

AMENDED IN ASSEMBLY APRIL 26, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2814

Introduced by Assembly Member Simitian

February 20, 2004

An act to ~~add Sections 21080.15 and 21084.5 to amend Section 21167.6.5~~ of the Public Resources Code, relating to natural resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2814, as amended, Simitian. Natural resources: California Environmental Quality Act.

~~(1) The~~

The existing California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and to certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also generally 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. CEQA provides some exemptions from its requirements for specified projects.

~~This bill would exempt from CEQA an action taken by a state or local government, if the primary, bona fide objective of the action is to maintain, restore, enhance, protect, or conserve coastal or marine resources in a marine life reserve, marine protected area, or marine~~

~~managed area, as specified, and any potential adverse environmental effect of that action is expected to be offset by the action's intended beneficial environmental effect. Unless a project is exempt from CEQA under this provision, the bill would require a lead agency to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report, or, if appropriate, a modification, addendum, or supplement to an existing environmental impact report, for a project that may adversely affect the coastal or marine resources in one of those reserves or areas. By imposing new duties on a lead agency, the 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Existing law requires a petitioner or plaintiff who brings specified actions or proceedings under CEQA to name, as a real party in interest, any recipient of an approval under CEQA that is the subject of the action or proceeding, and to serve the petition or complaint on that real party in interest. Existing law provides that failure to name potential parties, other than those real parties in interest, or certain responsible agencies and other certain public agencies having jurisdiction over a natural resource affected by the project, is not grounds for dismissal of the action or proceeding, as specified.

This bill would, instead, require the petitioner or plaintiff to name, as a real party in interest, and serve the petition or complaint on, each person that has applied for and received an approval under CEQA that is the subject of the action or proceeding. The bill, instead, would provide that failure to name potential parties, other than those real parties in interest, is not grounds for dismissal, as specified.

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



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

1 ~~SECTION 1.—Section 21080.15 is added to the Public~~
2 *SECTION 1. Section 21167.6.5 of the Public Resources Code*
3 *is amended to read:*

4 21167.6.5. (a) The petitioner or plaintiff shall name, as a real
5 party in interest, ~~any recipient of each person that has applied for~~
6 *and received an approval that is the subject of an action or*
7 *proceeding brought pursuant to Section 21167, 21168, or 21168.5,*
8 *and shall serve the petition or complaint on that real party in*
9 *interest, by personal service, mail facsimile, or any other method*
10 *permitted by law, not later than 20 business days following service*
11 *of the petition or complaint on the public agency.*

12 (b) The public agency shall provide the petitioner or plaintiff,
13 not later than 10 business days following service of the petition or
14 complaint on the public agency, with a list of responsible agencies
15 and any public agency having jurisdiction over a natural resource
16 affected by the project.

17 (c) The petitioner or plaintiff shall provide the responsible
18 agencies, and any public agency having jurisdiction over a natural
19 resource affected by the project, with notice of the action or
20 proceeding within 15 days of receipt of the list described in
21 subdivision (b).

22 (d) Failure to name potential parties, other than those *real*
23 *parties in interest* described in subdivision (a) ~~or (b)~~, is not grounds
24 for dismissal pursuant to Section 389 of the Code of Civil
25 Procedure.

26 (e) Nothing in this section is intended to affect an existing right
27 of a party to intervene in the action.

28 ~~Resources Code, to read:~~

29 ~~21080.15.—This division does not apply to an action taken by~~
30 ~~a state or local agency, if the primary, bona fide objective of the~~
31 ~~action is to maintain, restore, enhance, protect, or conserve coastal~~
32 ~~or marine resources in a marine life reserve designated pursuant to~~
33 ~~Chapter 10.5 (commencing with Section 2850) of Division 3 of the~~
34 ~~Fish and Game Code, or a marine protected area or marine~~
35 ~~managed area, designated pursuant to Chapter 7 (commencing~~
36 ~~with Section 36600) of Division 27, and any potential adverse~~
37 ~~environmental effect of that action is expected to be offset by the~~
38 ~~action’s intended beneficial environmental effect.~~



1 ~~SEC. 2. Section 21084.5 is added to the Public Resources~~
2 ~~Code, to read:~~
3 ~~21084.5. Notwithstanding Section 21080.5 or 21084, a lead~~
4 ~~agency shall prepare, or cause to be prepared by contract, and~~
5 ~~certify the completion of, an environmental impact report, or, if~~
6 ~~appropriate, a modification, addendum, or supplement to an~~
7 ~~existing environmental impact report, for a project that may~~
8 ~~adversely affect the coastal or marine resources in a marine life~~
9 ~~reserve designated pursuant to Chapter 10.5 (commencing with~~
10 ~~Section 2850) of Division 3 of the Fish and Game Code, or a~~
11 ~~marine protected area or marine managed area designated~~
12 ~~pursuant to Chapter 7 (commencing with Section 36600) of~~
13 ~~Division 27, unless that project is exempt from this division~~
14 ~~pursuant to Section 21080.15.~~
15 ~~SEC. 3. Notwithstanding Section 17610 of the Government~~
16 ~~Code, if the Commission on State Mandates determines that this~~
17 ~~act contains costs mandated by the state, reimbursement to local~~
18 ~~agencies and school districts for those costs shall be made pursuant~~
19 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
20 ~~2 of the Government Code. If the statewide cost of the claim for~~
21 ~~reimbursement does not exceed one million dollars (\$1,000,000),~~
22 ~~reimbursement shall be made from the State Mandates Claims~~
23 ~~Fund.~~

