

ASSEMBLY BILL

No. 931

Introduced by Assembly Member Dickinson

February 18, 2011

An act to amend Section 21159.24 of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 931, as introduced, Dickinson. Environment: CEQA exemption: housing projects.

(1) The 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 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.

CEQA exempts infill housing projects meeting certain specified criteria, including, among other things, a community-level environmental review that was adopted or certified within 5 years of the date that the application for the project is deemed complete and that the project promotes higher density infill housing. CEQA conclusively presumes that a project with a density of at least 20 units per acre promotes higher density infill housing.

This bill would extend the above time period to 20 years. The bill would lower the density to at least 15 units per acre for the above presumption to apply.

(2) For the purposes of the above exemption, CEQA defines “residential projects” to mean, among other things, a use consisting of residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15% of the total floor area of the project

This bill would increase the total floor area of the project used for neighborhood-serving goods, services, or retail uses that does not exceed 35% of the project.

(3) Because this bill would require a lead agency to determine whether a housing project meets the above criteria to qualify for an exemption from CEQA, the bill would impose a state-mandated local program.

(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 21159.24 of the Public Resources Code
- 2 is amended to read:
- 3 21159.24. (a) Except as provided in subdivision (b), this
- 4 division does not apply to a project if all of the following criteria
- 5 are met:
- 6 (1) The project is a residential project on an infill site.
- 7 (2) The project is located within an urbanized area.
- 8 (3) The project satisfies the criteria of Section 21159.21.
- 9 (4) Within ~~five~~ 20 years of the date that the application for the
- 10 project is deemed complete pursuant to Section 65943 of the
- 11 Government Code, community-level environmental review was
- 12 certified or adopted.
- 13 (5) The site of the project is not more than four acres in total
- 14 area.
- 15 (6) The project does not contain more than 100 residential units.
- 16 (7) Either of the following criteria are met:

1 (A) (i) At least 10 percent of the housing is sold to families of
2 moderate income, or not less than 10 percent of the housing is
3 rented to families of low income, or not less than 5 percent of the
4 housing is rented to families of very low income.

5 (ii) The project developer provides sufficient legal commitments
6 to the appropriate local agency to ensure the continued availability
7 and use of the housing units for very low, low-, and
8 moderate-income households at monthly housing costs determined
9 pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of
10 the Government Code.

11 (B) The project developer has paid or will pay in-lieu fees
12 pursuant to a local ordinance in an amount sufficient to result in
13 the development of an equivalent number of units that would
14 otherwise be required pursuant to subparagraph (A).

15 (8) The project is within one-half mile of a major transit stop.

16 (9) The project does not include any single level building that
17 exceeds 100,000 square feet.

18 (10) The project promotes higher density infill housing. A
19 project with a density of at least ~~20~~ 15 units per acre shall be
20 conclusively presumed to promote higher density infill housing.
21 A project with a density of at least 10 units per acre and a density
22 greater than the average density of the residential properties within
23 1,500 feet shall be presumed to promote higher density housing
24 unless the preponderance of the evidence demonstrates otherwise.

25 (b) Notwithstanding subdivision (a), this division shall apply
26 to a development project that meets the criteria described in
27 subdivision (a), if any of the following occur:

28 (1) There is a reasonable possibility that the project will have
29 a project-specific, significant effect on the environment due to
30 unusual circumstances.

31 (2) Substantial changes with respect to the circumstances under
32 which the project is being undertaken that are related to the project
33 have occurred since community-level environmental review was
34 certified or adopted.

35 (3) New information becomes available regarding the
36 circumstances under which the project is being undertaken and
37 that is related to the project, that was not known, and could not
38 have been known, at the time that community-level environmental
39 review was certified or adopted.

1 (c) If a project satisfies the criteria described in subdivision (a),
2 but is not exempt from this division as a result of satisfying the
3 criteria described in subdivision (b), the analysis of the
4 environmental effects of the project in the environmental impact
5 report or the negative declaration shall be limited to an analysis
6 of the project-specific effect of the projects and any effects
7 identified pursuant to paragraph (2) or (3) of subdivision (b).

8 (d) For the purposes of this section, “residential” means a use
9 consisting of either of the following:

10 (1) Residential units only.

11 (2) Residential units and primarily neighborhood-serving goods,
12 services, or retail uses that do not exceed ~~15~~ 35 percent of the total
13 floor area of the project.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 a local agency or school district has the authority to levy service
17 charges, fees, or assessments sufficient to pay for the program or
18 level of service mandated by this act, within the meaning of Section
19 17556 of the Government Code.