

AMENDED IN SENATE JUNE 20, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1060**

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**Introduced by Assembly Member Fox**

February 22, 2013

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An act to amend Section 711.4 of the Fish and Game Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as amended, Fox. Environmental quality: California Environmental Quality Act: filing fees: exemptions.

Existing law requires the Department of Fish and Wildlife to impose and collect filing fees, in prescribed amounts, to defray the costs of managing and protecting fish and wildlife trust resources, including consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, developing monitoring requirements for purposes of the California Environmental Quality Act (CEQA), consulting, and other activities protecting specified trust resources. Existing law exempts certain specified projects from those filing fees that are imposed on projects subject to CEQA.

This bill would, *except as specified*, additionally exempt from the filing fees imposed on projects that are subject to CEQA a project being carried out or implemented by a branch of the United States Armed Forces.

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

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

1     *SECTION 1. The Legislature finds and declares all of the*  
2 *following:*

3     *(a) This action is necessary given the unique facts surrounding*  
4 *the review of military projects pursuant to current federal law.*

5     *(b) Further, the Legislature recognizes that military projects*  
6 *are necessary to ensure that California’s military installations*  
7 *have the ability to maintain and replace aging facilities to maintain*  
8 *their mission capability and their importance to national security*  
9 *as well as the significant contribution of the military to California’s*  
10 *economy.*

11     *(c) It is the intent of the Legislature that this action is not a*  
12 *precedent for any other person to receive an exemption for this*  
13 *fee.*

14     **SECTION 1.**

15     **SEC. 2.** Section 711.4 of the Fish and Game Code is amended  
16 to read:

17     711.4. (a) The department shall impose and collect a filing fee  
18 in the amount prescribed in subdivision (d) to defray the costs of  
19 managing and protecting fish and wildlife trust resources,  
20 including, but not limited to, consulting with other public agencies,  
21 reviewing environmental documents, recommending mitigation  
22 measures, developing monitoring requirements for purposes of the  
23 California Environmental Quality Act (Division 13 (commencing  
24 with Section 21000) of the Public Resources Code), consulting  
25 pursuant to Section 21104.2 of the Public Resources Code, and  
26 other activities protecting those trust resources identified in the  
27 review pursuant to the California Environmental Quality Act.

28     (b) The filing fees shall be proportional to the cost incurred by  
29 the department and shall be annually reviewed and adjustments  
30 recommended to the Legislature in an amount necessary to pay  
31 the full costs of department programs as specified. The department  
32 shall annually adjust the fees pursuant to Section 713.

33     (c) (1) All project applicants and public agencies subject to the  
34 California Environmental Quality Act shall pay a filing fee for  
35 each proposed project, as specified in subdivision (d).

36     (2) Notwithstanding paragraph (1), a filing fee shall not be paid  
37 pursuant to this section if any of the following conditions ~~exist~~  
38 *exists:*

- 1 (A) The project has no effect on fish and wildlife.  
2 (B) The project is being undertaken by the department.  
3 (C) The project costs are payable by the department from any  
4 of the following sources that are held by the department:  
5 (i) The Public Resources Account in the Cigarette and Tobacco  
6 Products Surtax Fund.  
7 (ii) The California Wildlife, Coastal, and Park Land  
8 Conservation Fund of 1988.  
9 (iii) The Habitat Conservation Fund.  
10 (iv) The Fisheries Restoration Account in the Fish and Game  
11 Preservation Fund.  
12 (v) The Commercial Salmon Stamp Account in the Fish and  
13 Game Preservation Fund.  
14 (vi) Striped bass stamp funds collected pursuant to Section 7360.  
15 (vii) The California Ocean Resource Enhancement Account.  
16 (D) The project is implemented by the department through a  
17 contract with either a nonprofit entity or a local government  
18 agency.  
19 (E) (i) The project is being carried out or implemented by a  
20 branch of the United States Armed Forces. *If by any act of*  
21 *Congress or any federal rule or federal regulation adopted*  
22 *pursuant to an act of Congress, the branches or a branch of the*  
23 *United States Armed Forces is authorized to pay a filing fee*  
24 *pursuant to paragraph (1), the exclusion under this clause shall*  
25 *not apply to that branch or those branches.*  
26 (ii) *This subparagraph shall not apply to a project of the United*  
27 *States Army Corps of Engineers if the project benefits a nonmilitary*  
28 *purpose, including, but not limited to, flood control.*  
29 (3) Filing fees shall be paid at the time and in the amount  
30 specified in subdivision (d). Notwithstanding Sections 21080.5  
31 and 21081 of the Public Resources Code, a project shall not be  
32 operative, vested, or final, and local government permits for the  
33 project shall not be valid, until the filing fees required pursuant to  
34 this section are paid.  
35 (d) The fees shall be in the following amounts:  
36 (1) For a project that is statutorily or categorically exempt from  
37 the California Environmental Quality Act, including those certified  
38 regulatory programs that incorporate statutory and categorical  
39 exemptions, a filing fee shall not be paid.

1 (2) For a project for which a negative declaration is prepared  
2 pursuant to subdivision (c) of Section 21080 of the Public  
3 Resources Code, the filing fee is one thousand eight hundred  
4 dollars (\$1,800). A local agency collecting the filing fee shall remit  
5 the fee to the county clerk at the time of filing a notice of  
6 determination pursuant to Section 21152 of the Public Resources  
7 Code. A state agency collecting the filing fee shall remit the fee  
8 to the Office of Planning and Research at the time of filing a notice  
9 of determination pursuant to Section 21108 of the Public Resources  
10 Code.

11 (3) For a project with an environmental impact report prepared  
12 pursuant to the California Environmental Quality Act, the filing  
13 fee is two thousand five hundred dollars (\$2,500). A local agency  
14 collecting the filing fee shall remit the fee to the county clerk at  
15 the time of filing a notice of determination pursuant to Section  
16 21152 of the Public Resources Code. A state agency collecting  
17 the filing fee shall remit the fee to the Office of Planning and  
18 Research at the time of filing a notice of determination pursuant  
19 to Section 21108 of the Public Resources Code.

20 (4) For a project that is subject to a certified regulatory program  
21 pursuant to Section 21080.5 of the Public Resources Code, the  
22 filing fee is eight hundred fifty dollars (\$850). The filing fee shall  
23 be paid to the department before the filing of the notice of  
24 determination pursuant to Section 21080.5 of the Public Resources  
25 Code.

26 (e) The county clerk may charge a documentary handling fee  
27 of fifty dollars (\$50) per filing in addition to the filing fee specified  
28 in subdivision (d).

29 (1) The county clerk of each county and the Office of Planning  
30 and Research shall maintain a record, both electronic and in paper,  
31 of all environmental documents received. The record shall include,  
32 for each environmental document received, the name of each  
33 applicant or lead agency, the document filing number, the project  
34 name as approved by the lead agency, and the filing date. The  
35 record shall be made available for examination or audit by  
36 authorized personnel of the department during normal business  
37 hours.

38 (2) The filing fee imposed and collected pursuant to subdivision  
39 (d) shall be remitted monthly to the department within 30 days  
40 after the end of each month. The remittance shall be accompanied

1 with the information required pursuant to paragraph (1). The  
2 amount of fees due shall be reported on forms prescribed and  
3 provided by the department.

4 (3) The department shall assess a penalty of 10 percent of the  
5 amount of fees due for a failure to remit the amount payable when  
6 due. The department may pursue collection of delinquent fees  
7 through the Controller's office pursuant to Section 12419.5 of the  
8 Government Code.

9 (f) Notwithstanding Section 12000, failure to pay the fee under  
10 subdivision (d) is not a misdemeanor. All unpaid fees are a  
11 statutory assessment subject to collection under procedures as  
12 provided in the Revenue and Taxation Code.

13 (g) Only one filing fee shall be paid for each project unless the  
14 project is tiered or phased, or separate environmental documents  
15 are required.

16 (h) This section does not preclude or modify the duty of the  
17 department to recommend, require, permit, or engage in mitigation  
18 activities pursuant to the California Environmental Quality Act.

19 (i) The permit process of the California Coastal Commission,  
20 as certified by the Secretary of the *Natural* Resources Agency, is  
21 exempt from the payment of the filing fees prescribed by paragraph  
22 (4) of subdivision (d) insofar as the permits are issued under any  
23 of the following regulations:

24 (1) Subchapter 4 (commencing with Section 13136) of Chapter  
25 5 of Division 5.5 of Title 14 of the California Code of Regulations.

26 (2) Subchapter 1 (commencing with Section 13200), Subchapter  
27 3 (commencing with Section 13213), Subchapter 3.5 (commencing  
28 with Section 13214), Subchapter 4 (commencing with Section  
29 13215), Subchapter 4.5 (commencing with Section 13238),  
30 Subchapter 5 (commencing with Section 13240), Subchapter 6  
31 (commencing with Section 13250), and Subchapter 8 (commencing  
32 with Section 13255.0) of Chapter 6 of Division 5.5 of Title 14 of  
33 the California Code of Regulations.

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