

AMENDED IN SENATE AUGUST 13, 2013

AMENDED IN SENATE JUNE 20, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1060

Introduced by Assembly Member Fox

February 22, 2013

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 for calendar years 2014 and 2015~~, additionally exempt from the filing fees imposed on projects that are subject to CEQA ~~a project being carried out or implemented by a branch~~, *a total of 4 projects of the United States Armed Forces for each calendar year if the project applicant notifies the Governor's Office of Planning and Research. The bill would request the United States Armed Forces to seek the appropriate approval of the United States*

Government to ensure that the filing fees for military projects are paid. The bill would also request the appropriate offices of the United States Armed Forces to provide the chairs of the policy and budget committees of both houses of the Legislature with a copy of any request and its response. The bill would declare the Legislature’s intent to obtain a thorough review of federal agency payment or nonpayment of fees before January 1, 2016. The bill would authorize the Legislature to request the assistance of the California Research Bureau or the Senate Office of Research with the review.

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 are
6 necessary to ensure that California’s military installations have
7 the ability to maintain and replace aging facilities to maintain their
8 mission capability and their importance to national security as well
9 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 SEC. 2. Section 711.4 of the Fish and Game Code is amended
15 to read:

16 711.4. (a) The department shall impose and collect a filing fee
17 in the amount prescribed in subdivision (d) to defray the costs of
18 managing and protecting fish and wildlife trust resources,
19 including, but not limited to, consulting with other public agencies,
20 reviewing environmental documents, recommending mitigation
21 measures, developing monitoring requirements for purposes of the
22 California Environmental Quality Act (Division 13 (commencing
23 with Section 21000) of the Public Resources Code), consulting
24 pursuant to Section 21104.2 of the Public Resources Code, and
25 other activities protecting those trust resources identified in the
26 review pursuant to the California Environmental Quality Act.

1 (b) The filing fees shall be proportional to the cost incurred by
2 the department and shall be annually reviewed and adjustments
3 recommended to the Legislature in an amount necessary to pay
4 the full costs of department programs as specified. The department
5 shall annually adjust the fees pursuant to Section 713.

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

9 (2) Notwithstanding paragraph (1), a filing fee shall not be paid
10 pursuant to this section if any of the following conditions exists:

11 (A) The project has no effect on fish and wildlife.

12 (B) The project is being undertaken by the department.

13 (C) The project costs are payable by the department from any
14 of the following sources that are held by the department:

15 (i) The Public Resources Account in the Cigarette and Tobacco
16 Products Surtax Fund.

17 (ii) The California Wildlife, Coastal, and Park Land
18 Conservation Fund of 1988.

19 (iii) The Habitat Conservation Fund.

20 (iv) The Fisheries Restoration Account in the Fish and Game
21 Preservation Fund.

22 (v) The Commercial Salmon Stamp Account in the Fish and
23 Game Preservation Fund.

24 (vi) Striped bass stamp funds collected pursuant to Section 7360.

25 (vii) The California Ocean Resource Enhancement Account.

26 (D) The project is implemented by the department through a
27 contract with either a nonprofit entity or a local government
28 agency.

29 ~~(E) (i) The project is being carried out or implemented by a~~
30 ~~branch of the United States Armed Forces. If by any act of~~
31 ~~Congress or any federal rule or federal regulation adopted pursuant~~
32 ~~to an act of Congress, the branches or a branch of the United States~~
33 ~~Armed Forces is authorized to pay a filing fee pursuant to~~
34 ~~paragraph (1), the exclusion under this clause shall not apply to~~
35 ~~that branch or those branches.~~

36 ~~(ii) This subparagraph shall not apply to a project of the United~~
37 ~~States Army Corps of Engineers if the project benefits a~~
38 ~~nonmilitary purpose, including, but not limited to, flood control.~~

39 (3) Filing fees shall be paid at the time and in the amount
40 specified in subdivision (d). Notwithstanding Sections 21080.5

1 and 21081 of the Public Resources Code, a project shall not be
2 operative, vested, or final, and local government permits for the
3 project shall not be valid, until the filing fees required pursuant to
4 this section are paid.

5 (d) The fees shall be in the following amounts:

6 (1) For a project that is statutorily or categorically exempt from
7 the California Environmental Quality Act, including those certified
8 regulatory programs that incorporate statutory and categorical
9 exemptions, a filing fee shall not be paid.

10 (2) For a project for which a negative declaration is prepared
11 pursuant to subdivision (c) of Section 21080 of the Public
12 Resources Code, the filing fee is one thousand eight hundred
13 dollars (\$1,800). A local agency collecting the filing fee shall remit
14 the fee to the county clerk at the time of filing a notice of
15 determination pursuant to Section 21152 of the Public Resources
16 Code. A state agency collecting the filing fee shall remit the fee
17 to the Office of Planning and Research at the time of filing a notice
18 of determination pursuant to Section 21108 of the Public Resources
19 Code.

20 (3) For a project with an environmental impact report prepared
21 pursuant to the California Environmental Quality Act, the filing
22 fee is two thousand five hundred dollars (\$2,500). A local agency
23 collecting the filing fee shall remit the fee to the county clerk at
24 the time of filing a notice of determination pursuant to Section
25 21152 of the Public Resources Code. A state agency collecting
26 the filing fee shall remit the fee to the Office of Planning and
27 Research at the time of filing a notice of determination pursuant
28 to Section 21108 of the Public Resources Code.

29 (4) For a project that is subject to a certified regulatory program
30 pursuant to Section 21080.5 of the Public Resources Code, the
31 filing fee is eight hundred fifty dollars (\$850). The filing fee shall
32 be paid to the department before the filing of the notice of
33 determination pursuant to Section 21080.5 of the Public Resources
34 Code.

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

38 (1) The county clerk of each county and the Office of Planning
39 and Research shall maintain a record, both electronic and in paper,
40 of all environmental documents received. The record shall include,

1 for each environmental document received, the name of each
2 applicant or lead agency, the document filing number, the project
3 name as approved by the lead agency, and the filing date. The
4 record shall be made available for examination or audit by
5 authorized personnel of the department during normal business
6 hours.

7 (2) The filing fee imposed and collected pursuant to subdivision
8 (d) shall be remitted monthly to the department within 30 days
9 after the end of each month. The remittance shall be accompanied
10 with the information required pursuant to paragraph (1). The
11 amount of fees due shall be reported on forms prescribed and
12 provided by the department.

13 (3) The department shall assess a penalty of 10 percent of the
14 amount of fees due for a failure to remit the amount payable when
15 due. The department may pursue collection of delinquent fees
16 through the Controller's office pursuant to Section 12419.5 of the
17 Government Code.

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

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

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

28 (i) The permit process of the California Coastal Commission,
29 as certified by the Secretary of the Natural Resources Agency, is
30 exempt from the payment of the filing fees prescribed by paragraph
31 (4) of subdivision (d) insofar as the permits are issued under any
32 of the following regulations:

33 (1) Subchapter 4 (commencing with Section 13136) of Chapter
34 5 of Division 5.5 of Title 14 of the California Code of Regulations.

35 (2) Subchapter 1 (commencing with Section 13200), Subchapter
36 3 (commencing with Section 13213), Subchapter 3.5 (commencing
37 with Section 13214), Subchapter 4 (commencing with Section
38 13215), Subchapter 4.5 (commencing with Section 13238),
39 Subchapter 5 (commencing with Section 13240), Subchapter 6
40 (commencing with Section 13250), and Subchapter 8 (commencing

1 with Section 13255.0) of Chapter 6 of Division 5.5 of Title 14 of
2 the California Code of Regulations.
3 (j) (1) *For calendar years 2014 and 2015, a filing fee shall not*
4 *be charged to the United States Armed Forces pursuant to this*
5 *section for up to a total of four projects per year if notification is*
6 *provided to the Governor’s Office of Planning and Research by*
7 *the project applicant.*
8 (2) *The United States Armed Forces is requested to seek the*
9 *appropriate approval of the United States Government to ensure*
10 *that the filing fees for military projects in the State of California*
11 *are paid. The appropriate offices of the United States Armed*
12 *Forces are requested to provide the chairs of the policy and budget*
13 *committees of both houses of the Legislature with a copy of any*
14 *request and its response.*
15 (3) *It is the intent of the Legislature to obtain a thorough review*
16 *of federal agency payment or nonpayment of fees pursuant to this*
17 *section and other laws before January 1, 2016. The Legislature*
18 *may request the assistance of the California Research Bureau or*
19 *the Senate Office of Research with the review.*
20 (4) *This subdivision does not limit any other requirements under*
21 *this section or under any other laws applicable to filing fees*
22 *referred to in this section.*