate districts to protect shoreland areas: conservancy, recreational-residential, and general purpose districts.

(2) "Require the establishment of subdivision regulations which must prohibit any subdivision that:

*Ibid.
**Ibid.

(a) Is likely to result in hazard to the health, safety and welfare of future residents;

(b) Fails to maintain proper relation to adjoining areas;

(c) Does not provide public access to navigable waters, as required by law;

(d) Does not provide for adequate storm drainage facilities; and,

(e) Violates any state law or administrative code provision.

(3) "Require establishment of land use regulations which:

(a) Set minimum lot sizes to protect the public against danger to health from excessive pollution hazard;

(b) Govern building location in relation to health and beauty preservation;

(c) Govern the cutting of trees and shrubbery; and,

(d) Govern filling, grading, lagooning and dredging.

(4) "Require the establishment of sanitary regulations for sewage disposal and water supply systems.

(5) "Require adoption of certain administration and enforcement regulations providing at least for:

(a) An administrator;

(b) A permit system;

(c) An exception procedure;

(d) A board of review."*

The Bureau of Water and Shoreland Management has drawn up a Model Shoreland Protection Ordinance based on the above criteria. "The Model Ordinance is essentially a resource-oriented zoning ordinance, complete with districts,

*"Wisconsin's Shoreland Management Program"--Release of the Department of Natural Resources, Madison, Wisconsin, pp. 2-3.

parking and loading provisions, exception procedures and lot size controls. It is to supersede all county shoreland zoning accomplished by standard county zoning enabling legislation with the exception of those portions which are more restrictive than its provisions."*

The regulatory scheme set up in the model ordinance may not achieve all the intended results even if it is administered effectively. "Generalization about the pollution contributions of various shoreland uses have proven to be of little value, and insufficient data is available from which to formulate specific regulations for specific areas. For example, in the three-district scheme suggested by the Model Ordinance, the conservancy district regulations attempt broad control over land use on or near wetlands, but the regulations may not be sufficiently comprehensive to accomplish the intended preservation.**

ASSESSMENT

Before 1966, approximately four counties in Wisconsin had zoning administrators with any natural resource orientation. As a result of the statutory standards and Model Ordinance provisions, almost all counties have these administrators.

Even though the Department has the authority to compel the adoption of shoreland protection ordinances, it does not have any authority to enforce them. The counties control day-to-day administration since there is not statutory authorization for enforcement in the act. "There is some feeling in the Department that the Act could profitably be amended to require at least Department approval of variations and amendments to the ordinance. Presently the Department is entitled only to notice of all variation and zoning change requests."***

*Fred Bosselman and David Callies, op. cit., p. 241.
**Ibid., p. 252.
***Ibid., p. 245.

The county zoning administrators operate one-man offices typically, and they are responsible for all zoning in the county. They must rely on private complaints to inform them of violations to a large degree. Many zoning administrators have made special efforts to inform the public about the law.

Apparently legal action against known violators has been a difficult procedure under the act. The local District Attorney or County Counsel must bring enforcement proceedings after the county Board of Supervisors recommends prosecution. The county Boards may be reluctant to proceed against a violator, and the County Counsels assign a law priority to zoning enforcement. "As a result of these political and economic considerations, even a conscientious zoning administrator may be unable to enforce the shoreland regulations."*

The Wisconsin Shoreland Protection Program places major responsibility for the protection of shoreland resources at the county level with overall authority at the state level to compel compliance with minimum statutory standards. It is an attempt to establish a workable state-local relationship in land use control. Minimum state standards place a "floor" under local controls, thereby maintaining local control but at the same time ensuring that the local controls are established.

Almost all counties have responded positively. However, the impact of the legislation has not been comprehensive because cities and villages are excluded. This exemption allows major sources of pollution to continue.

"Finally, the lack of any compulsory review of local administrative practices could render the whole regulatory scheme ineffective. There is presently no way the State of Wisconsin can enforce the minimum standards contained

*Ibid., p. 251.

in its legislation and only additional experience in operation can indicate whether county enforcement practices are adequate to achieve the goals of the program."*

FLORIDA

ADMINISTRATION

In April 1972, the State of Florida passed the Environmental Land and Water Management Act. The concepts in this legislation are closely related to those in two bills supporting state land use controls now under consideration in Congress.**

The Environmental Land and Water Management Act enables the state government to exercise a limited degree of control over development, while maintaining the land use control procedures already in existence at the local level. The focus of the state's role is on those land uses which have an impact outside of the municipality in which they are located.

The state land planning agency is empowered to recommend specific areas of critical state concern to the governor and his cabinet. The agency must include the boundaries of the proposed area, state the reasons why the area is of critical concern, the dangers that would result from uncontrolled development of the area and the advantages that would be gained from coordinated development of the area. The governor and his cabinet, known as the administration commission, must either reject, adopt or modify the recommendation within 45 days.

The act specifies that an area of critical environmental concern may be designated only for:

---

*Ibid., p. 255.
**These two bills are discussed in the section on the Federal Role.

(1) "An area containing, or having a significant impact upon environmental, historical, natural, or archeological resources of regional or statewide importance; or

(2) "An area significantly affected by, or having a significant effect upon, an existing or proposed major public facility or other area of major public investment; or

(3) "A proposed area of major development potential, which may include a proposed site of a new community, designated in a state land development plan."*

After the administrative commission designates an area of critical state concern, the local government having jurisdiction over the area must submit its regulations for the area to the state land planning agency. If the agency determines that the local regulations are inadequate to protect the state interest, it can institute judicial proceedings to compel proper enforcement of the land development regulations.

If the local government does not send a set of regulations within six months, the state land planning agency will draw up a set of regulations for that area and submit them to the administrative commission for its approval. "The land development regulations adopted by the administrative commission under this section may include any type of regulation that could have been adopted by the local government. Any land development regulations adopted by the administrative commission under this section shall be administered by the local government as if the regulations constituted, or were part of the local land development regulations."**

The act limits the total amount of land that the administrative commission can designate as areas of critical state concern. During the first 12 months after enactment of the legislation, the governor and his cabinet cannot

*Chapter 72-317, Laws of Florida, Section 5.
**Ibid.

designate more than 500,000 acres as areas of critical concern. In addition, the commission cannot at any time include more than 5 per cent of the total state area under this supervision.

The second major type of development control is the designation of developments of regional impact. Development of regional impact means "any development which, because of its character, magnitude or location, would have a substantial effect upon the health, safety or welfare of citizens of more than one county."*

The state land planning agency is to recommend guidelines and the administrative commission is to adopt guidelines by March 1973.

CONTROLS AND CRITERIA

In adopting guidelines to determine whether particular developments have regional impact, the administrative commission must consider:

(1) "The extent to which the development would create or alleviate environmental problems such as air or water pollution or noise;

(2) "The amount of pedestrian or vehicular traffic likely to be generated;

(3) "The number of persons likely to be residents, employees, or otherwise present;

(4) "The size of the site to be occupied;

(5) "The likelihood that additional or subsidiary development will be generated; and

(6) "The unique qualities of particular areas of the state."**

The regulations defining categories of development that have regional impact will be submitted to the next session of the legislature. The regulations

*Ibid., Section 6.
**Ibid.

will take effect when they are approved by the legislature.

The local governments with zoning regulations will make decisions regarding the acceptability of a proposed project. Developers must file applications with local governments and the applications must include a statement that the development will have regional impact. Local governments must give notice of public hearings and must notify the state land planning agency about the proposed development.

In considering the developer's request, the local government must consider whether:

(1) "The development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area;

(2) The development is consistent with the local land development regulations; and

(3) The development is consistent with the report and recommendations of the regional planning agency."*

The administrative commission, made up of the governor and his cabinet, can serve as the land and water adjudicatory commission. Whenever a local government issues any development order in an area of critical state concern or on a development of regional impact, it must send a copy of the order to the state land planning agency.

The owner, developer, the appropriate regional planning agency or the state land planning agency may appeal the order to the land and water adjudicatory

*Ibid.

commission within 30 days after the order. After the commission has held a public hearing, it will issue a decision granting or denying permission to undertake the development. Decisions of the commission are subject to judicial review.

The act specifically protects individual property rights. "Nothing in this act authorizes any governmental agency to adopt a rule or regulation or issue any order that is unduly restrictive or constitutes a taking of property without the payment of full compensation..."* Apparently, the act is seeking to avoid any taking of property and no funds have been appropriated for compensation purposes.

ASSESSMENT

The legislation is so recent that it is difficult to assess the implementation of the act on a day-to-day basis. However, the act is quite important because it is based on the concepts used in land use legislation currently before Congress. If Congress passes this legislation (S 632 and HR 7211), the federal government would offer financial support to states for development and administration of land use controls. To receive the federal support, the states would be required to pass legislation very similar to Florida's Environmental Land and Water Management Act.**

At this time, the Florida legislation appears to be an effective approach to land use controls. It preserves the local powers but enables the state to establish standards for important areas. It cannot be used as a stop-growth tool because the areas designated for state criteria cannot exceed 5 per cent of the total state area. Finally, it establishes limited objectives which the state is capable of achieving.

*Ibid., Section 7.

**The proposed federal legislation requires states to develop land use programs for areas of critical environmental concern, key facility developments of regional benefit and large-scale developments.

SUMMARY - STATE APPROACHES TO LAND USE CONTROL

CLASSIFICATION	PROGRAM DESCRIPTION	ADMINISTRATION	CONTROLS AND CRITERIA	STATE ROLE	LOCAL ROLE	ASSESSMENT
DIRECT STATEWIDE CONTROL						
Hawaii	Centralized State control. State divided into four Districts of urban, rural, agricultural & conservation.	State Land Use Commission composed of 7 public members plus Directors of Land & Natural Resources and Planning & Economic Development. Nominal Planning capability. Designates boundaries of Districts.	Urban-Intensive Development. Districts include enough land for 10 years growth. Rural-Low density residential development. Minimum 1/2 acre lots. Agriculture-Crop, grazing land and agriculturally-oriented industry. Conservation-Forest and Water Reserve Zones 2/3 publically owned. 1/3 private in primarily mountainous areas. Divided into subzones of restricted & general use. General use includes residences, resorts, hotels, golf courses & marinas.	The Commission designates boundaries & approves development permits in urban districts. Commission also has primary jurisdiction over agriculture & rural districts deciding on boundary changes & special permits. Department of Land & Natural Resources has sole regulation over land use in conservation districts.	Counties have concurrent permit approval authority with State in urban areas. Urban use permits guided by county regulations. County can zone portion of an urban district for agricultural use.	Land Use Commission performance in planning & enforcement has been limited primarily due to staff size & budget restrictions. Tax policies & land use policies often in conflict resulting in contradictory results. Commission policies have prevented urban sprawl but has contributed to a shortage of land & forced development where site improvement costs are high A consequence has been housing costs double the national average. Land use decisions not closely tied to the State Planning process.

CLASSIFICATION	PROGRAM DESCRIPTION	ADMINISTRATION	CONTROLS AND CRITERIA	STATE ROLE	LOCAL ROLE	ASSESSMENT
Vermont	Statewide land use planning & permit system designed to promote environmental objectives as well as social & economic goals.	Environmental Board (nine members appointed by Governor) & nine District Commissions (3 members) administer the Act. Board sets policy & serves in quasi-judicial fashion in review of commission decisions. Commission provides detailed administration.	Permits required for subdivisions of 10 or more lots & for commercial & industrial developments. permit process focus primarily upon subdivision developments and are concerned with water & air pollution, flood plains, erosion, adequate water supply, highway congestion, burden on municipal services & adverse scenic effects. Planning Guidelines: Interim plans-describes present land uses & natural resources. Capability & Development Plans-guide to efficient & economic development of state including distribution of population and land uses. Land Use Plans-a map indicating results of capability & development plan.	Permit applications filed with district commissions. State Agency of Environmental Conservation reviews all permit applications & files pre-hearing position paper with Commission. Environmental Board prepares land use plans and reviews permit decisions appealed from commissions.	Permit applicant is required to give notice to municipality where land located and regional planning commission	Administration of land troubled by exemptions often inconsistent with stated objectives. History of little local zoning in Vermont. Some provisions of law give incentive to local areas to improve this capability. Although planning features are weak, the law has contributed to an enhanced planning capability at the state level.
Vermont (Cont.)						

CLASSIFICATION	PROGRAM DESCRIPTION	ADMINISTRATION	CONTROLS AND CRITERIA	STATE ROLE	LOCAL ROLE	ASSESSMENT
Maine	Statewide land use controls regulating land developments of more than 20 acres.	Environmental Improvement Commission has full control over program. 10 members appointed by the Governor - Representation of interests as follows: 2 - Manufacturing 2 - Municipalities 2 - Conservation 2 - Public 2 - Air Pollution Experts	Commission requires permit for 1) commercial or industrial developments of 20 acres or more, 2) a development which includes drilling or excavating of natural resources. State's major industry-logging-is exempted. Act includes industrial facilities, shopping centers & large housing developments.	State Commission has complete authority in stated regulatory areas.	Minimal.	Limited permit review & regulation enforcement capability because of small budget & staff. The program does not have a meaningful planning component. Commission's primary work load has been that of processing permits for residential subdivisions.
STATEWIDE CRITERIA AND STANDARDS						
Colorado	Colorado Land Use Act provides for state agency planning, development of guidelines & criteria for local agencies, monitoring of growth, identification of environmental concerns and authority to restrain development activity.	State Land Use Commission - nine members. Commission Advisory Committee comprised of members from commerce & industry, agriculture, conservation, natural resources & 4 members of the General Assembly.	State guidelines & criteria regulating flood plains and critical areas for conservation & recreation. Subdivision regulation and standards relating to adequacy of sewer & water system.	Commission to develop Interim & Final Plans of State Development Policy, land use standards & guidelines, model subdivision regulations for the counties, a statewide system for monitoring growth & change, identification of environmental concerns related to development & a review of existing land use	Counties have primary authority for direct land use control function. Each county required to create planning commissions & maintain building permits, improvement notices for jurisdiction and promulgate technical procedures applicable to drainage, sewer & water systems.	Provides for strong state leadership in establishing guidelines, criteria & identification of areas of critical concern. Maintain on-going planning & permit function at local level but ensures assertive state role by providing for commission monitoring & followup in areas of criti-

CLASSIFICATION	PROGRAM DESCRIPTION	ADMINISTRATION	CONTROLS AND CRITERIA	STATE ROLE	LOCAL ROLE	ASSESSMENT
Colorado (Cont.)				policies & programs. Injunctive authority upon court approval, to restrain development activity.		cal concern when local agencies ar not responsive. A major motivatio for program was concern for secon home developments & impact of 1976 Winter Olympics. Program has only recently been ini tiated.
DIRECT STATE WIDE CONTROL IN SELECTED AREAS						
Massachusetts	Coastal Wetlands Act limits developments for preservation of coastal wetlands necessary for protection of shell fish & marine fisheries.	State Department of Natural Resources.	Protective Orders (conservation restrictions) are issued to prohibit any alteration of coastal wetlands except under carefully controlled circumstances. Orders stipulate uses allowed for designated wetland and are filed as an actual restriction on use on the title of a particular property.	Department of Natural Resources has broad powers defining coastal wetlands promulgating control regulations, holding hearings & issuing orders.	Local agencies consulted only.	State has held 25 hearings in 5 yea covering 2/3 of coastal wetlands. Protective orders finally recorded or pending for mo of this area. Department does n have investigativ force to ensure compliance with protective orders Major problem has been the amount o time required to issue orders.

CLASSIFICATION	PROGRAM DESCRIPTION	ADMINISTRATION	CONTROLS AND CRITERIA	STATE ROLE	LOCAL ROLE	ASSESSMENT
Delaware	Coastal Zone Act seeks to prohibit new heavy industry along entire coast.	State Planning Office (permit authority) Coastal Zone Industrial Control Board (plans & guidelines). Comprised of 10 members: -5 appointed by Governor -5 appointed by the Secretaries of Natural Resources & Environmental Control & Community Affairs & Economic Development and the planning commission chairman in each of the State's 3 counties.	The Act prohibits heavy industry not in operation at the time the law was enacted. Heavy industry definition would include oil refineries, steel plants, chemical plants, paper mills & off-shore gas, liquid or solid bulk product transfer facilities. Permits are required for other types of manufacturing facilities and for expansion of nonconforming manufacturing uses. Permit requests are evaluated according to environmental impact, economic effect, effect on neighboring land use and local comprehensive plans for development & conservation.	The state planning office administers permit program and proposes a comprehensive plan & guidelines to Board for approval. The Board adopts plans & guidelines which become binding as regulations. The Board hears appeals from decisions by the State Planner.	Minor	Program only recently enacted.

CLASSIFICATION	PROGRAM DESCRIPTION	ADMINISTRATION	CONTROLS AND CRITERIA	STATE ROLE	LOCAL ROLE	ASSESSMENT
STATEWIDE STANDARDS IN SELECTED AREAS						
Wisconsin	Water Resources Act established a pollution prevention & abatement program for water resources & treats shorelands as a management unit for control.	The Division of Environmental Protection in the Department of Natural Resources administers the Act with the shoreland management program under the flood plain and shoreland management section of the Bureau of Water & Shoreland Management.	Establishes shoreland zoning districts for conservation, recreation-residential, & general purposes. Establishes regulations controlling subdivisions & general land use requirements.	State provides guide lines & evaluates county zoning according to model ordinances. In the event of non-compliance, the Department of Natural Resources adopts an ordinance for the local area.	The counties are required to adopt zoning restrictions according to a model resource-oriented zoning ordinance. Cities & villages are excluded from the Act.	Represents an attempt to establish a workable state-local relationship in land use control: minimum state standards within local controls. Impact limited by exclusion of cities & villages.
lorida	Environmental Land & Water Management Act controls land use for areas of critical environmental concern.	Administrative commission comprised of Governor & his cabinet in conjunction with the State Land Planning Agency.	Areas of critical environmental concern may be designated if a) are of significant environmental, historical, natural or archeological importance; b) is affected by existing or proposed major public facility or public investment; c) is of major development potential. State criteria cannot exceed 5% of total state area.	Administrative Commission designates critical areas based upon state planning recommendations. Reviews & evaluates adequacy of local regulations. Recommends regulations to legislature for control of development of major regional impact. Commission serves in adjudicatory role in hearing permit appeals.	Local agencies having jurisdiction over areas of critical state concern must protect state concern by land use regulations. Local agencies implement permit process for regional development.	Very similar to proposed federal legislation which emphasizes state leadership by planning guidelines & criteria with specific local control.

THE CALIFORNIA EXPERIENCE

INTRODUCTION

THE CALIFORNIA EXPERIENCE

INTRODUCTION

Land use in California is principally the responsibility of local agencies. Cities and counties are responsible for planning and zoning, and for controlling the design and improvement of subdivisions.

Historically, this responsibility has been exercised by cities and counties on an individual basis. During the past decade, however, cities and counties, particularly in urban areas, have increasingly joined together in order to devise a regional approach to land use planning. Although control over land use continues to be exercised principally by individual cities and counties, there are a growing number of single-purpose and broader regional agencies concerned with planning and regulating land use.

The State is also concerned with land use. Historically, its concern has been limited to lands owned by the State, and the regulation of subdivisions from the standpoint of protecting the public from fraud, misrepresentation, or deceit. More recently, however, the interest of the State in comprehensive physical land use planning and control has increased, particularly in response to the problems facing urban areas. This interest has resulted in new State activites in the area of land use generally, as well as in areas of particular importance such as the coastal zone. It has also resulted in additional legislation defining and, to some extent, restricting the authority of local agencies in this regard.

In order to place the current authority and activity of local, regional, and State agencies in perspective, as it pertains to land use in the coastal zone, the authority and related programs of each of these agencies has been summarized below.

AUTHORITY

PLANNING

California law requires the legislative body of each city and county to establish a planning agency by ordinance. The planning agency may be a planning department, a planning commission, the legislative body itself, or any combination thereof. Counties must have a planning commission.

The functions of the planning agency are as follows:

(a) It shall develop and maintain a general plan.

(b) It shall develop such specific plans as may be necessary or desirable.

(c) It shall periodically review the capital improvement program of the city or county.

(d) It shall perform such other functions as the city or county may provide.

When a city or county planning commission is created, its organization, number of members, their terms of office and the method of the appointment and removal, must be provided by local ordinance. However, each city and county planning commission must have at least five, and not more than nine, members.

Each planning agency must prepare, and the legislative body of each city and county must adopt, a comprehensive, long-term general plan for the physical development of the city or county, and of any land outside its boundaries which in the planning agency's judgement bears relation to its planning. State law provides that the general plan must consist of a statement of development policies, and shall include the following mandatory elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources,

recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of the population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall also identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to such areas.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transporation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element consisting of standards and plans for the improvement of housing and for provision of adequate sites for housing. This element of the plan must make adequate provision for the housing needs of all economic segments of the community.

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. That portion of the conservation element including waters must be developed in coordination with any county-wide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Flood control.

(3) Prevention and control of the pollution of streams and other waters.

(4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(5) Prevention, control, and correction of the erosion of soils, beaches and shores.

(6) Protection of watersheds.

(7) The location, quantity and quality of the rock, sand and gravel resources.

(e) An open space element.

(f) A seismic safety element consisting of an identification and appraisal of seismic efforts such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and seiches.

(g) A noise element in quantitative, numerical terms, showing contours of present and projected noise levels associated with all existing and proposed major transportation elements. These include but are not limited to the following:

(1) Highways and freeways

(2) Ground rapid transit systems

(3) Ground facilities associated with all airports operating under a permit from the State Department of Aeronautics.

(h) A scenic highway element for the development, establishment, and protection of scenic highways.

In addition to the mandatory elements listed above, statutory authority exists for a number of permissive elements.

The planning agency may, or if directed by the legislative body shall, prepare specific plans based on the general plan. A specific plan need not apply to the entire area covered by the general plan. Rather, the legislative body or the

planning agency may designate areas within a city or county for which the development of a specific plan will be helpful in terms of implementing the general plan. According to State law, such specific plans shall include all detailed regulations, conditions, programs and proposed legislation which shall be necessary or convenient for the systematic implementation of each element of the general plan, including, but not limited to, regulations, conditions, programs and proposed legislation in regard to the following:

(a) The location of housing, business, industry, open space, agriculture, recreation facilities, educational facilities, churches and related religious facilities, public buildings and grounds, solid and liquid waste disposal facilities, together with regulations establishing height, bulk and set-back limits for such buildings and facilities, including the location of areas, such as flood plains or excessively steep or unstable terrain, where no building will be permitted in the absence of adequate precautionary measures being taken to reduce the level of risk to that comparable with adjoining and surrounding areas.

(b) The location and extent of existing or proposed streets and roads and all other transportation facilities.

(c) Standards for population density and building density.

(d) Standards for the conservation, development, and utilization of natural resources, including underground and surface waters, forests, vegetation and soils, rivers, creeks, and streams, and fish and wildlife resources. Such standards shall include, where applicable, procedures for flood control, for prevention and control of pollution of rivers, streams, creeks and other waters, regulation of land use in stream channels and other areas which may have a significant effect on fish, wildlife and other natural resources of the area, the prevention, control and correction

of soil erosion caused by subdivision roads or any other sources, and the protection of watershed areas.

(e) The implementation of the open space element.

ZONING

As a means of implementing the general plan, cities and counties may regulate land use through zoning. Through zoning, the legislative body of a city or county may:

(a) Regulate the use of buildings, structures and land as between industry, business, residence, open space, including agriculture, recreation, enjoyment of scenic beauty and use of natural resources, and other purposes.

(b) Regulate signs and billboards.

(c) Regulate location, height, bulk, number of stories, and size of buildings and structures; the size and use of lots, yards, courts and other open spaces; the percentage of a lot which may be occupied by a building or structure; the intensity of land use.

(d) Establish requirements for off-street parking and street loading.

(e) Establish and maintain building set-back lines.

(f) Create civic districts around civic centers, public parks, public buildings or public grounds and establish regulations therefore.

In addition to regulating the use of land through zoning, the legislative body may divide a city or a county, or portions thereof, into zones of the number, shape and area it deems best. Regulations shall be uniform within each zone, but may vary between zones.

A city may prezone unincorporated territory adjoining the city for the purpose of determining the zoning that will apply to such property in the event of subsequent annexation to the city.

City and county zoning ordinances must be consistent with the general plan

of the respective city or county by January 1, 1973.

In addition to a planning commission, the legislative body of a city or county may create a board of zoning adjustment, or the office of zoning administrator or both. It may also create a board of appeals. The board of zoning adjustment or zoning administrator decide applications for conditional uses and applications for variances from the terms of the zoning ordinance. State law provides that variances shall be granted only under the following conditions:

(a) Variances from the terms of the zoning ordinance shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

(b) Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

(c) A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The statutes contain numberous procedural requirements associated with the various planning and zoning provisions. With respect to zoning, minimum procedures for the conduct of zoning hearings are:

(a) All local city and county zoning agencies shall develop and publish procedural rules for conduct of their hearings so that all interested parties shall have advance knowledge of procedures to be followed.

(b) When a matter is contested and a request is made in writing prior to the date of the hearing, all local city and county planning agencies shall insure that a record of all such hearings shall be made.

(c) When a planning staff report exists, such report shall be made public prior to or at the beginning of the hearing and shall be a matter of public record.

(d) When any hearing is held on an application for a change of zone for parcels of at least ten acres, a staff report with recommendations and the basis for such recommendations shall be included in the record of the hearing.

OPEN SPACE PLANNING

As indicated above, cities must prepare an open space element as a part of their comprehensive land use plan. In this regard, the legislature has provided that in order to conform with this requirement, cities and counties must, by June 30, 1973, prepare, adopt and submit to the Secretary of the Resources Agency a local open space plan for the comprehensive and long-range preservation and conservation of open space land within its jurisdiction.

Every local open space plan shall contain an action program consisting of specific programs which the legislative body intends to pursue in implementing its open space plan. Any action by a city or county by which open space land or any interest therein is acquired or disposed of or its use restricted or regulated must be consistent with the local open space plan. No building permit may be issued, no subdivision map approved, and no open space zoning ordinance adopted, unless the proposed construction, subdivision or ordinance is consistent with the local open space plan.

SUBDIVISION OF LAND

State law assigns the responsibility for control of the design and improvement

of subdivisions to cities and counties, and provides that every city and county must have an ordinance regulating and controlling the design and improvement of subdivisions.

Subdivision is defined generally to be the division of land for the purpose of sale, lease, or financing, whether immediate or future, by any subdivider into five or more parcels. While the definition of subdivision relates to five lots or more, there is nothing in the statutes preventing the governing body of any city or county from regulating the division of land which is not a subdivision provided that such regulations are not more restrictive than the requirements for a subdivision. State law does provide that whenever a local ordinance requires improvements for a division of land which is not a subdivision of five or more lots, such regulation shall be limited to the dedication of right-of-way, easements, and the construction of reasonable off-site improvements for the parcels being created.

Historically, the authority of cities and counties has extended only to controlling the "design" and "improvement" of subdivisions. This authority includes the ability to require subdividers to improve their property in certain ways, dedicate land for certain purposes, and pay fees in lieu of certain improvements and/or dedications as a condition for approval of tentative or final subdivision maps. The statutes require any consideration of the design and improvement of subdivisions to be technical in nature. Thus, cities have traditionally been required to approve a proposed subdivision if it met appropriate State standards and local zoning regulations unless the proposal contained certain engineering-type defects pertaining to areas such as drainage or flood control.

State law now provides, however, that a governing body of a city or county shall deny approval of a final or tentative subdivision map if it makes any of the following findings:

(a) That the proposed map is not consistent with applicable general and specific plans.

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plan.

(c) That the site is not physically suitable for the type of development.

(d) That the site is not physically suitable for the proposed density of development.

(e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

(f) That the design of the subdivision or the type of improvements is likely to cause serious public health problems.

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public.

Although it is not clear the extent to which this new language will permit a local agency to deny a subdivision for "environmental" reasons, the increasing interest of the State in this regard is also evident in the following provisions which have been added to the Subdivision Map Act in the last year or two:

> Upon the filing of the tentative map...the advisory agency or the governing body may submit the tentative map to the Office of Intergovernmental Management...and request an evaluation of the environmental impact of the proposed subdivision. No city or county shall

approve either the tentative or the final map of any subdivision fronting upon the coastline or shoreline which subdivision does not provide or have available reasonable public access by fee or easement from public highways to land below the ordinary high water mark on any ocean coastline or bayshore line within or at a reasonable distance from the subdivision. The city or county in which the subdivision lies is required to determine what constitutes reasonable public access, and the statutes provide that they shall consider such things as (1) access may be by highway, foot trail, bike trail, horse trail, or any other means of travel; (2) the size of the subdivision; (3) the type of coastline or shoreline and the various appropriate recreational, educational, and scientific uses, including, but not limited to, diving, sunbathing, surfing, walking, swimming, fishing, beachcombing, taking of shellfish and scientific exploration.

No city or county shall approve either the tentative or final map of any subdivision fronting upon any lake or reservoir which is owned in part or entirely by any public agency including the State, which subdivision does not provide or have available reasonable access by fee or easement from public highways to any water of the lake or reservoir upon which the subdivision borders either within the subdivision or a reasonable distance from the subdivision.

In addition, the concern of the legislature over the "environmental impact" of subdivisions can be seen in new statutory provisions relating to "rural subdivisions". Rural subdivisions, or "land projects", as they are defined in State law, are also regulated by the State Real Estate Commissioner who is principally concerned with the development of all land from the standpoint of protecting the public from fraud, misrepresentation, or deceit. A rural subdivision is defined as a project comprising fifty or more parcels in an area with less than 1500 registered voters and not consisting of a community apartment project or improved with residential, commercial, or institutional buildings.

The Commissioner is prohibited from issuing a public report (a requirement for project authorization) on any rural subdivision, unless he makes a specific finding that:

(a) The total complex of existing or proposed improvements reflected in the subdivision offering (including storm sewers, sanitary sewers, water

systems, roads, utilities, community facilities, recreational amenities) will be adequate to serve the projected population of the entire land project.

(b) The arrangements that have been made to assure completion, maintenance and financing of the total complex of existing or proposed improvements referred to above are reasonable. In determining the reasonableness of such arrangements, the Commissioner shall consider whether the probable continuing financial burden with respect to the financing of completion and maintenance of improvements within the subdivision bears a reasonable relationship to the value of the lots therein.

(c) The off-site and on-site measures, including the overall design of the entire rural subdivision, are adequate to prevent damage to property by reason of flooding, erosion and other natural occurrences which are usual or predictable for the area.

(d) The method of financing the purchase of individual parcels or lots, including the effect of balloon payments, is reasonable.

(e) The existing zoning, or any change in zoning that has been proposed to the local governing body, is compatible with the proposed use of the lots within the land project.

(f) The use, or zoning, of adjacent properties is compatible with the proposed land project.

RENEWAL AND REDEVELOPMENT

State law provides that a city council may create an urban renewal or redevelopment agency for purposes of planning for and improving "substandard and blighted" areas. The agency can be organized separate from the city council or the council may also elect to sit as the redevelopment agency. Special financing for redevelopment projects through the issuance of tax allocation

or tax increment bonds is authorized in both the State Constitution and State statutes. Legislation also permits open space areas to be included within redevelopment areas, thus permitting the use of tax allocation bonds to finance such open space areas.

ANNEXATION

Provisions exist in State law for the annexation of inhabited and uninhabited land areas to the city.

An inhabited area (defined as having twelve registered voters, regardless of the land area involved) can only be annexed on petition of residents of the area. Once petitions have been circulated and sufficient signatures obtained, the proposal may be defeated before an election is held if protests are made by residents owning fifty percent of the assessed value of land in the area proposed for annexation. If not "protested out", the measure must obtain a majority vote at an election called for that purpose.

Proceedings for the annexation of land in uninhabited areas may be initiated by the city council or owners of twenty-five percent of the land by area and assessed value. There is no election in an uninhabited annexation, but the proceedings may be defeated if the owners of fifty percent of the assessed value of land and improvements formally object.

The procedural problems, the inability of a city to initiate in inhabited areas, the difficulty of annexing and servicing unincorporated islands surrounded by municipal territory, and the unusual veto power in both inhabited and uninhabited annexations have made the effective use of these statutes difficult.

PROGRAM

GENERAL PLANNING PROGRAMS

According to the State Council On Intergovernmental Relations, every county

and all but eleven cities have planning commissions. In most of the smaller jurisdictions of the State, the planning commission is the primary planning agency. In larger cities and counties, however, the planning responsibility is shared between a planning commission and a planning department.

Virtually all cities over twenty-five thousand population, and most counties, have a full time professional planner. Ninety-five (95) percent of those local jurisdictions under five thousand population are withour a full time planner, as are seventy-five percent of those between five thousand-ten thousand population. However, many of these smaller jurisdictions have retained the services of a planning consultant.

In addition to having a full time professional planner, many larger jurisdictions also employ other professional and semi-professional planning personnel. The full time planning staff of cities and counties is summarized in the following table:

Population	Professional Staff	Tech-Clerical Staff
0-4,999	9	11
5,000-9,999	15	20
10,000-24,999	109	90
25,000-49,999	149	106
50,000-99,999	214	155
100,000-249,999	198	172
250,000-over	748	534
Total	1442	1088

The State planning law permits cities and counties to supplement the efforts of planning commissions and full-time planning staff with one or more additional bodies who are principally concerned with zoning administration. In this regard,

fifty-two zoning boards of adjustment have been created in forty-two cities and ten counties. The position of zoning administrator has been established in one hundred twenty-four cities and twenty counties. Separate boards of appeal to hear appeals from the decisions of the zoning board or administrator have been established in twenty-five cities and six counties.

The large and growing commitment of individual cities and counties to land use planning may be seen in the amounts budgeted for this purpose. In 1969-70, California cities and counties reported planning expenditures totaling $29,898,600 dollars, and proposed planning budgets for 1970-71 totaled $36,298,100, an increase of approximately 18%. An indication of local agency planning expenditures by city size is included in the following table:

Population	Planning Exp. 1969-70	Planning Bud. 1970-71
0-4,999	248,400	465,700
5,000-9,999	313,600	409,700
10,000-24,999	2,565,300	3,045,000
25,000-49,999	3,250,200	3,718,600
50,000-99,999	4,541,300	4,730,400
100,000-249,999	4,553,600	5.012,200
250,000-over	14,426,200	18,916,500
Total	29,898,600	36,298,100

State statutes requires cities and counties to adopt a comprehensive long-term general plan for the physical development of the county or city. Over eighty percent of all cities and counties, and approximately ninety percent of those over five thousand population, have adopted such a general plan.

Neither the general plans nor the special plans adopted by local legislative bodies are legally binding. Rather, these plans must be implemented through

the adoption of additional local legislation aimed at regulating a particular aspect of land use. The broadest and most common method of regulation used by local agencies is the zoning ordinance. Ninety-five (95) percent of all cities and counties presently have a zoning ordinance. Other regulatory ordinances commonly adopted by cities and counties as a means of implementing their general and other special land use plans include:

Lot Split Ordinance

Hillside Subdivision Ordinance

Planned Unit Development Ordinance

Building Code

Housing Code

Plumbing Code

Electrical Code

Mechanical Code

Sign Ordinance

Underground Utility Ordinance

Architectural Review Board

Historic District Ordinance

Flood Plain Zoning

Airport Approach Zoning

Mobile Home Regulatory Ordinance

SPECIAL PLANNING PROGRAMS

In addition to the general administration of their planning program, cities and counties along the shoreline have undertaken a number of additional programs designed to control development, provide public access and, in general to encourage full and balanced preservation and use of coastal resources. Some of the additional activities include:

PREPARATION OF SPECIAL BEACH, WATERFRONT, OR COASTAL PLANS

A number of cities and counties along the shoreline have specialized plans relating particularly to coastal land use.

Monterey County has adopted a special coastal master plan aimed at conserving open space and preserving the scenery of the Monterey coastal area "without imposing unjustifiable restrictions on present or future property owners". The plan is concerned broadly with land use, density, and overall development, and includes specific standards for development such as:

> "that property owners be encouraged to keep their land in agricultural or open use with the necessary zoning provided to give them all tax benefits available."
>
> "designate Highway One as a scenic highway, giving it the same careful consideration as the landscape through which it passes, in effect, a scenic corridor."
>
> "that turn-out areas be developed wherever practicable."
>
> "that a one hundred foot building set-back line be established along the entire length of Highway One."
>
> "that the meander line be retained to define that area which is visible from the highway. Special architectural, site, and landscaping control should be developed between this line and the ocean. Careful consideration should be given to private roads, minimizing scars which might be created by cut and fill operations."
>
> "careful consideration must be given to height control on the ocean side of Highway One, recognizing that in many places, because of terrain, this may not be a problem. In others, structures may be obtrusive unless flexible standards are developed."
>
> "wherever feasible, utilities in this area should be placed underground."
>
> "that beaches be proposed for acquisition in keeping with the adopted beach acquisition plan of the county."

ADOPTION OF SPECIAL ZONING ORDINANCES FOR THE COASTAL ZONE

A number of cities and counties have imposed low density zoning along the coastline in order to better regulate and, in effect, discourage development in undeveloped coastal areas. In parts of Marin County, for example, land

is zoned in a manner that permits only one dwelling unit for every sixty acres. In Monterey County undeveloped coastal land has densities limiting new residential use to one unit per each 2.5-10 acres. Orange County has created special planned community development district regulations whereby any proposed development must be accompanied by a comprehensive plan for land use in the area. San Diego County has created a coastal development overlay zone in order to provide additional regulations along the coastline area "including the beaches, bluffs, and the land area immediately landward thereof". The regulations restrict constuction on the beach and in bluff areas to certain minimum structures such as steps, bath-houses, parking lots, refreshment stands without seating facilities, lifeguard towers, fire rings, trash containers, etc. No development may interfere with any public rights of beach access or useage, and the proposed development of any building or structure (other than one and two-family dwellings) must be accompanied by a site plan showing:

(a) Boundaries and existing topography of the property, location of bluffline and beach, and adjoining or nearby streets.

(b) Location and height of all existing buildings and structures, existing trees and the proposed disposition or use thereof.

(c) Location, height, and proposed use of all proposed structures, including walls, fences and free standing signs, and location and extent of individual building sites.

(d) Location and dimensions of ingress and egress points, interior roads and driveways, parking areas, and pedestrian walkways.

(e) Location and treatment of important drainage ways, including underground drainage systems.

(f) Proposed grading and removal or placement of natural materials, including finished topography of the site.

(g) Proposed landscaping plan including location of game sports, swimming pools and other landscape or activity features.

(h) Results of soil stability tests or other proof acceptable to the Director of Planning that the development as proposed will have no

adverse effect on the stability of the bluff and will not endanger life or property.

Cities and counties have also placed much individual land along the shoreline in agricultural preserve zones in order to make property owners eligible for reduced property assessments and thereby reduce the incentive to change land use.

PREPARATION OF SPECIAL COASTAL STUDIES

As a part of their coastal planning program, cities and counties have also conducted special studies and prepared reports on land use and resources in their respective coastal area. San Diego and Newport Beach, for example, have prepared individual studies that are detailed and comprehensive in their coverage. Other cities and counties, through membership in councils of government have prepared similar studies.

ACQUISTION AND DEVELOPMENT

Cities and counties are not only concerned with planning and regulating land use in the coastal area, but they also have a direct impact on coastal land use through ownership of coastal property and the provision of services thereon. Local agencies, particularly in urban areas, have generally been involved in long and continuing programs of shoreline acquisition and development. As will be indicated later, much of the shoreline in urban areas is already in public ownership and available for a wide range of physical and visual recreation activities. In addtion to the beach and other shoreline areas acquired and developed by local agencies, cities and counties also lease and operate beach areas owned by the State.

OUTLOOK

State law provides a general framework for land use regualtion and control and, with the exception of a few mandatory provisions, provides local government with substantial flexibility and primary responsibility for regulation

and control of land use. Recent actions of the public and State and Federal government, as well as local government itself, indicate that additional and more restrictive controls over land use are likely in the future.

PUBLIC INITIATIVES

The initiative process has been more widely used in recent years by the public as a means of expressing itself on matters of land use. In the Alameda County cities of Livermore and Pleasanton, for example, an initiative measure prohibiting the issuance of additional building permits was approved at the last general election. The Pleasanton initiative measure reads, as follows:

"BE IT ORDAINED BY THE PEOPLE OF THE CITY OF PLEASANTON:

a. The people of the City of Pleasanton hereby find and declare that it is in the best interest of the City in order to protect the health, safety and general welfare of the citizens of the City, to control residential building permits in the said City. Residential building permits include single-family residential, multiple residential, and trailer court building permits within the meaning of the City Code of Pleasanton and the General Plan of Pleasanton. Additionally, it is the purpose of this initiative measure to contribute to the solution of air pollution in the City of Pleasanton.

b. The specific reasons for proposed Petition are that the undersigned believe that the resulting impact from issuing residential building permits at the current rate results in the following problems mentioned below. Therefore, no further residential building permits are to be issued by the said city until satisfactory solutions as determined below in the standards set forth exist to all following problems:

   1. Educational Facilities- No double sessions in the schools nor overcroweded classrooms as determined by the California Education Code.

   2. Sewage- The sewage treatment facilities and capacities meet the standards set by the Regional Water Quality Control Board.

   3. Water Supply- No rationing of water with respect to human consumption or irrigation, and adequate water reserves for fire protection exist.

c. This ordinance may only be amended or repealed by the voters at a regular municipal election.

d. If any portion of this ordinance is declared invalid the remaining portions are to be considered valid."

The initiative measures in Livermore and Pleasanton are presently being litigated to determine their validity. Regardless of the outcome, however, it seems clear that public action will continue to impose additional controls on development and provide a more restrictive framework for regulating land use in general.

ACTIONS BY LOCAL AND STATE AGENCIES

The actions of local government also suggest a tougher approach to land use control. For example, concern over development in the City of San Diego led to adoption of Council Policy 600-10. This Policy attempts to assure that all appropriate public services and facilities will be available to the proposed development, and conditions are imposed on the acceptance or approval of any new developement proposal, as follows:

COUNCIL POLICY

Subject: Adequacy of public services in connection with development proposals.

Number: 600-10

Background

In considering development or redevelopment proposals for areas within the City, the City Council has, in order to insure the public health, safety and welfare, evaluated reports from City departments, school districts and other agencies regarding the adequacy of public services required to serve the developments expected to occur within such areas. In many cases, however, the required public services have not in fact been installed by the time the development shows a need. The result has been that residents in the newly developed areas have been inadequately served with access, parks, schools, libraries and other public services.

PURPOSE

To establish a policy to insure that needed public services will be available concurrently with need.

POLICY

Before giving approval to rezoning, development or redevelopment proposals, the public health and safety and general welfare of the community and all its citizens require that provisions be made by the proponent

of the rezoning, development or redevelopment in conjunction with appropriate governmental agencies to insure:

1. That the development, redevelopment or rezoning be consistent with the master development plan for the general area which has been reviewed by the planning commission and adopted by the city council.

2. That the development plan includes an implementation section which sets forth in detail measures which will be taken to insure that needed public services are provided concurrent with need and the development.

3. That the proponent of the rezoning, development or redevelopment present evidence satisfactory to the appropriate body or agency that the required public services will in fact be provided concurrent with the need.

A tougher local policy toward land use and development is also evident in other actions. In parts of Marin and Sonoma Counties, for example, a moratorium has been placed on all new development, and on the division of land into five lots or more. Also, the general trend toward low density zoning of undeveloped areas, coupled with more detailed and restrictive site plan and dedication requirements, is further indication of the controls over land use presently being exercised by local government. Many of these restrictive controls apply to an additional extent to land use in the coastal zone.

An indication that State law with respect to local planning procedures may not always be as flexible as it is at present may be seen in recent legislation. Prior to 1971, cities were permitted to have specific plans, and those plans had a variety of optional elements. Now, cities and counties may have specific plans, but the specific plans must contain certain elements. Prior to 1971, charter cities were expressly excluded from the provisions of State law that require cities to adopt a comprehensive general plan containing certain mandatory elements. State statutes now read that "the requirements of this section shall apply to charter cities."

Other recent legislative items affecting land use include:

of the rezoning, development or redevelopment in conjunction with appropriate governmental agencies to insure:

1. That the development, redevelopment or rezoning be consistent with the master development plan for the general area which has been reviewed by the planning commission and adopted by the city council.

2. That the development plan includes an implementation section which sets forth in detail measures which will be taken to insure that needed public services are provided concurrent with need and the development.

3. That the proponent of the rezoning, development or redevelopment present evidence satisfactory to the appropriate body or agency that the required public services will in fact be provided concurrent with the need.

A tougher local policy toward land use and development is also evident in other actions. In parts of Marin and Sonoma Counties, for example, a moratorium has been placed on all new development, and on the division of land into five lots or more. Also, the general trend toward low density zoning of undeveloped areas, coupled with more detailed and restrictive site plan and dedication requirements, is further indication of the controls over land use presently being exercised by local government. Many of these restrictive controls apply to an additional extent to land use in the coastal zone.

An indication that State law with respect to local planning procedures may not always be as flexible as it is at present may be seen in recent legislation. Prior to 1971, cities were permitted to have specific plans, and those plans had a variety of optional elements. Now, cities and counties may have specific plans, but the specific plans must contain certain elements. Prior to 1971, charter cities were expressly excluded from the provisions of State law that require cities to adopt a comprehensive general plan containing certain mandatory elements. State statutes now read that "the requirements of this section shall apply to charter cities."

Other recent legislative items affecting land use include:

The creation of a State Office of Planning and Research for purposes of developing a statewide land use policy.

The creation of single purpose regional planning agencies with land use authority such as the San Francisco Bay Conservation Development Commission and the Tahoe Regional Planning Agency.

The mandating of specific elements for local general plans.

The establishment of minimum procedures for the conduct of a local zoning hearing.

Provisions requiring public access to any shoreline or other public waterway as a condition of development.

The ability of cities and counties to deny proposed subdivisions on the basis of findings which indicate that the subdivision is inconsistenet with general and specific plans; the site is not suitable; the subdivision would cause substantial environmental damage; the subdivision would cause serious public health problems; the subdivision conflicts with public easements.

The ability of the Commissioner of the State Department of Real Estate to deny rural subdivisions unless they are adequately planned and properly financed.

The requirement that a zoning ordinance be consistent with the general plan.

In addition to those measures mentioned above which have been approved in recent years, a number of other bills by a variety of authors are introduced with increasing frquency each year. Although they have not been approved, they represent a continuing attempt to inject the State more directly into the local planning process. For example, the following measures have been introduced and discussed during recent sessions of the Legislature:

The requirement of a housing authority in every city.

The creation of an Umbrella Regional Planning Agency by the State for a prescribed regional area.

The creation of State and Regional Environmental Quality Control Boards with regulatory authority over air, water, land use, nuclear energy, solid waste disposal, pesticides, and noise control.

The creation of a State Land Use Plan and State zoning of all public and private land.

The withholding of State gas tax revenues to cities for failing to have a master plan with all required elements.

The restriction of local control over the location of mobile home parks within a city or county.

The qualification of necessary laws to provide that local planning is now a matter of Statewide interest and concern.

The mandating of additional elements, such as an air pollution control element, for local general plans.

REGIONAL AGENCIES

There are a number of statutorily created single purpose agencies who engage in regional planning. However, most do not have direct land use control. They are more concerned with functional planning or regulation in a regional area. Their effect on land use is limited to their role in recommending land areas wherein certain regional services ought to be provided (ie, Metropolitan Transportation Commission), acquiring and developing land for a regional purpose (ie, East Bay Regional Park District) or determining through a permit process whether a particular development should proceed (air pollution and water quality control boards).

There are two, and potentially three, regional agencies that do engage in regional land use planning and do have some direct authority over land use. In all three cases these statutorily-created agencies are concerned with development in and adjacent to the ocean or a significant body of water. They are:

San Francisco Bay Conservation and Development Commission

Tahoe Regional Planning Agency

Ventura-Los Angeles Mountain and Coastal Study Commission

BAY CONSERVATION AND DEVELOPMENT COMMISSION

AUTHORITY

The San Francisco Bay Conservation and Development Commission was created in 1965 by the State Legislature, and was made a permanent agency in 1969.

BCDC consists of twenty-seven members, thirteen of whom represent cities and counties within the San Francisco Bay Area. The balance of the members represent State and Federal agencies, and seven represent the public at large.

When creating BCDC, the Legislature made the following findings:

(a) That further filling of San Francisco Bay should be authorized only when public benefits from fill clearly exceed public detriment from the loss of the water areas and should be limited to water oriented uses (such as ports, water related industry, airports, bridges, wildlife refuges, water oriented recreation and public assembly, water intake and discharge lines for desalinization plants and power generating plants requiring large amounts of water for cooling purposes) or minor fill for improving shoreline appearance or public access to the Bay.

(b) That fill in the Bay, for any purpose, should be authorized only when no alternative upland location is available for such purpose.

(c) That the water area authorized to be filled should be the minimum necessary to achieve the purpose of the fill.

(d) That the nature, location and extent of any fill should be such that it will minimize harmful effects to the Bay Area, such as, the reduction or impairment of the volume surface area or circulation of water, water quality, fertility of marshes or fish or wildlife resources.

(e) That public health, safety and welfare require that fill be constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or flood or storm waters.

(f) That fill should be authorized when the filling would, to the maximum extent feasible, establish a permanent shoreline.

(g) That fill should be authorized when the applicant has such valid title to the properties in question that he may fill them in the manner and for the uses to be approved.

With respect to the above findings, enabling legislation creating BCDC

provided, as follows:

> During the existence of the San Francisco Bay Conservation and Development Commission, any person or governmental agency wishing to place fill, to extract materials, or to make any substantial change in use of any water, land or structure, within the area of the Commission's jurisdiction shall secure a permit from the Commission and, if required by law or by ordinance, from any city or county within which any part of such work is to be performed.

The area of the commission's jurisdiction includes:

(a) San Francisco Bay...

(b) A shoreline band consisting of all territory located between the shoreline of San Francisco Bay...and a line one hundred feet landward of and parallel with that line...provided that the Commission may, by resolution, exclude from its area of jurisdiction any area within the shoreline band that it finds and declares is of no regional importance to the Bay.

(c) Salt ponds...

(d) Managed wetlands...

(e) Certain waterways...consisting of all areas that are subject to tidal action, including submerged lands, tidelands, and marshlands up to five feet above mean sea level, on, or tributary to, the listed portions of the following waterways:

(1) Plumber Creek in Alameda County, to the eastern limit of the salt ponds.

(2) Coyote Creek (and branches) in Alameda and Santa Clara counties, to the easternmost point of Newby Island.

(3) Redwood Creek in San Mateo County, to its confluence with Smith Slough.

(4) Tolay Creek in Sonoma County, to the northerly line of Sears Point Road.

(5) Petaluma River in Marin and Sonoma Counties to its confluence with Adobe Creek, and San Antonio Creek to the easterly line of the Northwestern Pacific Railroad right-of-way.

(6) Napa River, to the northernmost point of Bull Island.

(7) Sonoma Creek, to its confluence with Second Napa Slough.

PROGRAM

BCDC has developed a San Francisco Bay plan which has been adopted by the

State Legislature. The plan suggests when filling or dredging of the Bay is and is not appropriate, and it also serves as a guide when the Commission reviews proposals for development within the one hundred foot inland shoreline strip.

BCDC processed thirty-five permits during 1971, more than during any previous year of the Commission's existence. In addition, the Executive Director approved sixty-one permits for projects involving only minor repairs or improvements. Of the thirty-five permits processed by the Commission, twenty-six were approved. Of the twenty-six, nineteen were for projects involving construction in the Bay, and seven were for projects involving construction within the one hundred foot shoreline band.

BCDC is guided by a broad-based advisory committee, and is also assisted by an Engineering Criteria Review Board and a Design Review Board. The Commission has a staff of approximately twelve, and operates on an annual budget of $275,000.

DIFFERENCES BETWEEN BCDC AND THE CALIFORNIA COASTLINE INITIATIVE

The California Coastline Initiative has been described as being very similar to and modeled after legislation creating BCDC. It is important, therefore, to consider differences in general approach and specific provisions.

As will be indicated in the analysis of the initiative, the emphasis of the California Coastline Initiative is clearly on preservation of the coastal area. Although no express moratorium on development is included in the initiative, the combination of provisions contained therein will have the practical effect of delaying new projects within the initiative permit area. The legislation creating BCDC, on the other hand, clearly encourages balanced development of the Bay, and limits the Commission's jurisdiction.

A comparison of initiative provisions with BCDC indicates that there are clear and substantive differences between the two:

(1) The basic difference in philosophy between the initiative and BCDC can be seen in their respective titles. The initiative would create the Coastal Zone Conservation Act whereas BCDC is concerned with "Conservation and Development" of the Bay.

(2) BCDC expressly encourages private investment in and development of the shoreline, as follows:

> "The legislature finds that in order to make San Francisco Bay more accessible for the use and enjoyment of people, the Bay shoreline should be improved, developed and preserved. The Legislature further recognizes that private investment in shoreline development should be vigorously encouraged and may be one of the principal means of achieving Bay shoreline development, minimizing the resort to taxpayers' funds; Therefore, the Legislature declares that the Commission should encourage both public and private development of the Bay shoreline."

No similar provision is contained in the California Coastline Initiative.

(3) With respect to the rights of property owners adjacent to the Bay, the legislation creating BCDC provides as follows:

> "The Legislature hereby finds and declares that this title is not intended, and shall not be construed, as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor..."

There is no reference to just compensation or related matters in the California Coastline Initiative.

(4) The inland permit area of BCDC is confined to a one hundred foot band of shoreline around the Bay itself. Inland permit authority does not extend to land outside the Bay, even though other bodies of water are within the jurisdiction of the Commission. Importantly, BCDC may only refuse to issue a permit for development within the one hundred foot

inland shoreline band if the proposed project fails to provide maximum feasible public access. The Commission has no jurisdiction over height, density, or proposed use within the one hundred foot inland strip, except insofar as these matters may relate to public access. The BCDC inland permit authority is expressly limited as follows:

> "Within any portion or portions of the shoreline band...the Commission may deny an application for a permit for a proposed project only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project, to the bay and its shoreline."

The California Coastline Initiative, on the other hand, provides permit control over all development within the three thousand foot inland area in rural and urban areas alike. The authority of the regional coastline commissions to issue permits is broad, and is in no way limited to assuring that the proposed project provides "maximum feasible public access."

(5) BCDC has boundaries that are essentially the same as those of the Association of Bay Area Governments, and the Commission is required to coordinate its activities with ABAG and local agencies, as follows:

> "...the Commission shall cooperate to the fullest extent possible with the Association of Bay Area Governments; and shall, to the fullest extent possible, coordinate its planning with planning by local agencies, which shall retain the responsibility for local land use planning. In order to avoid duplication of work, the Commission shall make maximum use of data and information available from the planning programs of the State Office of Planning, the Association of Bay Area Governments, the cities and counties in the San Francisco Bay Area, and other public and private planning agencies."

The California Coastline Initiative creates regional commissions with boundaries that are substantially different than those of the councils of government operating up and down the coast, and there is no requirement that the regional commissions cooperate or work in any way with existing councils of government, other single purpose regional planning agencies, or individual local agencies along the coast. In addition, the permit authority of the regional coastline

commissions over all forms of development effectively pre-empts the existing authority of local agencies to plan for and assure balanced development written their respective communities.

TAHOE REGIONAL PLANNING AGENCY

AUTHORITY

The Tahoe Regional Planning Agency is a bi-state land use planning and regulatory agency created by interstate compact. There is, in addition, a California Tahoe Regional Planning Agency that was created prior to finalization of the compact and which remains in existence. A similar Nevada Planning Agency formerly existed, but was dissolved after the bi-state agency was established.

The bi-state Tahoe Regional Planning Agency is comprised of ten members, six of whom represent cities and counties in California and Nevada. The Commission is assisted by an Advisory Planning Committee and, together, their principal responsibility is the preparation of a Tahoe Regional Plan which must include the following elements:

(a) A land use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to, an indication or allocation of maximum population densities.

(b) A transportation plan for the integrated development of a regional system of transportation, including but not limited to, freeways, parkways, highways, transportation facilities, transit routes, waterways, navigation and aviation aides and facilities and pertinent terminals and facilities for the movement of people and goods within the region.

(c) A conservation plan for the preservation, development, utilization and management of the scenic and other natural resources within the basin,

including, but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(d) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, arenas and other recreational facilities.

(e) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

With respect to preparation of the plan, the compact provides, as follows:

> "In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the State, Federal and other public agencies and non-governmental agencies and organizations which affect or are concerned with planning and development within the region. Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of State and Federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private individuals."

As a means of enforcing the plan, the bi-state agency is required to adopt a series of ordinances establishing regional standards in the following areas: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers; harbors, breakwaters, or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal in boats; mobile home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection.

The compact provides expressly that the ordinances "shall establish a minimum standard applicable throughout the basin, and any political subdivision may adopt and enforce an equal or higher standard applicable to the same subject of regulation in its territory." With respect to enforcement of the ordinance, the compact provides that "all ordinances, rules, regulations and policies adopted by the agency shall be enforced by the agency and by the respective states, counties, and cities."

With the exception of public works projects of governmental agencies, over which the California Tahoe Regional Planning Agency has veto power, the Bi-state Tahoe Regional Planning Agency has effective control over all private development in the Tahoe basin. It is empowered "to police the region to insure compliance with the general plan and adopted ordinances, rules, regulations, and policies", and "if it is found that the general plan, or ordinances, rules, regulations, and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to insure compliance." Violation of any ordinance is a misdemeanor.

PROGRAM

The bi-state Tahoe Regional Planning Agency has approximately twelve staff persons, and operates on annual budget of $300,000.

After completing, in cooperation with the United States Forest Service, a number of special studies on various resources within the Tahoe basin, the bi-state Tahoe Regional Planning Agency adopted a general plan. They have, in addition, adopted four ordinances covering grading, land use, shoreline, and subdivisions. The ordinances establish most of the minimum regional standards referred to in the compact and, from a practical standpoint, the agency now

gives final review to all development projects over three acres or larger than a triplex. The one exception is with respect to public works projects of California governmental agencies, over which the California Tahoe Regional Planning Agency retains final jurisdiction.

DIFFERENCES BETWEEN THE TAHOE REGIONAL PLANNING AGENCY AND THE CALIFORNIA COASTLINE INITIATIVE

There are substantive differences between the Tahoe Regional Planning Agency and the provisions included within the California Coastline Initiative. For example:

(a) Representatives of existing local agencies (cities and counties) constitute a majority of the members of the bi-state Tahoe Regional Planning Agency. The initiative does not give representatives of local agencies a majority voice on either the regional or state commissions it would create.

(b) Comprehensive planning and development control is provided throughout the entire Tahoe basin. The California Coastline Initiative calls for comprehensive planning, but limits the planning area to five miles inland or to the erratic and confusing boundaries of the "top of the highest elevation of the nearest coastal range."

(c) A majority vote of the members present is sufficient to take action on any matter before the Tahoe Regional Planning Agency. The California Coastline Initiative provides that a majority vote of the total authorized membership is necessary, except in certain cases where a two-thirds vote of the total authorized membership is required.

(d) The compact creating the bi-state Tahoe Regional Planning Agency expressly provides that the agency shall:

"take account of...the plans of the counties and cities within the region, the plans and planning activities of the State, Federal and

other public agencies and non-governmental agencies and organizations which affect or are concerned with planning and development within the region...in formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of State and Federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private individuals."

No express requirements such as these are included in the California Coastline Initiative.

(e) Under the bi-state compact, the Tahoe Regional Planning Agency establishes minimum standards which are administered and enforced by existing local agencies. Local agencies also have the right to enact more restrictive standards. The California Coastline Initiative creates a series of new regional commissions to establish and enforce minimum standards by passing local agencies.

VENTURA-LOS ANGELES MOUNTAIN AND COASTAL STUDY COMMISSION

AUTHORITY

Declaring that "the Ventura-Los Angeles Mountain and Coastal Zone...has the last large undeveloped area contiguous to the shoreline within the greater Los Angeles Metropolitan Region, comprised of Los Angeles and Ventura Counties, represents a unique and irreplaceable natural resource to the people of the State...," the Legislature created the Study Commission in 1970. The Commission was "to study the entire zone as well as the relationship of the zone to the region, to ascertain what is needed for balanced conservation and development, to determine a set of policies and priorities based on such studies, and to propose further legislative action to provide for implementation of these policies."

The Commission is composed of fifteen members, four representing local agencies, three representing State agencies, and eight representing the

public. The specific responsibility of the Commission is to make "a detailed study of all factors that may significantly affect or cause irreversible modification of the present and future status of the zone and its relationship with the region, and any other factors, including, but not limited to:

(a) The zone as an airshed resource for the region, considering climatology and meteorology.

(b) Open space, including scenic easements, parks, and natural preserves, and fire hazards and fire prevention.

(c) Watershed, floods, and flood damage prevention.

(d) Beaches, estuaries, lagoons, coastal bluffs, springs, creeks, lakes, fish, wildlife and natural plant life of the zone and the effects of development thereon.

(e) Recreation, including beaches, parks and other facilities for sport fishing, surfing, pleasure boating, picnicing, camping, mountaineering, hiking, and horseback riding.

(f) Inventory of Indian settlements and other historical and archeological sites, fossil beds, unusual plant life, and geological formations for possible future preservation and utilization.

(g) Water supply, water quality, and waste disposal, including sewage plants and outfalls and thermal and radioactive pollution.

(h) Solid waste disposal, including the effect of sanitary land fill activities.

(i) Geology, erosion, soil types, land stability, and grading practices.

(j) Proposed transportation plans, including present and projected traffic patterns, and new methods of solving transportation problems.

(k) Projected population and related housing development within the zone and the impact thereof on the zone and region.

(l) Power and desalinization plants.

(m) Exploration and exploitation of oil and gas and other minerals and natural resources.

(n) Present land uses and known proposals for change, including impact of land appraisal and tax policies.

(o) Present ownerships, including the administration of publicly owned properties.

(p) Present regulation of land and water uses and activities of all levels and government.

(q) Present laws affecting the zone.

Based on consideration of the study findings and its deliberations in general, the Commission is required to submit a final report to the Legislature at the 1972 session including recommendations for legislative and administrative action. The Commission terminates on the sixty-first day after the final adjournment of the 1972 Regular Session of the Legislature.

PROGRAM

As required by statute, the Ventura-Los Angeles Mountain and Coastal Study Commission submitted its Final Report to the Legislature at the beginning of the 1972 legislative session. The report indicates that due to time and money constraints "...the Commission has been unable to carry out all studies to the depth required to ascertain specifically what is need for balanced conservation and development." However, the report does include specific legislative recommendations, as follows:

(a) Extend the Commission's life for two additional years in order to allow for completion of studies mandated by initial legislation and draw final recommendations for legislative action.

(b) Acquire open space/parklands as indicated on the acquisition map.

(c) Revise the boundaries of the study zone to exclude certain areas already urbanized and/or subdivided so that the Commission does not have to operate at a local level.

(d) Increase the size of the Commission.

(e) Establish an Advisory Committee.

(f) Engage staff.

(g) Establish a permit system.

(h) Request funding.

OUTLOOK

A bill designed to extend the life of the Commission and to give it additional

duties, including permit control, has been introduced in the State Senate. The bill is on third reading in the Senate, and will be considered when the Legislature resumes its deliberations in November. Although the requested permit authority may be excluded from the bill, it appears probably that the life of the Commission will be extended to permit it to finish its studies.

In addition to the activities of these single purpose regional agencies, there are at least two other types of regional governmental bodies which, in practice, have an impact on the comprehensive planning and land use activities of cities and counties. These are local agency formation commissions (LAFCO's) and councils of government (COGS).

LOCAL AGENCY FORMATION COMMISSIONS

Since 1963, every county (except the City and County of San Francisco) has been required to have a local agency formation commission (LAFCO).

LAFCO's were created in order to encourage a more orderly and comprehensive approach to urban growth, and their principal responsibility is to review and act on all proposals for incorporation, annexation, or creation of special districts within their respective county. In this regard, LAFCO's are authorized to accept, reject, or conditionally accept such proposals. Their review must consider factors, such as:

(a) Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and adjacent incorporated and unincorporated areas, during the next ten years.

(b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probably future needs for such services and controls; probably effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(e) Conformity with appropriate city or county general and specific plans.

Membership on LAFCO consists of two city representatives, two county representatives, and one public member. Where determined locally, LAFCO can also include two special district representatives. Staffing is provided by the county.

LAFCO's not only have an impact on land use in terms of their decisions on matters pertaining to incorporation, annexation, and the formation of special districts,but their other activities also influence land use. For example, LAFCO's may encourage cities to pre-zone unincorporated areas before approving proposals for annexation. Also, State law now requires LAFCO's to establish "spheres of influence" as a further means of guiding future development and growth within the county. LAFCO decisions regarding "spheres of influence" are based, in part, on city and county general plans. They also determine, in part, the nature of those plans. In either event, they have a significant impact on comprehensive planning in general and land use in particular.

COUNCILS OF GOVERNMENT

With the exception of certain statutorily created regional planning agencies that have been given certain controls over development (ie., BCDC, TRPA), the authority for land use planning and control in California rest principally with cities and counties. This authority is modified, to some extent, by the actions and decisions of the county local agency formation commission which is mainly concerned with the orderly growth and expansion of county land areas.

The authority of cities and counties is also modified, to some extent, by the action of cities and counties themselves who have voluntarily agreed to establish councils of government in order to obtain a more coordinated approach to comprehensive land use planning and related regional problems.

AUTHORITY

Although State statutes provide several ways in which cities and counties may join together for purposes of regional planning, the most common tool used to create councils of government in California has been utilization of the Joint Exercise of Powers Act. The Act provides, as follows:

> "If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties..."

Based on the above stature, cities and counties have voluntarily established councils of government in order to jointly undertake planning and related activities. For example, the Comprhensive Planning Organization has been established in San Diego County; the Southern California Association of Governments has been created in Imperial Counties, Los Angeles, Orange, Riverside, San Bernardino and Ventura; the Association of Bay Area Governments has been created in the nine Bay Area Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma; and similar organizations encompassing Santa Barbara, San Luis Obispo, Monterey, Santa Cruz, and other California counties have been established.

PROGRAM

The concerns and programs of councils of government are similar. Broadly speaking, however, they are designed to include:

Compilation, dissemination, interchange and coordination of information to assist local governments in decision-making and to promote inter-govern-

mental cooperation.

Formulation of positive recommendations to aid in development of a comprehensive planning process within the region.

Encourage participation of members and citizens in developing regional goals and in stimulating discussion of regional problems.

Provision of means for local goverments to speak with one voice on matters of regional concern.

Designation as the metropolitan clearing house for the review of proposals for areawide coordination and comprehensive planning.

The integration of various elements into a coordinated program;provision of a means for long-range planning to take into consideration the total regional effects of a program.

More specifically, councils of government have prepared comprehensive regional land use and policy plans for their region. Based on a careful examination of population projections, as well as calculations on housing, employment, and land use, the policies and forecasts contained therein serve as the basis for further functional plans in areas such as transportation, open space, housing, water, and sewer.

In addition to comprehensive regional land use plans, SCAG and ABAG have also undertaken a special coastal planning effort. This special planning effort has permitted the accumulation and analysis of information regarding the use and resources of the coastal zone, and the overall goal is the preparation of a plan for improved coastal management and recommendations for implementation. Importantly, the plan will be related to the other comprehensive planning efforts of cities and counties in the council of governments region as they pertain to housing, transportation, water, sewer, open space, etc.

The Federal government requires regional areas to prepare and adopt comprehensive functional plans in the areas of transportation, open space, housing, water, and sewer before individual cities and counties can become eligible for Federal grant funds in these areas. To assure overall coordination in the expenditure of such funds, the Federal government also requires State and regional areas to establish "clearinghouses" for review of applications by public agencies and others for over one hundred different Federal grant funds. COGS, by preparing regional plans, are responsible for cities and counties within their area being eligible for many millions of dollars in Federal funds. Importantly, their role as a regional clearing house for Federal grant applications permits COGS to implement, in part, the goals and policies of their comprehensive regional plan.

COGS also help other State and regional agencies, many of whom have boundaries identical to the COG, to prepare and implement plans that are consistent with overall regional goals. For example, COGS have ongoing relations with numerous special districts within their regional area; they serve as the regional transportation planning agency for purposes of allocating State transportation funds; they have been designated by the Legislature to assist in the preparation of a State-wide plan for solid waste management; they serve in an advisory capacity to the State Office of Planning and Research in its efforts to develop a comprehensive State land use policy; and they assist and supplement the efforts of regional transportation districts, regional air pollution control districts; regional park districts, regional water quality control boards; and similar State and regional groups.

All in all, COGS involve existing cities and counties in a functional process of regional planning and decisionmaking which has been in operation for a decade and, as indicated in the annual report of the Southern California

Association of Governments, "provides an alternative to the abdication of authority and responsibility by local governments and the preemption of decision-making by Federal or State agencies."

OUTLOOK

The development of a practical and effective approach to the solution of regional problems in California must evolve over time. The experience of COGS is a good example of how a balanced consensus is being developed without destroying existing institutions and creating new levels of administrative bureaucracy in the process. By involving cities and counties in a regional forum initially, COGS were able to assist in identifying specific regional problems. Discussions over time have permitted, particularly in urban areas of the State, the development of alternative solutions and the preparation of specific plans and policies for a constructive approach to those problems which transcend individual city and county boundaries. This evolutionary process has reached the point where at least three COGS (ABAG, SCAG, and CPO) representing most of the State population, have in recent years been actively pursuing legislation which will improve their ability to coordinate regional policy-making and to implement regional plans. Although no State legislative consensus has been reached as yet on the exact regional governmental framework, there is a clear legislative consensus that a comprehensive approach to regional problems is necessary, that the regional framework and authority must be statutorily prescribed, and that the area within which regional planning and control will occur must be broad enough (as opposed to that suggested in the California Coastline Initiative) to permit a comprehensive approach.

STATE AGENCIES

There are numerous agencies, departments, divisions, and commissions, within State government that have some direct or indirect responsibility for land use within the coastal zone and elsewhere. The State engages in planning; it coordinates the activities of local, regional, and Federal agencies; it establishes criteria and standards; it issues permits; it engages in experimental programs and surveillance activities; it owns and manages real property; it provides financial assistance to others for the acquisition and development of specific projects and facilities; and it engages in other activities that have some bearing on land use.

As the population of California has increased, and as its urban areas have grown, the need for State involvement in comprehensive land use planning and control has become more apparent. The interest and concern of State legislative and administrative officials with respect to land use planning is also more apparent.

The efforts of the State to achieve a comprehensive and coordinated approach to land use is reflected particularly in the activities of the Office of Planning and Research, the State Council on Intergovernmental Relations, and the Office of Intergovernmental Management.

OFFICE OF PLANNING AND RESEARCH

The Office of Planning and Research was established in 1970 as a result of legislation which declared, in part:

> "The Legislature finds and declares that future growth of the State should be guided by an effective planning process and should proceed within the framework of officially-approved Statewide goals and policies directed to land use, population growth and distribution, urban expansion and other relevant physical, social and economic development factors."

With respect to the increasing interest of the State in the area of land use, it is significant to note that Section IV of the legislation establishing the Office of Planning and Research provides, as follows:

> "The Office of Planning and Research shall give immediate and high priority to the development of land use policy. As a first component of such policy, the Office shall develop, in conjunction with appropriate State departments and Federal, regional and local agencies, a Statewide plan and implementation program for protecting land and water resources of the State which are of Statewide significance in terms of the State's natural resource base and the preservation and enhancement of environmental quality and are threatened due to urban expansion, incompatible public or private use or development or other circumstances."

The planning program shall consider, but not be limited to:

(1) Areas of outstanding scientific, scenic and recreation value.

(2) Areas which are required as habitat for significant fish and wildlife resources, including rare and endangered species.

(3) Forest and agricultural lands which are judged to be of major importance in meeting future needs for food, fiber, and timber.

(4) Areas which provide green space and open areas in and around high density metropolitan development.

(5) Areas which are required to provide needed access to coastal beaches, lake shores, and riverbanks.

(6) Areas which require special development regulation because of hazardous or special conditions, such as earthquake fault zones, unstable slide areas, flood plains, and watersheds.

(7) Areas which serve as connecting links between major public recreation and open space sites, such as utility easements, stream banks, trails, and scenic highway corridors.

(8) Areas of major historic or cultural interest."

The specific responsibilities of the Office of Planning and Research are, as follows:

(a) Assist in the formulation, evaluation and updating of long-range goals and policies for land use, population growth and distribution, urban expansion, open space, resource preservation and utilization, and other factors which shape Statewide development patterns and significantly influence the quality of the State's environment.

(b) Assist in the orderly preparation by appropriate State departments and

agencies of intermediate and short-range functional plans to guide programs of transportation, water development, open space, recreation and other functions which relate to the protection and enhancement of the State's environment.

(c) Regularly evaluate plans and programs of departments and agencies of State government, identify conflicts or omissions, and recommend new State policies, programs and actions required to resolve conflicts, advance State-wide environmental goals and to respond to emerging environmental problems and opportunities.

(d) Assist the Department of Finance in preparing, as part of the annual State budget, an integrated program of priority actions to implement State functional plans and to achieve State-wide environmental goals and objectives and take other actions to insure that the program budget, submitted annually to the Legislature, contains information reporting the achievement of State goals and objectives by departments and agencies of State government.

(e) Coordinate the development of policies and criteria to assure that Federal grants in aid administered or directly expended by State government, advance State-wide environmental goals and objectives.

(f) Coordinate the development and operation of a State-wide environmental monitoring system to assess the implications of present growth and development trends on the environment and to identify at an early time, potential threats to public health, natural resources and environmental quality.

(g) Coordinate, in conjunction with appropriate State, regional, and local agencies, the development of objectives, criteria and procedures for the orderly evaluation and report of the impact of public and private actions on the environmental quality of the State and as a guide to the preparation of the environmental impact report required of State and local agencies.

(h) Coordinate research activities of State government directed to the growth and development of the State and the preservation of environmental quality, render advice to the Governor, to his cabinet, and any agency or department of State government, and provide information to, and cooperate with, the Legislature or any of its committees or officer.

(i) Provide assistance to the Council on Intergovernmental Relations in coordinating provision of technical assistance by State departments and agencies in regional and local planning to assure that such plans are consistent with State-wide environmental goals and objectives.

(j) Accept and allocate or expend grants and gifts from any source, public or private, for the purpose of State planning and undertake other planning and coordinating activities as will implement the policy and intent of the Legislature as set forth herein.

As one means of fulfilling its responsibility, the Office of Planning and

Research is required to prepare a Statewide Environmental Goals and Policy Report. As required by law, the first report was prepared by March 1, 1972 and it contained, among other things, the following proposal:

> "This report therefore recommends that a Department of Environmental Protection be formed within the Resources Agency with responsibilities to coordinate the State's role in pollution control, implement the standards established by the Environmental Pollution Control Board, centralize services for monitoring pollution, and provide one multi-disciplined approach to the inter-related problems of air pollution, water pollution, solid waste disposal and the protection of environmental resources of State-wide importance.
>
> "This report also recommends the formation of an Environmental Protection Control Board with responsibilities to establish standards and regulations for areas under its jurisdiction, oversee the State-wide implementation of such standards, identify needs for continuing research and adopt areas of Statewide significance and critical concern as described in the Environmental Resources Protection Plan."

The report, which must be revised every four years, has been reviewed by a select Assembly Committee and their comments and recommendations are presently being considered by the Office of Planning and Research and the Governor. With respect to land use specifically, it is important to note that although the report identifies certain land areas, including the entire coastal area, as being of "significant and critical concern", it does not contain a recommended State land use policy. Such a recommended policy is presently being developed and refined by the Office of Planning and Research with the assistance of a "Land Use Study Team" which includes representatives of all major State Departments and, importantly, all councils of government. As an initial step, the Office of Planning and Research has published a Compendium of Land Use Data Sources. The actual development of a coordinated Statewide land use policy is aimed at establishing guidelines and criteria that will facilitate integrated planning for the entire State, rather than looking individually and exclusively at singular areas of the State such as the desert, coast and forest.

Other activities of the Office of Planning and Research include the preparation of guidlines for environmental impact statements that must be completed by State and other public agencies before new development projects may commence; conduct of research on environmental matters; and coordination of all environmental reviews of new subdivision proposals for local agencies.

COUNCIL ON INTERGOVERNMENTAL RELATIONS/OFFICE OF INTERGOVERNMENTAL MANAGEMENT

The Office of Planning and Research is concerned with developing land use policies and guidlines for the State. The Council on Intergovernmental Relations, and its administrative arm,the Office of Intergovernmental Management, complement and support these efforts through programs designed to improve local planning and, where appropriate, encourage comprehensive regional planning.

The Council on Intergovernmental Relations establishes policy which is administered by the Office of Intergovernmental Management. Membership on CIR includes representatives of cities, counties, school districts, special districts and major State agencies.

With respect to planning, CIR and OIM are responsible for administering the Federal Government Comprehensive "701" Planning Grants. In addition, they provide technical assistance to local planning agencies (ie, they have prepared reports on Local Planning in California, Local Agency Formation Commissions, etc.) and, as required by statute, they are engaged in the development of criteria and guidelines for elements of local general plans. Importantly, they are required by law to establish comprehensive regional planning boundaries for the State, and these boundaries form a basis for council of government activities as well as other State and regional planning activities.*

* With respect to the California Coastline Initiative, it is important to note that the regional boundaries provided for therein are totally different than those already established by CIR.

CIR/OIM also work to encourage a coordinated and uniform approach to planning on an intergovernmental basis through their "clearinghouse" responsibility for review of Federal Grant applications and environmental impact statements. These ongoing programs of "review and comment", which involve Federal, State, regional and local levels of government, have had the practical effect of coordinating expenditures of Federal Grant funds and assuring a broad and balanced environmental review of proposed public development projects. CIR/OIM are similarly responsible for coordinating the review and comment by State agencies on proposed Federal agency regulations and Federal development projects.

CIR is represented on the Land Use Study Team of the Office of Planning and Research, and the two bodies coordinate their activities in this area of mutual interest. Importantly, from the standpoint of coordination with local government in the area of comprehensive planning, COGS are also included in the activities of both agencies.

As indicated previously, cities and counties are principally responsible for direct land use planning and control. In addition to State coordinating efforts, such as those described above, there are also instances of direct State planning and control over land use. State agencies exercising such direct land use controls through ownership or management of State lands include:

STATE LANDS COMMISSION

The California Coastline Initiative includes all land between mean high tide and the seaward jurisdiction of the State within its planning and permit areas. These "tide" and "submerged" lands, unless granted to local agencies, are presently managed by the State Lands Commission.

Responsible for over 4.5 million acres of State-owned land, the State Lands

Commission is engaged in multi-use planning and development of these lands. Their activities are designed to assure that public lands are developed for the public benefit, consistent with proper conservation of resources and other environmental factors, and that potential revenues from these lands are maximized for the State.

More specifically, the responsibilities and objectives of the State Lands Commission are implemented through a variety of programs that are administered by the State Lands Division of the Resources Agency. Of principal concern from the standpoint of coastal land use, is the program of leasing tide and submerged lands for extractive and non-extractive development purposes. Leases are entered into by the Commission for the recovery of oil and gas resources, for the extraction of other mineral resources, and for geothermal operations. In addition, the Commission issues related prospecting permits, and also considers applications for a variety of other commerical and public uses of tide and submerged lands.

Because of its concern over oil spills, the Commission has imposed a moratorium on further oil and gas leases until at least June 30, 1973. More importantly, however, State law now provides that a specific environmental review of all proposed uses must be undertaken before the Commission may enter into any new lease. Specifically, Section 6371 of the Public Resources Code provides:

> "...the Commission, except for recreational pier permits, shall not lease any of the lands under its jurisdiction unless it shall have made a finding at a public meeting that such lease will not have a significant detrimental environmental effect and shall have made an environmental impact report which shall be available to the Legislature and to the public. Such report shall set forth the environmental impact of the lease, any unavoidable adverse environmental effects, mitigation measures proposed to minimize the impact, alternatives to the lease, the relationship between local short-term productivity, and any irreversible environmental changes which would be involved in the leasing of the lands."

As required by statute, the Commission is also engaged in an inventory of all State-owned tide and submerged lands "which possess unique environmental values, including scenic, historic, natural, or aesthetic values of State-wide interest." Once the inventory is complete, the Commission is required to "adopt regulations necessary to assure permanent protection to these lands."

Other Commission activities pertaining to the management of State-owned tide and submerged lands include boundary determinations, negotiating boundary line agreements, and the sale and exchange of property. The Commission is represented on the Land Use Study Team of the Office of Planning and Research, and environmental impact reports it prepares for proposed tide and submerged land uses are reviewed by other State agencies having an interest and/or land use responsibility in the coastal area.

DEPARTMENT OF PARKS AND RECREATION

The Department of Parks and Recreation acquires, designs, develops, operates and maintains State-owned park and recreation facilities. The State park system includes the following facilities:

Picnic units	6,014
Camp units	8,513
Boating facilities (ramps, lanes, docking facilities)	623
Interpretive facilities (campfire centers, historic structures, museums)	219
Acres of turf	2,211
Acres of beach	4,295
Parking facilities (number of spaces)	65,592
Miles of road	1,365

Miles of trails	855
Number of private concessions, contracts administered	161
Number of concessions, operating agreements administered	39
Total park acreage	830,756

In addition to a broad, ongoing program of operating and maintaining existing State park and recreational facilities, the Department is also concerned with acquiring and/or developing new facilities. This aspect of their program is complex, involving property negotiation; condemnation; alternative financing arrangements; preparation of construction plans; work scheduling; bidding procedures; research for effective interpretation of natural, historical, and recreational resources; museum programs; campfire and guided tours; and similar activities designed to develop existing land resources to their maximum balanced use.

With respect to the coastal area, the Department has completed an extensive planning document entitled "California Coastline-Preservation and Recreation Plan." In addition to identifying elements of the natural coastal environment (ie., land forms, climate, biota) and historic factors about the coast, the report sets forth a plan for action that is related to projected demand for types of coastal recreation facilities.

The report indicates that the greatest use of coastal recreational facilities occurs in or near urban areas. It further points out that in order to adequately meet projected demand in these areas it will be necessary to improve land already held in public ownership, as well as acquire additonal shoreline areas.

Related to its "Plan for Action", the Department has an aggressive program

of acquisition, which, in urban areas, includes the acquiring of inholdings in order to round out parcels already owned by the State, thereby making them feasible for development. The Department has an equally aggressive multi-year development program in the coastal area including such projects as the following:

State Department of Parks and Recreation

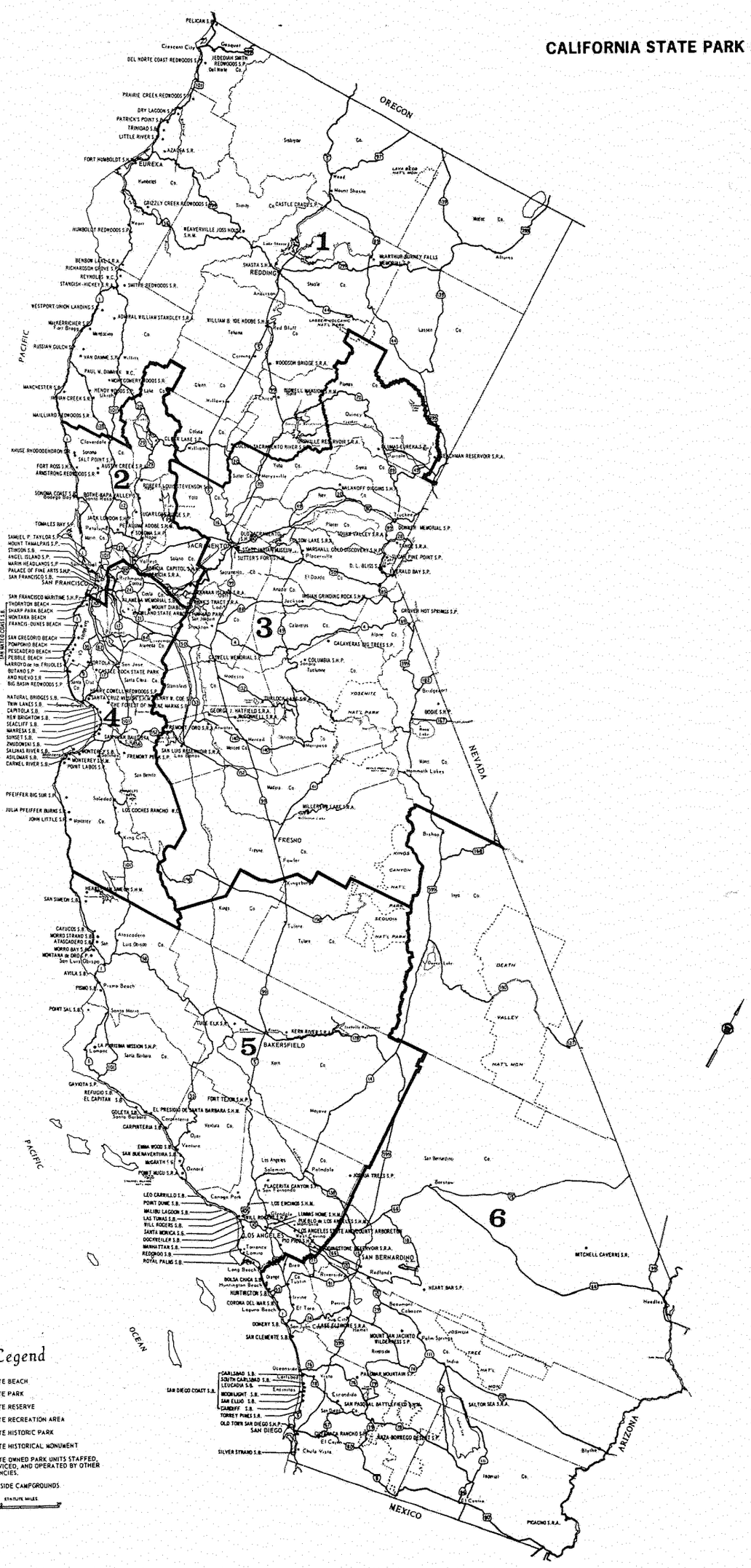
1972-75 Development Program

Unit	Project Description	Estimated Cost
Annadel Farms	Access road	$102,000
San Onofre State Beach	Chain link fencing	$150,000
Angel Island State Park	Sewage collection and full treatment. Working drawings.	$275,000
Carpinteria State Beach	Campground, administrative facilities	$400,000
MacKerricher State Park	Water system	$133,000
Pismo State Beach	Beach, sanitary facilities	$150,000
Point Mugu State Park	Multiple facilities	$924,100
Refugio State Beach	Multiple facilities	$150,000
Russian Gulch State Park	Sewage collection & transport	$250,000
Seacliff State Beach	Day use beach facilities	$979,200
Silver Strand State Beach	Sewage system	$215,780
Sonoma Coast State Beach	Bodega Bay campground	$200,000
Bolsa Chica State Beach	Parking and beach facilities	$4,000,000
San Onofre State Beach	Beach development, camping	$1,393,000

Angel Island State Park	West Garrison restoration	$200,000
Carlsbad State Beach	Parking and beach access	$350,000
Carpenteria State Beach	Campground improvement and beach facilities	$500,000
Doheny State Beach	Campground-234 units	$950,000
Henry Cowell	Campground-50 units	$250,000
Leo Carrillo State Beach	Campground-60 units	$180,000
San Buena Ventura State Beach	Campground-93 units	$166,000
San Gregorio State Beach	Campground (70 units) and day use facilities (working drawings)	$107,000
Silver Strand State Beach	Campground-157 units	$195,000
Border Field	Day use facilities & major utilities	$1,000,000
Half Moon Bay State Beach	Campground (50 units, primitive or parking lot conversion)	$300,000
Huntington State Beach	Day use facilities & campground	$2,500,000
Jetty Beach	Day use facilities & campground	$300,000
Malibu Lagoon State Beach	Day use facilities	$800,000
Mendocino Hedlands Project	Day use facilities & sewage system participation	$300,000
San Clemente State Beach	Campground improvement and expansion	$1,500,000
San Gregorio State Beach	Campground & day use facilities	$1,220,000
Twin Lakes State Beach	Day use facilities	$500,000

The Department also works closely with local jurisdictions and other agencies of the State in an effort to achieve a comprehensive approach to development, acquisition, and use of State park and recreational facilities.

CALIFORNIA STATE PARK SYSTEM



Legend

S.B.	STATE BEACH
S.P.	STATE PARK
S.R.	STATE RESERVE
S.R.A.	STATE RECREATION AREA
S.H.P.	STATE HISTORIC PARK
S.H.M.	STATE HISTORICAL MONUMENT
*	STATE OWNED PARK UNITS STAFFED, SERVICED, AND OPERATED BY OTHER AGENCIES.
W.C.	WAYSIDE CAMPGROUNDS

STATUTE MILES

January 1971

With respect to local assistance, the Department provides substantial financial assistance in the form of State and Federal grants for local facilities. In addition, the Department provides planning and ongoing technical information services to local governmental agencies.

In addition to these activities, the Department engages in additional programs with local agencies in an effort to encourage a coordinated approach to recreation in the coastal area. For example, the Department has met with all local agencies in Santa Barbara, Ventura, Los Angeles, Orange, and San Diego Counties. These meetings have resulted in a current joint effort to establish a uniform level of service, regardless of which agency owns the beach. Joint financing arrangments are also being considered in order to maximize the resources available to State and local government.

The Department will play an active role in the administration of the State Beach, Park, Recreational and Historical Facilities Bond Act of 1974 if approved at the Statewide election in November. The Act authorizes the issuance of bonds in the amount of $250 million for a variety of State and local facilities as indicated by its title.

DEPARTMENT OF NAVIGATION AND OCEAN DEVELOPMENT

The Marine Resources Conservation and Development Act of 1967 charged the Governor with the responsibility of preparing a Comprehensive Ocean Area Plan (COAP), and this responsibility was assigned to the Department of Navigation and Ocean Development. The COAP was completed in 1972 and, as published, contains an immense amount of detailed and well-organized information about the coastal area. A framework for improved management of land use in the coastal area is also suggested.

Although the initial COAP study was completed in 1972, the Department of Navigation and Ocean Development requested funds to continue the planning program in 1973-74. However, the funds were not approved by the Legislature, and this activity is no longer a part of the program of the Department of Navigation and Ocean Development. From the standpoint of the California Coastline Initiative, this is significant because the initiative requires the State to transfer the COAP budget and staff to the Statewide commission that would be created by the initiative. There are no COAP funds and no COAP staff to transfer.

The Department of Navigation and Ocean Development is also responsible for administering several ongoing programs that have an impact on land use in the coastal area. Most important is the boating facilities program under which the Department:

(1) Makes grants to local governmental agencies for the constuction of launching facilities on all suitable bodies of water.
(2) Plans, designs and constructs boating facilities throughout the State Park System and at State Water Project reservoirs.
(3) Finances on a loan basis the local share of joint Federal-State-local navigation projects.
(4) Loans funds to local governments for the construction of marinas.
(5) Plans, designs, and constructs, with or without Federal assistance, harbors of refuge if need and feasibility can be shown.
(6) Pursues a capital outlay program for the purpose of acquiring land and water areas for use by the boating public.
(7) Conducts a planning program to establish the present and prospective need for boating facilities in the State.

All boating facility projects are subject to the State Environmental Qual-

ity Act of 1970, which requires the preparation of an Environmental Impact Report prior to final approval of the project. It is interesting to note that the Department found in several cases that "environmental costs have been of such a magnitude that project feasibility could not be established."

In addition, the Department also participates with Federal and local agencies in a beach erosion control program. This program can involve the conduct of studies, the initiation of projects, the construction of beach erosion control facilities, and assistance with the necessary financing.

DEPARTMENT OF PUBLIC WORKS

The Department of Public Works, particularly its Division of Highways, is a major land owner and land user in the coastal area. Among other things, the Department is responsible for planning, design, right-of-way acquisition, construction, maintenance, and operation of the State highway system.

Planning for State highways is done within a framework that, by statute and administrative policy,involves local agencies. Importantly, from the standpoint of comprehensive planning, the Department also coordinates its planning activities with regional councils of government.

The specific planning process involves the conduct of general transportation need studies (transportation corridor studies in urban areas, freeway studies in rural areas) and specific route planning and design studies. These studies are conducted under the terms of a cooperative agreement between the State Business and Transportation Agency and councils of government and/or individual local agencies. Policy direction is provided by a Planning Policy Committee comprised of elected local officials and a representative of the State. State law and departmental policy requires the preparation of an en-

vironmental impact report in conjunction with each study. Cooperative and comprehensive transportation need studies are presently underway in the following coastal areas: San Diego Metropolitan area, Los Angeles regional area, Santa Barbara urbanized area, Salinas Monterey area, and the San Francisco Bay Area nine-county region.

The Department has additional activities aimed at evaluating the environmental impact of highway construction. For example, a Community Environmental Factors Unit has been established within the Division of Highways. This Unit is responsible for initiating programs that will promote, within the Department and otherwise, the comprehensive consideration of community and environmental factors and highway planning.

The Department has a major program of highway and freeway landscaping which includes the construction and maintenance of rest areas, comfort stations, the screening of junk yards, and access to scenic vistas. In 1972-73, the Department estimates that it will plant 1,065 acres or 33 miles of roadside, including 3,450 trees. The Department has also adopted standard procedures when constructing highways with respect to working in flowing streams, causing siltation of rivers and streams, and protecting fish and wildlife resources. It also coordinates its activities with the State Water Resources Control Board to ensure that construction will not have any adverse impact on water quality.

The construction of streets and highways has an important effect on accessibility to the coastal area. As a result, the Department has adopted a "Coastal Zone Policy of the State in Transportation". As expressed by the Department in its recent report for the Comprehensive Ocean Area Plan, "it is the intent of the policy that the State undertake only minimal freeway

construction along what has been designated in the policy as a coastal zone."

The policy is, as follows:

THE COASTAL ZONE POLICY OF THE STATE IN TRANSPORTATION

One of the most recent and significant advances in considering transportation as an integral part of the social and physical environment became manifest in the articulation of the "Coastal Zone Policy" by the Department of Public Works, in respect to transportation. The policy is as follows:

A. PHILOSOPHY

The California coastal zone is a unique and irreplaceable natural resource with a limited capacity for use and development. The permanent protection of the natural and scenic resources of the California coastal zone is of paramount concern to present and future residents of the State and Nation.

B. ZONE DEFINITION

The coastal zone is defined, for transportation planning purposes, as an area of variable width abutting the Pacific Ocean and extending inland to the highest elevation of the nearest coastal mountain range. Where coastal plains lie adjacent to the ocean, the zone generally will be considered as one-half mile in width.

C. POLICY

It is the Policy of the Department of Public Works to help provide the coastal zone with optimal transportation service consistent with local and regional total planning and with the objective of conserving the coastal resource. Various models of transportation, means of access and levels of service will be considered in balance with coastal capacities to preserve and enhance the coastal resource.

D. PLANNING CONCEPTS

1. Significant portions of the coastal zone may not be suitable as the location of a major north-south transportation corridor. Consideration will be given to linking coastal destination points by lower standard highway facilities, by alternative routings, or recommending other modes of transportation, if appropriate.

   Understanding that both business and recreational drivers have a legitimate interest in access to the coastal zone, creative approaches to serving these interests will be encouraged within the framework of this policy.

2. Traffic which is not specifically oriented toward use of the coastal zone will be encouraged to use other nearby traffic corridors.

3. Coastal highways will generally function as arterials, providing variable

levels of service with mixed operating conditions, and furnishing appropriate land access.

4. Transportation facilities within the zone will be planned in cooperation with local and regional agencies to:

   a. Encourage and support human uses which are dependent on the coastal zone's natural resources.

   b. Enhance and conserve environmental qualities or amenities while minimizing disruption to stable ecological systems and harmonizing, as nearly as possible, with natural land forms.

   c. Maintain the widest number of options possible for future generations.

   d. Assist in preserving unique scientific, educational, and recreational opportunities.

   e. Emphasize safe business and recreational driver enjoyment of the coastal resource rather than speed of vehicular movement.

5. When the State and local agencies agree that, for compelling reasons, freeways or broad arerials are necessary in the coastal zone, special planning and design criteria within the context of this policy will be utilized."

The Department's policy of coordinating planning is also practiced by the Business and Transportation Agency of which it is a part. The Agency has expressed a concern for broad transportation planning and, through the creation of a State Transportation Board and the Office of Transportation Planning and Research, it is preparing a Statewide transportation plan covering all modes of transportation which will integrate and give additional meaning to the transportation plans of local agencies, councils of government, and others.

DEPARTMENT OF WATER RESOURCES

Another unit of State government that has a direct land use interest in the coastal area because of the ownership of real property therein is the Department of Water Resources.

The activities of the Department have an impact on the State in general,

and the coastal area in particular, in several ways. The Department has as its principal responsibility the preparation and implementation of a Statewide plan for the economic and environmentally sound development and management of State water resources. This program responsibility, although Statewide in nature, is closely coordinated and related to the planning and development efforts of individual cities, counties, and councils of government.

With respect to the development of a coordinated Statewide plan, the Department continually projects water demands by quantity and type of use. In this regard, studies of land use and population distribution are conducted, and the resulting data and information is used to assess the economic and environmental impact of alternative water management plans. This planning process also includes, among other things, a continuing assessment of salt water intrustion into coastal ground water basins and the construction of appropriate sea water barriers to protect and insure water quality. The possibility of protecting levee vegetation to meet the needs of aesthetics, wildlife, and recreation is also considered.

From the standpoint of implementation, the Department is involved in major construction activities related to the completion of the California Water Project. Although the objective of the project is to produce needed water supply throughout the Central and Southern portions of the State, it will also result in 57,000 acres of reservoir water surface and 520 miles of reservoir shoreline with access for fishing, boating, and other recreational activities. The Department also provides substantial financial assistance in the form of loans and grants to local agencies for implementation of feasibility studies, reservoir site acquisitions, construction costs of local projects, and recreation, fish and wildlife enhancement.

Additional activities of the Department of Water Resources are of particular interest to the coastal area. For example, in order to meet future water needs, the Department is engaged in continuing studies of the feasibility and process of desalting sea water. This activity includes plans for a coastal prototype of a large capacity desalter in order to obtain design data and cost information useful in the evaluation of large capacity desalting and in transportation of desalted water. The Department is also responsible for the construction, operation, and maintenance of a wide variety of flood control projects throughout the State. In addition, they provide financial assistance to local agencies to enable them to participate in Federal flood control projects and, as administrators of the Cobey-Alquist Act of 1969, they provide technical assistance to local agencies in the area of flood plain zoning.

DEPARTMENT OF FISH AND GAME

The Department of Fish and Game is involved in a broad variety of activities including licensing; general enforcement of rules and regulations as included in the Fish and Game Code; preservation and management of all forms of wildlife; propagation and preservation of various species of fish; and development of marine resources.

One of the more significant Departmental activities is the ownership and management of 115,000 acres of wildlife enhancement areas. Programs related to these areas include growing water fowl food plants; controlling noxious vegetables; constructing necessary levees, canals, and ponds; and other activities designed to make these areas attractive to water fowl and other wildlife.

The Department is engaged in a broad program of managing marine resources. Coastal sport fishermen annually fish the equivalent of 6.2 million days, and

they catch approximately 29 million pounds of fish. In addition, California commercial fisheries take 500 million pounds of fish annually. In order to perpetuate this coastal resource, the Department engages in a broad program of research concerning big game fish, coastal fish, bottom fish, pelagic fish, and shell fish. Typical of the broad research for each of these elements is that proposed for 1972-73 for coastal fish: (1) documentation of sport fishing intensity and catch; (2) studies of the ecology of the flora and fauna of the inshore areas; (3) monitoring and conducting special studies of marine mammals; (4) special contract surveys which include a biological study offshore the Diablo Canyon and the Mendocino Coast to assess, in part, any potential impact of proposed nuclear power plants; and (5) kelp management.

A significant amount of Departmental time is devoted to providing environmental services to other State and local agencies. For example, plans for Federal land and water projects, State and local land water projects, Federal Power Commission projects, and State water rights and dam permits are required by law to be submitted to the Department for review. Plans for construction of State and Federal highway projects are reviewed by the Department through a memorandum of understanding with the State Division of Highways and administrative procedures of the U.S. Bureau of Public Roads.

Environmental impact statements submitted pursuant to State and Federal environmental quality acts are also reviewed regarding their treatment of the fish and wildlife involved. The Department will review and make recommendations on approximately 700 water project proposals including 20-25 major projects, about 150 highway development plans, and approximately 120 environmental statements for a variety of projects in 1972-73. In addition, the Department cooperates with the State and regional water quality control

boards by assisting in the evaluation of the effect of waste discharge on fish and wildlife, reporting offenders, and by providing technical assistance in the establishment of specific waste discharge requirements.

In addition to those State Departments listed above that exercise direct land use control over State-owned property, there are many other State Departments that have a planning and/or regulatory interest in the coastal area. The activities of some are described briefly below:

WATER RESOURCES CONTROL BOARD

The State Water Resources Control Board establishes State policy for water quality control. The nine regional water quality control boards, using State policy as a framework, establish waste discharge requirements and undertake monitoring and surveillance programs to assure compliance by public and private agencies. Federal agencies must also receive a certificate from the State indicating that any proposed development project will not impede water quality. Noncompliance with waste discharge requirements can result in a cease and desist order and penalties of up to $5,000 per day. During 1972-73, the Board estimates it will make 9,100 surveillance inspections, and that it will take 300 specific cease and desist enforcement actions.

With respect to the coastal area, the Board, on July 6, 1972, adopted a restrictive set of ocean discharge requirements which are now subject to enforcement by the regional boards. The Board is also drafting similar requirements for waste discharges into estaurine waters.

In addition to the impact of its basic discharge requirements, the Board has a continuing relationship with local government through the administration of a grant program designed to assist local agencies, on an individual

or joint basis, to upgrade existing facilities and to construct new facilities that will be able to meet present and future water quality standards. Both State and Federal funds are involved in this program. From the standpoint of comprehensive planning, the Board requires that any individual application for sewage treatment project funds be consistent with appropriate regional waste water disposal plans. In this regard, the Board maintains continuing liaison with councils of government, and has special studies underway with the Association of Bay Area Governments and the Association of Monterey Bay Area Governments.

PUBLIC UTILITIES COMMISSION

In cooperation with Atomic Energy Commission and local agencies, the State Public Utilities Commission is principally responsible for reviewing applications for new electric generating and transmission facilities and for issuing required certificates of public convenience and necessity. In this regard, The Public Utilities Commission has adopted General Order 131 which provides, as follows:

> "It is hereby ordered that no electrical public utility, now subject, or which hereafter may become subject, to the jurisdiction of this Commission, shall begin construction within this State of an electric generating plant having in aggregate a capacity in excess of 50mw or of overhead line facilities which are designed for immediate or eventual operation at any voltage in excess of 200kv (except for the replacement of existing with equivalent facilities, or the placing of new or additional conductors, insulators or their accessories on or replacement of supporting structures already build) without this Commission's having first found, after consideration of the impact of such facilities upon the air, water, land, and other aesthetic, environmental and ecological requirements of the public and of its energy needs, that said facilities are necessary to promote the safety, health, comfort and convenience of the public, and that they are required by the public convenience and necessity."

The procedures included in G.O. 131 provide for a detailed review of proposed construction plans with affected local agencies, and they require

substantial advance notice and the provision of detailed planning and design information prior to the date when action on any application for a certificate of convenience and necessity would be taken by the Commission. The Order also requires that any application for a new generating facility shall be given to the Secretary of the Resources Agency, representing th e Departments of Conservation, Water Resources, Parks, and Recreation, Fish and Game, and Navigation and Ocean Development, and to the Department of Public Health, to the Water Resources Control Board, to the California Regional Water Quality Control Board, to the Air Resources Board, to the Air Pollution Control District, if any, in whose jurisdiction the proposed facility will be located, to the Department of Public Works, Division of Aeronautics, and to the State Lands Commission.

The responsibility of the Commission under G.O. 131 and otherwise for power plant siting is supplemented by the efforts of the Resources Agency which was designated in 1969 as the State entity responsible for coordinating the activities of all State agencies relative to thermal power plant siting. As required by statute, the agency has undertaken to develop a plan indicating the optimum location for all electric power generating plants expected to be constructed within the State over the next twenty years, and it has created a special Power Plant Siting Committee. The Committee is chaired by the Secretary of the Resources Agency, and membership, includes representation from the following agencies:

Department of Conservation

Department of Fish and Game

Department of Navigation and Ocean Development

Department of Parks and Recreation

Department of Water Resources

State Water Resources Control Board

Department of Public Health

State Air Resources Board

State Lands Commission

The Committee reviews proposed plant sites prior to submittal of the application by a utility to the Public Utilities Commission. In making its recommendations, the Committee considers the following:

1. The effect of the plant and its operation on:

   existing and proposed plans for developments at or near the proposed site,

   existing or proposed State or local air and water quality controls,

   fish and wildlife,

   State and local resources considering the plant's generation, fuel, cooling water requirements and type of cooling,

   total environment of the area;

2. Factors which may contribute to the conservation of energy;
3. The preservation of important recreational and scenic areas;
4. Development of an environmental evaluation program or water quality requirements;
5. The impact of the proposed plant upon air quality in the vicinity of the site;
6. An appraisal of the geologic and seismic conditions;
7. The location and construction of cooling water systems.

In addition to other activities, the Commission is responsible for coordinating a State-wide program of underground utilities and, in this regard, has adopted an order in PUC Case 8209 requiring all privately owned electric utilities to make annual contributions for the conversion of overhead distribution

facilities to underground. This program results in approximately $15 million being made available annually for the conversion of such distribution facilities.

DEPARTMENT OF CONSERVATION

The Department of Conservation is concerned with the protection and conservation of forests, watersheds, grasslands, rangelands, mineral deposits, and soil resources. It plans and operates a State-wide program, much of which impacts on the coastal area. It provides fire protection to 38 million acres of State and private land, and has responsibility under contract with twenty-one counties for local fire protection on approximately 5 million additional acres. The Department conducts a continuing geologic survey aimed at permitting more intelligent land use, providing protection from existing and potential geologic hazards, and discovering and providing for the orderly development of mineral resources. In this regard, it plans for the development of coastal and marine resources, and coordinates its efforts with other agencies such as the State Water Resources Control Board where related problems such as siltation, sedimentation, and waste disposal from mining operations could have an effect on water quality in the coastal area or elsewhere. The Department also administers laws concerning the conservation and economic development of petroleum, gas and geothermal resources, and its activities in this area include the supervision of drilling, operation maintenance, and abandonment of wells on on-shore and off-shore lands, the supervision of projects aimed at stimulating oil production, and the supervision of operations for the abatement of subsidence of lands overlying whole oil field operations. The department also provides assistance to local agencies in identifying soil resource problems and developing appropriate solutions.

DEPARTMENT OF PUBLIC HEALTH

The Department of Public Health has no statutory authority over land use, but it has a concern in this area because of the potential effect of different types of land use on health. In general, the Department conducts research into the effects of growth and population distribution on health and the environment. More specifically, however, departmental activities which relate to land use include the development and enforcement of health standards concerning air quality, beach sanitation, reclamation of waste water, domestic water, and sanitation of water recreational areas and public swimming pools. The Department also reviews and comments on the adequacy of proposed sewage treatment plants, and conducts studies in the area of solid waste. In addition, the Department samples shellfish in commerical and recreational areas to assure they are safe for consumption, and quarantines such areas when necessary.

OTHER

In addition to the activities of its various departments, the Resources Agency has a general concern with land use through its membership on the Bay Conservation and Development Commission and the Tahoe Regional Planning Agency; its sponsorship of an environmental protection program financed by the sale of personalized license plates that includes the purchase of coastal ecological reserves and in the conduct of special studies pertaining to such areas as waterway management planning, basin air quality, agricultural burning, and the environmental impact of proposed airports; its efforts through the State Reclamation Board to protect land in the Central Valley from frequent and severe flooding; and the Agency's responsibility for the Advisory Commission on Marine and Coastal Resources which was established to provide on-going guidance to the comprehensive Ocean Area Planning effort.

From a planning standpoint, the Coordinating Council on Higher Education is concerned that adequate coastal land and water areas, including instructional reserves, be available for all aspects of marine study.

The Department of Agriculture has no management responsibility with respect to the operation of agricultural lands. However, the Department does work with State and local agencies, as well as land owners, in administering agricultural preserves under the Williamson Land Conservation Act of 1965. This Act permits owners of undeveloped land to enter into an agreement with the city or county wherein the land is located. The land owner agrees to devote his land to open space or agricultural uses for a certain period of time (usually 10 years) and he receives a reduction in assessed value in return. Many acres of undeveloped shoreline property are presently under such agricultural preserve contracts.

The Wildlife Conservation Board, located in the Resources Agency, also has an interest in the coast because of its ongoing program designed to maximize access to State natural resources for hunting and fishing purposes. Consistent with principles of conservation, the Board annually conducts studies and appropriates funds for the acquisition and improvement of facilities such as boat ramp, farming areas, water supply, and sanitary facilities. Completed facilities are generally managed by the Department of Fish and Game, although they are also managed by local agencies in some cases.