

AMENDED IN SENATE APRIL 16, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1094

Introduced by Senator Kehoe

February 16, 2012

An act to amend Sections 65965, 65966, 65967, and 65968 of the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1094, as amended, Kehoe. Land use: mitigation lands: nonprofit organizations.

(1) The Planning and Zoning Law provides that if a state or local agency requires a person to transfer to that agency an interest in real property to mitigate the environmental impact of a project or facility, that agency may authorize specified entities to hold title to, and manage that interest in, real property, as well as any accompanying funds, provided those entities meet specified requirements. Existing law requires that if accompanying funds, as defined, are conveyed at the time the property is protected, then the holder of those accompanying funds must meet specified requirements. Existing law requires a state or local agency to exercise due diligence in reviewing the qualifications of a special district or nonprofit organization to effectively manage and steward land, water, or natural resources, as well as the accompanying funds.

This bill would use the term "endowment" instead of "accompanying funds." This bill would authorize an agency, in connection with the provisions described above, to also permit a governmental entity to hold title to, and manage that interest in, real property, as well as any

endowment. This bill would remove the requirement that a state or local agency exercise due diligence in reviewing the qualifications of a special district or nonprofit organization to effectively manage the endowment. This bill would also modify the requirements that the holder of an endowment must meet, and would provide that those requirements also apply to endowments that are secured at the time the property is protected.

(2) Existing law authorizes a state or local agency, if that agency authorizes specified entities to hold property pursuant to these provisions, to require an administrative endowment from the project proponent to cover reasonable costs to the agency.

This bill would revise that provision to authorize a state or local agency to pay a one-time fee that does not exceed the reasonable costs of the agency in reviewing qualifications of potential holders of the property, approving those holders, and any regular oversight over those holders to ensure that the holders are complying with all applicable laws.

(3) Existing law provides that if a state or local agency, in the development of its own project, is required to mitigate an adverse impact upon natural resources, that agency may take any action it deems necessary to meet its mitigation obligations, including, among others, transferring an interest in the property to specified entities.

This bill would additionally authorize a state or local agency to hold an endowment in an account administered by an elected official.

(4) Existing law generally requires that the accompanying funds described above be held by the agency that requires the mitigation or by the special district or nonprofit organization that holds the property. Existing law excepts certain situations from this requirement, including, among others, if the accompanying funds are held by another entity pursuant to a natural community conservation plan or a safe harbor agreement that is executed on or before January 1, 2012.

This bill would require that, in order to qualify for that exception, the natural community conservation plan or safe harbor agreement be at a recognized initial, interim, or final stage on or before January 1, 2012. This bill also would modify the exceptions to that requirement by adding some and removing others, including, among other changes, adding exceptions that would authorize a community foundation, as defined, or the National Fish and Wildlife Foundation to hold an endowment if specified conditions are met.

This bill would authorize a state or local agency to allow the endowments to be temporarily held in an escrow account until a specified date, after which time the bill would require the state or local agency to transfer the endowments to the entity that will permanently hold them.

This bill would require the National Fish and Wildlife Foundation, if the foundation holds any endowment funds pursuant to these provisions, to submit a report to the Legislature by a specified date that contains specified requirements.

This bill would also make technical, nonsubstantive changes to those provisions.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. It is the intent of the Legislature, and in the best
2 interest of the public, that ~~an endowment dedicated to be held,~~
3 ~~managed, invested, and disbursed in furtherance of the long-term~~
4 ~~stewardship of the property for which the funds were set aside be~~
5 ~~held, managed, invested, and disbursed by a diversified pool of~~
6 ~~qualified entities that are qualified to do business in California,~~
7 ~~based in California, and that meet the requirements of this chapter.~~
8 *there is available a diversified pool of eligible entities that are*
9 *qualified to do business in California, based in California, and*
10 *that meet the requirements of this chapter to hold, manage, invest,*
11 *and disburse endowment funds in furtherance of the long-term*
12 *stewardship of the property set aside for mitigation purposes.*

13 SEC. 2. Section 65965 of the Government Code is amended
14 to read:

15 65965. For the purposes of this chapter, the following
16 definitions apply:

17 (a) "Endowment" means the funds that are conveyed solely for
18 the long-term stewardship of a property. The initial endowment
19 forms the principle that is held and managed as a permanently
20 restricted fund to generate annual revenues for the long-term
21 management and stewardship of the property. The endowment
22 shall be held consistent with subdivision (b) of Section 65966 and

1 with the Uniform Prudent Management of Institutional Funds Act
2 (Part 7 (commencing with Section 18501) of Division 9 of the
3 Probate Code). Endowments do not include funds conveyed for
4 meeting short-term performance objectives of a project.

5 (b) “Community foundation” means any community foundation
6 that meets all of the following requirements:

7 (1) Meets the requirements of a community trust under Section
8 1.170A-9(f)(10)-(11) of Title 26 of the Code of Federal
9 Regulations.

10 (2) Is exempt from taxation as an organization described in
11 Section 501(c)(3) of the Internal Revenue Code.

12 (3) Is qualified to do business in this state.

13 (4) Is a “qualified organization” as defined in Section 170(h)(3)
14 of the Internal Revenue Code.

15 (5) Has complied with National Standards for U.S. Community
16 Foundations as determined by the Community Foundations
17 National Standards Board, a supporting organization of the Council
18 on Foundations.

19 (c) “Conservation easement” means a conservation easement
20 created pursuant to Chapter 4 (commencing with Section 815) of
21 Title 2 of Part 2 of Division 2 of the Civil Code.

22 (d) “Direct protection” means the permanent protection,
23 conservation, and preservation of lands, waters, or natural
24 resources, including, but not limited to, agricultural lands, wildlife
25 habitat, wetlands, endangered species habitat, open-space areas,
26 or outdoor recreational areas.

27 (e) “Governmental entity” means any state agency, office,
28 officer, department, division, bureau, board, and commission, and
29 any city, county, or city and county.

30 (f) “Mitigation agreement” means a written agreement between
31 a public agency, the project proponent, and the governmental
32 entity, special district, nonprofit organization, for-profit entity, or
33 other entity that holds the property. A mitigation agreement governs
34 the long-term stewardship of a property and an endowment, and
35 shall specify any reporting requirements or elements, including
36 due dates of reports.

37 (g) “National Fish and Wildlife Foundation” means a nonprofit
38 organization that meets all of the following requirements:

39 (1) Was chartered by the United States Congress in 1984.

- 1 (2) Is exempt from taxation as an organization described in
2 Section 501(c)(3) of the Internal Revenue Code.
- 3 (3) Is qualified to do business in this state.
- 4 (4) Is registered with the Registry of Charitable Trusts
5 maintained by the Attorney General pursuant to Section 12584.
- 6 (5) Has as its principal purpose and activity the administration
7 of donations of real or personal property, or the interest in property,
8 in connection with United States Fish and Wildlife Service
9 programs and conservation activities in the United States.
- 10 (h) “Nonprofit organization” means any nonprofit organization
11 that meets all of the following requirements:
- 12 (1) Is exempt from taxation as an organization described in
13 Section 501(c)(3) of the Internal Revenue Code.
- 14 (2) Is qualified to do business in this state.
- 15 (3) Is a “qualified organization” as defined in Section 170(h)(3)
16 of the Internal Revenue Code.
- 17 (4) Is registered with the Registry of Charitable Trusts
18 maintained by the Attorney General pursuant to Section 12584.
- 19 (5) Has as its principal purpose and activity the direct protection
20 or stewardship of land, water, or natural resources, including, but
21 not limited to, agricultural lands, wildlife habitat, wetlands,
22 endangered species habitat, open-space areas, and outdoor
23 recreational areas.
- 24 (i) “Project proponent” means an individual, business entity,
25 agency, or other entity that is developing a project or facility and
26 is required to mitigate any adverse impact upon natural resources.
- 27 (j) “Property” means fee title land or any partial interest in real
28 property, including a conservation easement, that may be conveyed
29 pursuant to a mitigation requirement by a state or local agency.
- 30 (k) “Special district” means any special district formed pursuant
31 to Article 3 (commencing with Section 5500) of Chapter 3 of
32 Division 5 or Division 26 (commencing with Section 35100) of
33 the Public Resources Code, or any resource conservation district
34 organized pursuant to Division 9 (commencing with Section 9001)
35 of the Public Resources Code.
- 36 (l) “Stewardship” encompasses the range of activities involved
37 in controlling, monitoring, and managing for conservation purposes
38 a property, or a conservation or open-space easement, as defined
39 by the terms of the easement, and its attendant resources.

1 SEC. 3. Section 65966 of the Government Code is amended
2 to read:

3 65966. (a) Any conservation easement created as a component
4 of satisfying a local or state mitigation requirement shall be
5 perpetual in duration, whether created pursuant to Chapter 6.6
6 (commencing with Section 51070) of Part 1 of Division 1 of Title
7 5 of this code or Chapter 4 (commencing with Section 815) of
8 Title 2 of Part 2 of the Civil Code.

9 (b) Any local or state agency that requires property to be
10 protected pursuant to subdivision (a) or (b) of Section 65967 may
11 identify how the funding needs of the long-term stewardship of
12 the property will be met. If an endowment is conveyed or secured
13 at the time the property is protected, all of the following shall
14 apply:

15 (1) The endowment shall be held, managed, invested, and
16 disbursed solely for the long-term stewardship of the specific
17 property for which the funds were set aside.

18 (2) The endowment shall be calculated to include a principal
19 amount that, when managed and invested, is reasonably anticipated
20 to cover the annual stewardship costs of the property in perpetuity.

21 (3) The principal amount shall be defined and managed as
22 permanently restricted funds.

23 (4) Any one-time payment, as defined by subdivision (g), and
24 earnings from the principal shall be managed as temporarily
25 restricted funds.

26 (5) The endowment shall be held, managed, invested, and
27 disbursed consistent with the Uniform Prudent Management of
28 Institutional Funds Act (Part 7 (commencing with Section 18501)
29 of Division 9 of the Probate Code).

30 (c) If a nonprofit corporation holds the endowment, the nonprofit
31 shall utilize generally accepted accounting practices that are
32 promulgated by the Financial Accounting Standards Board.

33 (d) If a local agency holds the endowment, the local agency
34 shall do all of the following:

35 (1) Hold, manage, and invest the endowment consistent with
36 subdivision (b) to the extent allowed by law.

37 (2) Disburse funds on a timely basis to meet the stewardship
38 expenses of the entity holding the property.

39 (3) Utilize accounting standards consistent with standards
40 promulgated by the Governmental Accounting Standards Board.

1 (e) A governmental entity, community foundation, special
2 district, or a nonprofit organization that holds funds pursuant to
3 this chapter, including, but not limited to, an endowment, moneys
4 to acquire land or easements, or moneys for initial stewardship
5 costs, shall provide the local or state agency with an annual fiscal
6 report that contains at least the same information as required by
7 Internal Revenue Service Form 990 regarding the funds.

8 (f) If a state or local agency authorizes a governmental entity,
9 special district, or nonprofit organization to hold property pursuant
10 to subdivision (a) or (b) of Section 65967 in connection with a
11 development project, the agency may require the project proponent
12 to pay a one-time fee that does not exceed the reasonable costs of
13 the agency in reviewing qualifications of potential holders of the
14 property, approving those holders, and any regular oversight over
15 those holders to ensure that the holders are complying with all
16 applicable laws. The one-time fee shall be held, managed, and
17 invested to produce an annual revenue sufficient to cover the costs
18 of reviewing qualifications, approving holders, and ongoing
19 oversight.

20 (g) A local agency may require a project proponent to provide
21 a one-time payment that will provide for the initial stewardship
22 costs for up to three years while the endowment begins to
23 accumulate investment earnings. The funds for the initial
24 stewardship costs are distinct from the funds that may be conveyed
25 for long-term stewardship, construction, or other costs. If there are
26 funds remaining at the completion of the initial stewardship period,
27 the funds shall be conveyed to the project proponent.

28 (h) The local agency may contract with or designate a qualified
29 third party to do any of the following:

30 (1) Review the qualifications of a governmental entity, special
31 district, or nonprofit organization to effectively manage and
32 steward natural land or resources pursuant to subdivision (c) of
33 Section 65967.

34 (2) Review the qualifications of a governmental entity,
35 community foundation, or nonprofit organization to hold and
36 manage the endowment that is set aside for long-term stewardship
37 of the property.

38 (3) Review reports or other performance indicators to evaluate
39 the stewardship of lands, natural resources, or funds, and
40 compliance with the mitigation agreement.

1 (i) If a property conserved pursuant to subdivision (a) or (b) of
2 Section 65967 is condemned, the net proceeds from the
3 condemnation of the real property interest set aside for mitigation
4 purposes shall be used for the purchase of property that replaces
5 the natural resource characteristics the original mitigation was
6 intended to protect, or as near as reasonably feasible. Any
7 endowment held for the condemned property shall be held for the
8 long-term stewardship of the replacement property.

9 (j) Unless prohibited by law, no provision in this chapter is
10 intended to prohibit for-profit entities from holding, acquiring, or
11 providing property for mitigation purposes.

12 (k) Nothing in this section shall prohibit a state agency from
13 exercising any powers described in subdivision (d), (g), or (h).

14 (l) A governmental entity, special district, or nonprofit
15 organization may contract with a community foundation at any
16 time to hold, manage, and invest the endowment for a mitigation
17 property and disbursing payments to the holder of the mitigation
18 property consistent with the fund agreement.

19 (m) The mitigation agreement shall not include any provision
20 to waive or exempt the parties from any requirement, in whole or
21 part, of this chapter.

22 SEC. 4. Section 65967 of the Government Code is amended
23 to read:

24 65967. (a) If a state or local agency requires a project
25 proponent to transfer property to mitigate any adverse impact upon
26 natural resources caused by permitting the development of a project
27 or facility, the agency may authorize a governmental entity, special
28 district, a nonprofit organization, a for-profit entity, a person, or
29 another entity to hold title to and manage that property.

30 (b) If a state or local agency, in the development of its own
31 project, is required to protect property to mitigate an adverse impact
32 upon natural resources, the agency may take any action that the
33 agency deems necessary in order to meet its mitigation obligations,
34 including, but not limited to, the following:

35 (1) Transfer the interest to a governmental entity, special district,
36 or nonprofit organization that meets the requirements set forth in
37 subdivision (c).

38 (2) Provide funds to a governmental entity, nonprofit
39 organization, a special district, a for-profit entity, a person, or other

1 entity to acquire land or easements that satisfy the agency's
2 mitigation obligations.

3 (3) Hold an endowment in an account administered by an elected
4 official provided that the state or local agency is protecting,
5 restoring, or enhancing its own property.

6 (c) A state or local agency shall exercise due diligence in
7 reviewing the qualifications of a governmental entity, special
8 district, or nonprofit organization to effectively manage and
9 steward land, water, or natural resources. The local agency may
10 adopt guidelines to assist it in that review process, which may
11 include, but are not limited to, the use of or reliance upon
12 guidelines, standards, or accreditation established by a qualified
13 entity that are in widespread state or national use.

14 (d) The state or local agency may require the governmental
15 entity, special district, or nonprofit organization to submit a report
16 not more than once every 12 months and for the number of years
17 specified in the mitigation agreement that details the stewardship
18 and condition of the property and any other requirements pursuant
19 to the mitigation agreement for the property.

20 (e) The recorded instrument that places the fee title or partial
21 interest in real property with a governmental entity, special district,
22 nonprofit organization, or for-profit entity, pursuant to subdivision
23 (a) or (b) shall include a provision that if the state or local agency
24 or its successor agency reasonably determines that the property
25 conveyed to meet the mitigation requirement is not being held,
26 monitored, or stewarded for conservation purposes in the manner
27 specified in that instrument or in the mitigation agreement, the
28 property shall revert to the state or local agency, or to another
29 public agency, governmental entity, special district, or nonprofit
30 organization pursuant to subdivision (c) and subject to approval
31 by the state or local agency. If a state or local agency determines
32 that a property must revert, it shall work with the parties to the
33 mitigation agreement, or other affected entities, to ensure that any
34 contracts, permits, funding, or other obligations and responsibilities
35 are met.

36 SEC. 5. Section 65968 of the Government Code is amended
37 to read:

38 65968. (a) Notwithstanding Section 13014 of the Fish and
39 Game Code, if an endowment is conveyed pursuant to Section
40 65966 for property conveyed pursuant to Section 65967, the

1 endowment may be held by the same governmental entity, special
2 district, or nonprofit organization that holds the property pursuant
3 to this section.

4 (b) Except as permitted below, the endowment shall be held by
5 the agency or agencies that require the mitigation or by the
6 governmental entity, special district, or nonprofit organization that
7 holds the property or holds an interest in the property for
8 conservation purposes. The exceptions to this requirement are the
9 following:

10 (1) An endowment that is held by an entity other than the state
11 or holder of the mitigation property as of January 1, 2012.

12 (2) An endowment that is held by another entity pursuant to the
13 terms of a natural community conservation plan or a safe harbor
14 agreement. In order for this paragraph to apply, on or before
15 January 1, 2012, a natural community conservation plan or a safe
16 harbor agreement shall be at a recognized initial, interim, or final
17 stage as reflected in the completion of planning agreements,
18 framework plans, subarea plans, implementing agreements, or
19 other documents that are part of the recognized natural community
20 conservation plan process as described in Chapter 10 (commencing
21 with Section 2800) of Division 3 of the Fish and Game Code, or
22 a safe harbor agreement as described in Article 3.7 (commencing
23 with Section 2089.2) of Chapter 1.5 of Division 3 of the Fish and
24 Game Code.

25 (3) If existing law prohibits the holder of the mitigation property
26 to hold the endowment, including for-profit entities.

27 (4) If the project proponent and the holder of the mitigation
28 property or conservation easement agree that a community
29 foundation shall hold the endowment.

30 (5) If the mitigation property is held or managed by a federal
31 agency, the agency may hold the endowment itself or designate a
32 qualified entity, including a community foundation or the National
33 Fish and Wildlife Foundation, to hold the endowment.

34 (6) If the same mitigation property is required to be conveyed
35 pursuant to both a federal and state permit, and the federal agency
36 directs that a community foundation or the National Fish and
37 Wildlife Foundation shall hold the endowment with the agreement
38 ~~of the holder of the mitigation property.~~ *of the project proponent*
39 *and the holder of the mitigation property or conservation easement.*

- 1 (c) An entity that holds an endowment pursuant to paragraphs
2 (1) to (6), inclusive, of subdivision (a), shall meet all the
3 qualifications and requirements of this chapter for holding,
4 managing, investing, and disbursing the endowment funds.
- 5 (d) The governmental entity, special district, community
6 foundation, National Fish and Wildlife Foundation, or nonprofit
7 organization shall hold, manage, invest, and disburse the funds in
8 furtherance of the long-term stewardship of the property for which
9 the funds were set aside.
- 10 (e) The holder of an endowment shall certify to the project
11 proponent or the holder of the mitigation property or a conservation
12 easement that it meets all of the following requirements:
- 13 (1) The holder has the capacity to effectively manage the
14 mitigation funds.
- 15 (2) The holder has the capacity to achieve reasonable rates of
16 return on the investment of those funds similar to those of other
17 prudent investors.
- 18 (3) The holder utilizes generally accepted accounting practices
19 as promulgated by either of the following:
- 20 (A) The Financial Accounting Standards Board for nonprofit
21 organizations.
- 22 (B) The Governmental Accounting Standards Board for public
23 agencies, to the extent those practices do not conflict with any
24 requirement for special districts in Article 2 (commencing with
25 Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of
26 the Government Code.
- 27 (4) The holder will be able to ensure that funds are accounted
28 for, and tied to, a specific property.
- 29 (5) If the holder is a nonprofit organization, a community
30 foundation, or the National Fish and Wildlife Foundation, it has
31 an investment policy that is consistent with the Uniform Prudent
32 Management of Institutional Funds Act (Part 7 (commencing with
33 Section 18501) of Division 9 of the Probate Code).
- 34 (f) If a government entity, community foundation, special
35 district, nonprofit organization, or the National Fish and Wildlife
36 Foundation meets the requirements of this chapter, it is qualified
37 to be a holder of the endowment for the purpose of obtaining any
38 permit, clearance, agreement, or mitigation approval from a state
39 or local agency.

1 (g) Except for a mitigation agreement prepared by a state
2 agency, the mitigation agreement that authorizes the funds to be
3 conveyed to a governmental entity, community foundation, special
4 district, or nonprofit organization pursuant to subdivision (a) shall
5 include a provision that requires the endowment be held by a
6 governmental entity, special district, or a nonprofit organization
7 to revert to the local agency, or to a successor organization
8 identified by the agency and subject to subdivision (e), if any of
9 the following occurs:

10 (1) The governmental entity, community foundation, special
11 district, or nonprofit organization ceases to exist.

12 (2) The governmental entity, community foundation, special
13 district, or nonprofit organization is dissolved.

14 (3) The governmental entity, community foundation, special
15 district, or nonprofit organization becomes bankrupt or insolvent.

16 (4) The local agency reasonably determines that the endowment
17 held by the governmental entity, community foundation, special
18 district, or nonprofit organization, or its successor entity, are not
19 being held, managed, invested, or disbursed for conservation
20 purposes and consistent with the mitigation agreement and legal
21 requirements. Any reverted funds shall continue to be held,
22 managed, and disbursed only for long-term stewardship and benefit
23 of the specific property for which they were set aside. If the funds
24 revert from the governmental entity, community foundation, special
25 district, or nonprofit organization, the special district or nonprofit
26 organization may choose to relinquish the property. If the property
27 is relinquished, the local agency shall accept title to the property
28 or identify an approved governmental entity, community
29 foundation, special district, or nonprofit organization to accept
30 title to the property.

31 (h) Nothing in this section shall prohibit a state or local agency
32 from determining that a governmental entity, community
33 foundation, special district, or nonprofit organization meets the
34 requirements of this section and is qualified to hold the endowment,
35 or including a provision in the mitigation agreement as described
36 in subdivision (g).

37 (i) A state or local agency may allow the endowment to be held
38 temporarily in an escrow account until December 31, 2012, after
39 which time the funds shall be transferred to the entity that will
40 permanently hold the endowment.

1 (j) Subject to subdivision (g), any endowment that is conveyed
2 to and held by a governmental entity, special district, or nonprofit
3 organization pursuant to this section shall continue to be held by
4 the entity if this section is repealed and those funds are conveyed
5 prior to the date this section is repealed.

6 (k) A state or local agency shall not require, as a condition of
7 obtaining any permit, clearance, agreement, or mitigation approval
8 from the state or local agency, that a preferred or exclusively named
9 entity by the state or local agency be named as the entity to hold,
10 manage, invest, and disburse the funds in furtherance of the
11 long-term stewardship of the property for which the funds were
12 set aside.

13 (l) (1) If the National Fish and Wildlife Foundation holds
14 endowment funds conveyed pursuant to Section 65966 for property
15 conveyed pursuant to Section 65967, it shall provide, no later than
16 July 1, 2013, and annually thereafter, a report to the Legislature
17 that provides all of the following:

18 (A) An audited financial statement for the previous financial
19 year that states the organization's investment policy, return
20 objectives and other items required by generally accepted
21 accounting principles related to endowment management by
22 nonprofit corporations.

23 (B) A list of all mitigation properties conveyed pursuant to
24 Section 65967 that the National Fish and Wildlife Foundation is
25 the holder of the endowment.

26 (C) For each endowment identified in subparagraph (B), the
27 following items shall be provided in the report:

- 28 (i) Beginning of year balance.
- 29 (ii) Contributions.
- 30 (iii) Investment earnings or losses.
- 31 (iv) Grants.
- 32 (v) Program expenses.
- 33 (vi) Administrative expenses.
- 34 (vii) End of year balance.
- 35 (viii) The estimated percentage of the year-end balance held as
36 a board-designated endowment or quasi-endowment, held as a
37 permanent endowment, and held as a term endowment.
- 38 (ix) Endowment funds not in the possession of the organization
39 that are held and administered for the organization by unrelated
40 organizations, or related organizations.

1 (2) The report required to be submitted pursuant to subdivision
2 (a) shall be submitted in compliance with Section 9795.

3 (m) This section shall remain in effect only until January 1,
4 2022, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, 2022, deletes or extends that date.

6 SEC. 6. This act is an urgency statute necessary for the
7 immediate preservation of the public peace, health, or safety within
8 the meaning of Article IV of the Constitution and shall go into
9 immediate effect. The facts constituting the necessity are:

10 In order to ensure that mitigation projects are approved in a
11 timely manner, particularly in relation to desert renewable energy
12 projects, it is necessary that this act take effect immediately.