

AMENDED IN SENATE AUGUST 8, 2002

AMENDED IN SENATE JUNE 27, 2002

AMENDED IN SENATE JUNE 11, 2002

AMENDED IN ASSEMBLY JANUARY 8, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1108

Introduced by Assembly Member Pavley
(Coauthor: Senator Kuehl)

February 23, 2001

An act to amend Section 21083.9 of, and to add ~~Section 21098~~ *Sections 21098 and 21098.1* to, the Public Resources Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1108, as amended, Pavley. Environmental quality: scoping meetings: military areas.

(1) The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on any 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 the project will not have that effect. CEQA also requires a lead agency to call at least one scoping meeting for a proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation, and for a project of statewide, regional, or areawide significance. The existing federal National Environmental

Policy Act and existing federal regulations authorize a lead agency to hold a scoping meeting, and permit that meeting to be integrated with any other early planning meeting the agency holds on a project that is subject to the federal act.

This bill would provide that any scoping meeting that is conducted *in the city or county in which a project is located* pursuant to the NEPA is deemed to satisfy the state scoping meeting requirement with regard to projects of statewide, regional, or areawide significance, if the lead agency provided notice to interested parties in conformance with the existing state requirements. The bill would also impose additional requirements on a lead agency, if the United States Department of Defense or a military service, as defined, notifies that lead agency of the *contact person and address for the military service and the specific boundaries of a low-level flight path, military impact zone, or special use airspace, as those terms are defined by the bill*. The bill would require the lead agency ~~notified of those boundaries, if that lead agency determines that the preparation of an EIR is required for a project that involves or affects a low-level flight path, military impact zone, or special use airspace, to notify the military service of the involvement or effect, provide the military service an opportunity to comment, and to review and respond to any comments submitted by the military service. The bill would prohibit the notified lead agency adopting a negative declaration or a mitigated negative declaration for any project within a military impact zone unless that lead agency considers whether the project will result in adverse impacts on military readiness activities, as defined, within a military impact zone, special use airspace, or low-level flight path within its jurisdiction prior to adopting the negative declaration or mitigated negative declaration to submit notices to the military service if the project is within those boundaries and the project includes a general plan amendment, the project is of statewide, regional, or areawide significance, or the project is required to be referred to the airport land use commission or appropriately designated body.~~ The bill would also prohibit a notified lead agency from relying upon, or utilizing the existence of, habitat or conservation programs on adjacent military installations to mitigate that impact, unless the project is subject to a natural community conservation plan. By imposing additional duties on local lead agencies, this bill would impose a state-mandated local program.

(2) 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 21083.9 of the Public Resources Code
2 is amended to read:
3 21083.9. (a) Notwithstanding Section 21080.4, 21104, or
4 21153, a lead agency shall call at least one scoping meeting for
5 either of the following:
6 (1) A proposed project that may affect highways or other
7 facilities under the jurisdiction of the Department of
8 Transportation if the meeting is requested by the department. The
9 lead agency shall call the scoping meeting as soon as possible, but
10 not later than 30 days after receiving the request from the
11 Department of Transportation.
12 (2) A project of statewide, regional, or areawide significance.
13 (b) The lead agency shall provide notice of at least one scoping
14 meeting held pursuant to paragraph (2) of subdivision (a) to all of
15 the following:
16 (1) Any county or city that borders on a county or city within
17 which the project is located, unless otherwise designated annually
18 by agreement between the lead agency and the county or city.
19 (2) Any responsible agency.
20 (3) Any public agency that has jurisdiction by law with respect
21 to the project.
22 (4) Any organization or individual who has filed a written
23 request for the notice.
24 (c) For any entity, organization, or individual that is required
25 to be provided notice of a lead agency public meeting, the
26 requirement for notice of a scoping meeting pursuant to
27 subdivision (b) may be met by including the notice of a scoping
28 meeting in the public meeting notice.
29 (d) A scoping meeting that is held *in the city or county within*
30 *which the project is located* pursuant to the National
31 Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.) and the



1 regulations adopted pursuant to that act shall be deemed to satisfy
2 the requirement that a scoping meeting be held for a project subject
3 to paragraph (2) of subdivision (a) if the lead agency meets the
4 notice requirements of subdivision (b) or subdivision (c).

5 SEC. 2. Section 21098 is added to the Public Resources Code,
6 to read:

7 21098. (a) For the purposes of this section, the following
8 terms have the following meanings:

9 (1) “Low-level flight path” includes any flight path for any
10 aircraft owned, maintained, or that is under the jurisdiction of the
11 United States Department of Defense that flies lower than 1,500
12 feet above ground level, as indicated in the United States
13 Department of Defense Flight Information Publication “Area
14 Planning Military Training Routes: North and South America
15 (AP/1B)” published by the United States National Imagery and
16 Mapping Agency.

17 (2) “Military impact zone” includes any area, including
18 airspace, that meets both of the following criteria:

19 (A) Is within two miles of a military installation, including, but
20 not limited to, any base, *military airport*, camp, post, station, yard,
21 center, homeport facility for a ship, or any other military activity
22 center that is under the jurisdiction of the United States
23 Department of Defense.

24 (B) Covers greater than 500 acres of unincorporated land, or
25 greater than 100 acres of city incorporated land.

26 ~~(3) “Military readiness activities” include, but are not limited~~
27 ~~to, the training, support, and operations of military service~~
28 ~~members for combat, operation, maintenance, and security of any~~
29 ~~military installation, and the testing of military equipment~~
30 ~~including, but not limited to, vehicles, weapons, and sensors to~~
31 ~~determine proper operation or suitability for combat use.~~

32 ~~(4)–~~

33 (3) “Military service” means any branch of the United States
34 Armed Forces.

35 ~~(5)–~~

36 (4) “Special use airspace” means the land area underlying the
37 airspace that is designated for training, research, development, or
38 evaluation for a military service, as that land area is established by
39 the Department of Defense Flight Information Publication “Area
40 Planning: Special Use Airspace: North and South American



1 (AP/1A)” published by the United States National Imagery and
2 Mapping Agency.

3 (b) If the United States Department of Defense or a military
4 service notifies a lead agency of the *contact person and address for*
5 *the military service and the specific boundaries* of a low-level
6 flight path, military impact zone, or special use airspace, ~~all of the~~
7 ~~following apply to that lead agency:~~

8 ~~(1) If a lead agency determines, pursuant to Section 21080.1,~~
9 ~~that the preparation of an environmental impact report is required~~
10 ~~for a project that involves or affects a low-level flight path,~~
11 ~~military impact zone, or special use airspace, the lead agency shall~~
12 ~~do both of the following:~~

13 ~~(A) Notify the military service of the involvement or effect.~~

14 ~~(B) Provide the military service an opportunity to comment.~~

15 ~~(C) Review and respond to any comments submitted by the~~
16 ~~military service.~~

17 ~~(2) A lead agency may not adopt a negative declaration or a~~
18 ~~mitigated negative declaration for any project within a military~~
19 ~~impact zone unless that lead agency considers whether the project~~
20 ~~will result in adverse impacts on military readiness activities~~
21 ~~within a military impact zone, special use airspace, or low-level~~
22 ~~flight path within its jurisdiction prior to adopting the negative~~
23 ~~declaration or mitigated negative declaration.~~

24 ~~(3) (A) the lead agency shall submit notices, as required~~
25 ~~pursuant to Sections 21080.4 and 21092, to the military service if~~
26 ~~the project is within those boundaries and any of the following~~
27 ~~apply:~~

28 ~~(1) The project includes a general plan amendment.~~

29 ~~(2) The project is of statewide, regional, or areawide~~
30 ~~significance.~~

31 ~~(3) The project is required to be referred to the airport land use~~
32 ~~commission, or appropriately designated body, pursuant to Article~~
33 ~~3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of~~
34 ~~Division 9 of the Public Utilities Code.~~

35 *SEC. 3. Section 21098.1 is added to the Public Resources*
36 *Code, to read:*

37 *21098.1. (a) If a lead agency determines that a project may*
38 *adversely impact a species listed as threatened or endangered*
39 *pursuant to the California Endangered Species Act (Chapter 1.5*
40 *(commencing with Section 2050) of Division 3 of the Fish and*



1 Game Code) or the federal Endangered Species Act (16 U.S.C.
2 Sec. 1531 et seq.), the lead agency may not rely upon, or utilize the
3 existence of, habitat or conservation programs on adjacent
4 military installations to mitigate that impact.

5 ~~(B) This paragraph (3)~~

6 (b) *This section* does not apply to any project that is subject to
7 a natural community conservation plan adopted pursuant to the
8 Natural Community Conservation Planning Act (Chapter 10
9 (commencing with Section 2800) of Division 3 of the Fish and
10 Game Code).

11 ~~SEC. 3.—~~

12 *SEC. 4.* No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 a local agency or school district has the authority to levy service
15 charges, fees, or assessments sufficient to pay for the program or
16 level of service mandated by this act, within the meaning of
17 Section 17556 of the Government Code.

