

ASSEMBLY BILL

No. 1469

Introduced by Assembly Member Leslie

February 23, 2001

An act to add Section 21080.27 to the Public Resources Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1469, as introduced, Leslie. Energy: environmental protection.

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 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.

This bill would exempt from the requirements of CEQA any activity or approval necessary for or incidental to the repair, rehabilitation, design, construction, operation, or maintenance of the facilities and water rights of Federal Energy Regulatory Commission Project 184, as defined, for hydroelectric power or consumptive uses.

This bill would appropriate \$7,982,937 from the General Fund to the Controller for allocation to the El Dorado Irrigation District for expenditure for Federal Energy Regulatory Commission Project 184 in order to accelerate power generation from that project.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. (a) The Legislature finds and declares that a
2 special law is necessary and that a general law cannot be made
3 applicable within the meaning of Section 16 of Article IV of the
4 California Constitution because of the unique circumstances faced
5 by the El Dorado Irrigation District. These unique circumstances
6 include all of the following:

7 (1) The district’s acquisition of Federal Energy Regulatory
8 Commission Project 184 (Project 184) from Pacific Gas & Electric
9 Company.

10 (2) The severe damage to the facilities of Project 184 caused by
11 the storms and floods of 1997.

12 (3) Potential water shortages faced by district customers as a
13 result of the damage to Project 184 facilities and other factors,
14 including low rainfall and drought.

15 (4) The loss of hydroelectric power generation as a result of the
16 damage to Project 184.

17 (5) The location of Project 184 in a disaster-stricken area of a
18 county for which the Governor proclaimed a state of emergency
19 as a result of the storms and floods of 1997.

20 (6) The enactment by the Legislature of Section 21080.12 of
21 the Public Resources Code, a statute that exempted repairs of
22 certain facilities damaged by the storms and floods of 1997 from
23 the California Environmental Quality Act.

24 (7) The decision in County of Amador v. El Dorado County
25 Water Agency (1999) 76 Cal.App.4th 931, overturning an
26 environmental impact report related to Project 184.

27 (8) The filing of litigation challenging the district’s attempt to
28 comply with that decision and the threat of delays occasioned by
29 continuing litigation.

30 (9) The replacement of the diversion dam in-stream component
31 of Project 184 under an expedited approval of the Federal Energy
32 Regulatory Commission.

33 (10) The inability to use Project 184 facilities to their full
34 operational capacity absent additional repairs and reconstruction.

35 (11) The existing regulation of the facilities and water rights of
36 Project 184 by the Federal Energy Regulatory Commission, the
37 State Water Resources Control Board, the Regional Water Quality
38 Control Board, and other agencies.



1 (12) The severe energy crisis California faces, which has
2 resulted in rolling blackouts throughout northern California, the
3 Governor’s declaration of a state of emergency, and a special
4 session of the Legislature.

5 (13) The completion of repairs and reconstruction will enable
6 Project 184 to generate 21 megawatts of electric power that is
7 currently unavailable to the people of the State of California.

8 (b) The Legislature finds and declares that the combination of
9 these unique circumstances has delayed repairs to Project 184 and
10 operation of the facilities of Project 184 to their full capacity. This
11 inability has resulted in an unacceptable delay in repairing the
12 damage caused by the storms of 1997, thwarted the policy of this
13 state expressed in Section 100 of the Water Code that the water
14 resources of the state be put to beneficial use to the fullest extent
15 of which they are capable, and exacerbated the unprecedented and
16 grave energy crisis felt most keenly in northern California, where
17 Project 184 is located. This situation has caused and will cause
18 serious economic hardship, and threatens the health and safety of
19 the people of the state. Therefore, the Legislature finds and
20 declares that this act is necessary to avoid serious hardship.

21 SEC. 2. Section 21080.27 is added to the Public Resources
22 Code, to read:

23 21080.27. (a) This division does not apply to any activity or
24 approval necessary for or incidental to the repair, rehabilitation,
25 design, construction, operation, or maintenance of the facilities
26 and water rights of Federal Energy Regulatory Commission
27 Project 184 for hydroelectric power or consumptive uses.

28 (b) For purposes of this section, “Federal Energy Regulatory
29 Commission Project 184” means the project owned by the El
30 Dorado Irrigation District that consists of the following: four
31 storage reservoirs on the South and Silver Forks of the American
32 River, including Aloha, Echo, Silver, and Caples Lakes; a
33 diversion dam located near Kyburz on the South Fork of the
34 American River; a canal approximately 22 miles in length on the
35 south side of the American River consisting of flumes, pipelines,
36 and tunnels; a forebay reservoir in the vicinity of Pollock Pines;
37 a penstock; and a powerhouse.

38 SEC. 3. The sum of seven million nine hundred eighty-two
39 thousand nine hundred thirty-seven dollars (\$7,982,937) is hereby
40 appropriated from the General Fund to the Controller, for



1 allocation to the El Dorado Irrigation District for expenditure for
2 Federal Energy Regulatory Commission Project 184 in order to
3 accelerate power generation from that project.

4 SEC. 4. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety
6 within the meaning of Article IV of the California Constitution and
7 shall go into immediate effect. The facts constituting the necessity
8 are those set forth in Section 1 of this act.

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