

AMENDED IN SENATE FEBRUARY 14, 2017

SENATE BILL

No. 80

Introduced by Senator Wieckowski

January 11, 2017

An act to amend Sections 21092.2, 21092.3, 21108, ~~21152, and 21167~~ and 21152 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 80, as amended, Wieckowski. California Environmental Quality Act: notices.

(1) The California Environmental Quality Act requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. The act requires the lead agency to mail certain notices to persons who have filed a written request for notices. The act provides that if the agency's offer to provide the notices by email, upon filing a written request for notices, a person may request that the notices be provided to him or her by email.

This bill would require the lead agency to post those notices on the agency's Internet Web site. The bill would require the agency to offer to provide those notices by email. Because this bill would increase the

level of service provided by a local agency, this bill would impose a state-mandated local program.

(2) ~~The act CEQA~~ requires *that* certain notices regarding an environmental impact report be posted for a period of 30 days in the office of the county clerk of each county in which the project will be located. ~~The act CEQA~~ specifies that notices regarding a negative declaration be posted for a period of 20 days unless otherwise specified.

This bill would require the county clerk to post the notices regarding an environmental impact report or a negative declaration on the county’s Internet Web site. Because the bill would require a county clerk to post those notices on the county’s Internet Web site, this bill would imposed a state-mandated local program.

(3) *CEQA exempts certain projects from its requirements. The act also requires the Office of Planning and Research to develop guidelines for the implementation of CEQA to exempt classes of projects that have been determined not to have a significant effect on the environment.* If a lead agency determines that the project is not subject to the requirements of ~~the act CEQA~~ and the agency approves or determines to carry out the project, ~~the act CEQA~~ authorizes the lead agency or certain persons to file a notice of *the* determination, as specified.

This bill would ~~instead~~ require the filing of ~~the notice~~: *notice if the lead agency determines that a project falls within a class of projects that is exempted from the requirements of CEQA by the guidelines.* Because the bill would increase the duties of a local agency, this bill would impose a state-mandated local program. ~~The bill would make conforming changes.~~

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

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

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

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

- 1 SECTION 1. Section 21092.2 of the Public Resources Code
- 2 is amended to read:
- 3 21092.2. (a) The notices required pursuant to Sections 21080.4,
- 4 21083.9, 21092, 21108, 21152, and 21161 shall be mailed to every

1 person who has filed a written request for notices with either the
2 clerk of the governing body or, if there is no governing body, the
3 director of the agency. The agency shall offer to provide the notices
4 by email to a person requesting the notices. The request may also
5 be filed with any other person designated by the governing body
6 or director to receive these requests. The agency may require
7 requests for notices to be annually renewed. The public agency
8 may charge a fee, except to other public agencies, that is reasonably
9 related to the costs of providing this service.

10 (b) Subdivision (a) shall not be construed in any manner that
11 results in the invalidation of an action because of the failure of a
12 person to receive a requested notice, if there has been substantial
13 compliance with the requirements of this section.

14 (c) The notices required pursuant to Sections 21080.4 and 21161
15 shall be provided by the State Clearinghouse to any legislator in
16 whose district the project has an environmental impact, if the
17 legislator requests the notice and the State Clearinghouse has
18 received it.

19 (d) An agency shall post the notices specified in subdivision (a)
20 on its Internet Web site, if any.

21 SEC. 2. Section 21092.3 of the Public Resources Code is
22 amended to read:

23 21092.3. The notices required pursuant to Sections 21080.4
24 and 21092 for an environmental impact report shall be posted in
25 the office of the county clerk of each county in which the project
26 will be located and shall remain posted for a period of 30 days.
27 The notice required pursuant to Section 21092 for a negative
28 declaration shall be so posted for a period of 20 days, unless
29 otherwise required by law to be posted for 30 days. The notices
30 shall also be posted on the county's Internet Web site, if any, for
31 a period of 30 days. The county clerk shall post the notices within
32 24 hours of receipt.

33 SEC. 3. Section 21108 of the Public Resources Code is
34 amended to read:

35 21108. (a) If a state agency approves or determines to carry
36 out a project that is subject to this division, the state agency shall
37 file notice of that approval or that determination with the Office
38 of Planning and Research. The notice shall identify the person or
39 persons in subdivision (b) or (c) of Section 21065, as reflected in
40 the agency's record of proceedings, and indicate the determination

1 of the state agency whether the project will, or will not, have a
2 significant effect on the environment and shall indicate whether
3 an environmental impact report has been prepared pursuant to this
4 division.

5 (b) (1) If a state agency determines that a project is not subject
6 to this division pursuant to subdivision (b) of Section 21080 or
7 Section 21172, and the state agency approves or determines to
8 carry out the project, the state agency or the person specified in
9 subdivision (b) or (c) of Section 21065 ~~shall~~ *may* file a notice of
10 the determination with the Office of Planning and Research. ~~A~~

11 (2) *If a state agency determines that a project is not subject to*
12 *this division pursuant to the guidelines developed pursuant to*
13 *Section 21084, and the state agency approves or determines to*
14 *carry out the project, the state agency or the person specified in*
15 *subdivision (b) or (c) of Section 21065 shall file a notice of the*
16 *determination with the Office of Planning and Research.*

17 (3) A notice filed pursuant to this subdivision shall identify the
18 person or persons in subdivision (b) or (c) of Section 21065, as
19 reflected in the agency's record of proceedings. A notice filed
20 pursuant to this subdivision by a person specified in subdivision
21 (b) or (c) of Section 21065 shall have a certificate of determination
22 attached to it issued by the state agency responsible for making
23 the determination that the project is not subject to this division
24 pursuant to subdivision (b) of Section 21080 or pursuant to Section
25 21172. The certificate of determination may be in the form of a
26 certified copy of an existing document or record of the state agency.

27 (c) A notice filed pursuant to this section shall be available for
28 public inspection, and a list of these notices shall be posted on a
29 weekly basis in the Office of Planning and Research. Each list
30 shall remain posted for a period of 30 days. The Office of Planning
31 and Research shall retain each notice for not less than 12 months.

32 SEC. 4. Section 21152 of the Public Resources Code is
33 amended to read:

34 21152. (a) If a local agency approves or determines to carry
35 out a project that is subject to this division, the local agency shall
36 file notice of the approval or the determination within five working
37 days after the approval or determination becomes final, with the
38 county clerk of each county in which the project will be located.
39 The notice shall identify the person or persons in subdivision (b)
40 or (c) of Section 21065, as reflected in the agency's record of

1 proceedings, and indicate the determination of the local agency
2 whether the project will, or will not, have a significant effect on
3 the environment and shall indicate whether an environmental
4 impact report has been prepared pursuant to this division. The
5 notice shall also include certification that the final environmental
6 impact report, if one was prepared, together with comments and
7 responses, is available to the general public.

8 (b) (1) If a local agency determines that a project is not subject
9 to this division pursuant to subdivision (b) of Section 21080 or
10 pursuant to Section 21172, and the local agency approves or
11 determines to carry out the project, the local agency or the person
12 specified in subdivision (b) or (c) of Section 21065 ~~shall~~ may file
13 a notice of the determination with the county clerk of each county
14 in which the project will be located. ~~A~~

15 (2) *If a local agency determines that a project is not subject to*
16 *this division pursuant to the guidelines developed pursuant to*
17 *Section 21084, and the local agency approves or determines to*
18 *carry out the project, the local agency or the person specified in*
19 *subdivision (b) or (c) of Section 21065 shall file a notice of the*
20 *determination with the county clerk of each county in which the*
21 *project will be located.*

22 (3) A notice filed pursuant to this subdivision shall identify the
23 person or persons in subdivision (b) or (c) of Section 21065, as
24 reflected in the agency's record of proceedings. A notice filed
25 pursuant to this subdivision by a person specified in subdivision
26 (b) or (c) of Section 21065 shall have a certificate of determination
27 attached to it issued by the local agency responsible for making
28 the determination that the project is not subject to this division
29 pursuant to subdivision (b) of Section 21080 or Section 21172.
30 The certificate of determination may be in the form of a certified
31 copy of an existing document or record of the local agency.

32 (c) A notice filed pursuant to this section shall be available for
33 public inspection, and shall be posted within 24 hours of receipt
34 in the office of the county clerk. A notice shall remain posted for
35 a period of 30 days. Thereafter, the clerk shall return the notice to
36 the local agency with a notation of the period it was posted. The
37 local agency shall retain the notice for not less than 12 months.

38 ~~SEC. 5. Section 21167 of the Public Resources Code is~~
39 ~~amended to read:~~

1 ~~21167. An action or proceeding to attack, review, set aside,~~
2 ~~void, or annul the following acts or decisions of a public agency~~
3 ~~on the grounds of noncompliance with this division shall be~~
4 ~~commenced as follows:~~

5 ~~(a) An action or proceeding alleging that a public agency is~~
6 ~~carrying out or has approved a project that may have a significant~~
7 ~~effect on the environment without having determined whether the~~
8 ~~project may have a significant effect on the environment shall be~~
9 ~~commenced within 180 days from the date of the public agency's~~
10 ~~decision to carry out or approve the project, or, if a project is~~
11 ~~undertaken without a formal decision by the public agency, within~~
12 ~~180 days from the date of commencement of the project.~~

13 ~~(b) An action or proceeding alleging that a public agency has~~
14 ~~improperly determined whether a project may have a significant~~
15 ~~effect on the environment shall be commenced within 30 days~~
16 ~~from the date of the filing of the notice required by subdivision~~
17 ~~(a) of Section 21108 or subdivision (a) of Section 21152.~~

18 ~~(c) An action or proceeding alleging that an environmental~~
19 ~~impact report does not comply with this division shall be~~
20 ~~commenced within 30 days from the date of the filing of the notice~~
21 ~~required by subdivision (a) of Section 21108 or subdivision (a) of~~
22 ~~Section 21152 by the lead agency.~~

23 ~~(d) An action or proceeding alleging that a public agency has~~
24 ~~improperly determined that a project is not subject to this division~~
25 ~~pursuant to subdivision (b) of Section 21080 or Section 21172~~
26 ~~shall be commenced within 35 days from the date of the filing by~~
27 ~~the public agency, or person specified in subdivision (b) or (c) of~~
28 ~~Section 21065, of the notice authorized by subdivision (b) of~~
29 ~~Section 21108 or subdivision (b) of Section 21152.~~

30 ~~(e) An action or proceeding alleging that another act or omission~~
31 ~~of a public agency does not comply with this division shall be~~
32 ~~commenced within 30 days from the date of the filing of the notice~~
33 ~~required by subdivision (a) of Section 21108 or subdivision (a) of~~
34 ~~Section 21152.~~

35 ~~(f) If a person has made a written request to the public agency~~
36 ~~for a copy of the notice specified in Section 21108 or 21152 prior~~
37 ~~to the date on which the agency approves or determines to carry~~
38 ~~out the project, then not later than five days from the date of the~~
39 ~~agency's action, the public agency shall deposit a written copy of~~
40 ~~the notice addressed to that person in the United States mail, first~~

1 ~~class postage prepaid. The date upon which this notice is mailed~~
2 ~~shall not affect the time periods specified in subdivisions (b), (c),~~
3 ~~(d), and (e).~~

4 ~~SEC. 6.~~

5 *SEC. 5.* No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 a local agency or school district has the authority to levy service
8 charges, fees, or assessments sufficient to pay for the program or
9 level of service mandated by this act, within the meaning of Section
10 17556 of the Government Code.