

AMENDED IN SENATE SEPTEMBER 6, 2013

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 Members Fox and V. Manuel Pérez

February 22, 2013

An act to amend Section 711.4 of the Fish and Game Code, relating to environmental quality, relating to the Energy Resources Conservation and Development Commission, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as amended, Fox. ~~Environmental quality: California Environmental Quality Act: filing fees: exemptions: Energy Resources Conservation and Development Commission.~~

The Budget Act of 2012 appropriated \$12,435,000 from the Renewable Resource Trust Fund for the support of the Energy Resources Conservation and Development Commission during the 2012–13 fiscal year.

This bill would reappropriate \$3,658,848 of that \$12,435,000 amount to the commission and extend the period in which the reappropriated funds may be encumbered or expended to June 30, 2014.

~~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, for calendar years 2014 and 2015, additionally exempt from the filing fees imposed on projects that are subject to CEQA, 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^{2/3}. Appropriation: no-yes. Fiscal committee: yes. State-mandated local program: no.~~

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

1 ~~SECTION 1. Three million six hundred fifty-eight thousand~~
 2 ~~eight hundred forty-eight dollars (\$3,658,848) of the amount~~
 3 ~~appropriated in Item 3360-001-0382 of Section 2.00 of the Budget~~
 4 ~~Act of 2012 (Chs. 21 and 29, Stats. 2012) is hereby reappropriated~~
 5 ~~from the Renewable Resource Trust Fund for the support of the~~
 6 ~~Energy Resources Conservation and Development Commission~~
 7 ~~and is available for encumbrance or expenditure until June 30,~~
 8 ~~2014.~~

9 ~~SECTION 1. The Legislature finds and declares all of the~~
 10 ~~following:~~

11 ~~(a) This action is necessary given the unique facts surrounding~~
 12 ~~the review of military projects.~~

13 ~~(b) Further, the Legislature recognizes that military projects are~~
 14 ~~necessary to ensure that California’s military installations have~~
 15 ~~the ability to maintain and replace aging facilities to maintain their~~
 16 ~~mission capability and their importance to national security as well~~

1 as the significant contribution of the military to California's
2 economy.

3 SEC. 2. Section 711.4 of the Fish and Game Code is amended
4 to read:

5 711.4. (a) The department shall impose and collect a filing fee
6 in the amount prescribed in subdivision (d) to defray the costs of
7 managing and protecting fish and wildlife trust resources,
8 including, but not limited to, consulting with other public agencies,
9 reviewing environmental documents, recommending mitigation
10 measures, developing monitoring requirements for purposes of the
11 California Environmental Quality Act (Division 13 (commencing
12 with Section 21000) of the Public Resources Code), consulting
13 pursuant to Section 21104.2 of the Public Resources Code, and
14 other activities protecting those trust resources identified in the
15 review pursuant to the California Environmental Quality Act.

16 (b) The filing fees shall be proportional to the cost incurred by
17 the department and shall be annually reviewed and adjustments
18 recommended to the Legislature in an amount necessary to pay
19 the full costs of department programs as specified. The department
20 shall annually adjust the fees pursuant to Section 713.

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

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

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

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

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

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

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

34 (iii) The Habitat Conservation Fund.

35 (iv) The Fisheries Restoration Account in the Fish and Game
36 Preservation Fund.

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

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

40 (vii) The California Ocean Resource Enhancement Account.

1 ~~(D) The project is implemented by the department through a~~
2 ~~contract with either a nonprofit entity or a local government~~
3 ~~agency.~~

4 ~~(3) Filing fees shall be paid at the time and in the amount~~
5 ~~specified in subdivision (d). Notwithstanding Sections 21080.5~~
6 ~~and 21081 of the Public Resources Code, a project shall not be~~
7 ~~operative, vested, or final, and local government permits for the~~
8 ~~project shall not be valid, until the filing fees required pursuant to~~
9 ~~this section are paid.~~

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

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

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

25 ~~(3) For a project with an environmental impact report prepared~~
26 ~~pursuant to the California Environmental Quality Act, the filing~~
27 ~~fee is two thousand five hundred dollars (\$2,500). A local agency~~
28 ~~collecting the filing fee shall remit the fee to the county clerk at~~
29 ~~the time of filing a notice of determination pursuant to Section~~
30 ~~21152 of the Public Resources Code. A state agency collecting~~
31 ~~the filing fee shall remit the fee to the Office of Planning and~~
32 ~~Research at the time of filing a notice of determination pursuant~~
33 ~~to Section 21108 of the Public Resources Code.~~

34 ~~(4) For a project that is subject to a certified regulatory program~~
35 ~~pursuant to Section 21080.5 of the Public Resources Code, the~~
36 ~~filing fee is eight hundred fifty dollars (\$850). The filing fee shall~~
37 ~~be paid to the department before the filing of the notice of~~
38 ~~determination pursuant to Section 21080.5 of the Public Resources~~
39 ~~Code.~~

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

4 ~~(1) The county clerk of each county and the Office of Planning~~
5 ~~and Research shall maintain a record, both electronic and in paper,~~
6 ~~of all environmental documents received. The record shall include,~~
7 ~~for each environmental document received, the name of each~~
8 ~~applicant or lead agency, the document filing number, the project~~
9 ~~name as approved by the lead agency, and the filing date. The~~
10 ~~record shall be made available for examination or audit by~~
11 ~~authorized personnel of the department during normal business~~
12 ~~hours.~~

13 ~~(2) The filing fee imposed and collected pursuant to subdivision~~
14 ~~(d) shall be remitted monthly to the department within 30 days~~
15 ~~after the end of each month. The remittance shall be accompanied~~
16 ~~with the information required pursuant to paragraph (1). The~~
17 ~~amount of fees due shall be reported on forms prescribed and~~
18 ~~provided by the department.~~

19 ~~(3) The department shall assess a penalty of 10 percent of the~~
20 ~~amount of fees due for a failure to remit the amount payable when~~
21 ~~due. The department may pursue collection of delinquent fees~~
22 ~~through the Controller's office pursuant to Section 12419.5 of the~~
23 ~~Government Code.~~

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

28 ~~(g) Only one filing fee shall be paid for each project unless the~~
29 ~~project is tiered or phased, or separate environmental documents~~
30 ~~are required.~~

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

34 ~~(i) The permit process of the California Coastal Commission,~~
35 ~~as certified by the Secretary of the Natural Resources Agency, is~~
36 ~~exempt from the payment of the filing fees prescribed by paragraph~~
37 ~~(4) of subdivision (d) insofar as the permits are issued under any~~
38 ~~of the following regulations:~~

39 ~~(1) Subchapter 4 (commencing with Section 13136) of Chapter~~
40 ~~5 of Division 5.5 of Title 14 of the California Code of Regulations.~~

1 ~~(2) Subchapter 1 (commencing with Section 13200), Subchapter~~
2 ~~3 (commencing with Section 13213), Subchapter 3.5 (commencing~~
3 ~~with Section 13214), Subchapter 4 (commencing with Section~~
4 ~~13215), Subchapter 4.5 (commencing with Section 13238),~~
5 ~~Subchapter 5 (commencing with Section 13240), Subchapter 6~~
6 ~~(commencing with Section 13250), and Subchapter 8 (commencing~~
7 ~~with Section 13255.0) of Chapter 6 of Division 5.5 of Title 14 of~~
8 ~~the California Code of Regulations:~~

9 ~~(j) (1) For calendar years 2014 and 2015, a filing fee shall not~~
10 ~~be charged to the United States Armed Forces pursuant to this~~
11 ~~section for up to a total of four projects per year if notification is~~
12 ~~provided to the Governor's Office of Planning and Research by~~
13 ~~the project applicant.~~

14 ~~(2) The United States Armed Forces is requested to seek the~~
15 ~~appropriate approval of the United States Government to ensure~~
16 ~~that the filing fees for military projects in the State of California~~
17 ~~are paid. The appropriate offices of the United States Armed Forces~~
18 ~~are requested to provide the chairs of the policy and budget~~
19 ~~committees of both houses of the Legislature with a copy of any~~
20 ~~request and its response.~~

21 ~~(3) It is the intent of the Legislature to obtain a thorough review~~
22 ~~of federal agency payment or nonpayment of fees pursuant to this~~
23 ~~section and other laws before January 1, 2016. The Legislature~~
24 ~~may request the assistance of the California Research Bureau or~~
25 ~~the Senate Office of Research with the review.~~

26 ~~(4) This subdivision does not limit any other requirements under~~
27 ~~this section or under any other laws applicable to filing fees referred~~
28 ~~to in this section.~~