

AMENDED IN ASSEMBLY MAY 7, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2417

Introduced by Assembly Member Nazarian

February 21, 2014

An act to add *and repeal* Section 21080.21.5 ~~to~~ of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2417, as amended, Nazarian. California Environmental Quality Act: exemption: recycled water pipelines.

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 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 specified pipeline projects from the above requirements.

This bill would, *until January 1, 2018*, additionally exempt from CEQA a project for the construction and installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline, not

exceeding 8 miles in length, for the distribution of recycled water within a public street, highway, or right-of-way and would require the lead agency to undertake specified activities, including the filing of a notice of exemption for the project with the Office of Planning and Research and the office of the county clerk of each county in which the project is located. *The bill would require the lead agency, before determining the applicability of the exemption, to hold a noticed public hearing to consider adopt mitigation measures for potential traffic impacts of the project.* Because the lead agency is required to determine whether a project qualifies for that exemption, and undertake specified activities, this bill would impose a state-mandated local program. The bill would require the county clerk to post the notice of exemption within 24 hours of receipt, thereby imposing a state-mandated local program.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California is experiencing its worst water shortage crisis in
- 4 modern history and increasing the use of recycled water, a supply
- 5 that is not dependent on precipitation, is critical to increasing the
- 6 flexibility of, and expanding, the state’s available water supply.
- 7 (b) The pressures on the Bay-Delta ecosystem, climate change,
- 8 and continuing population growth have increased the challenges
- 9 to the state in providing clean water needed for a healthy population
- 10 and economy.
- 11 (c) Recycled water has been beneficially used in California for
- 12 the past century for a variety of purposes, including agriculture,
- 13 landscape irrigation, seawater barrier, industrial purposes, and
- 14 groundwater recharge.
- 15 (d) Recycled water can significantly stretch California’s potable
- 16 water supplies and help increase local water supply reliability.

1 Currently, more than 3.5 million acre-feet of recyclable water is
2 discharged annually to the ocean.

3 (e) The Assembly Committee on Water, Parks, and Wildlife,
4 in March 2012, reported that the level of water supplies that could
5 potentially be derived from recycled water is substantial.

6 (f) The National Academy of Sciences, in *Water Reuse: Potential*
7 *for Expanding the Nation’s Water Supply Through Reuse of*
8 *Municipal Wastewater*, states that “in the U.S. approximately 12
9 billion gallons of municipal wastewater effluent is discharged each
10 day to an ocean or estuary and that reusing these coastal discharges
11 could directly augment public supplies by 27 percent.”

12 (g) The National Academy of Sciences further found that, unlike
13 water that is discharged into a stream and potentially used by
14 another downstream party, water discharged to the ocean is
15 considered “‘irrecoverable’ and thus constitutes ‘new supply.’”

16 (h) In 2010, the State Water Resources Control Board adopted
17 a recycled water policy for California with a goal of creating an
18 additional 2.5 million acre-feet of recycled water by 2030.

19 (i) The delivery of shovel-ready recycled water projects can
20 provide immediate drought relief to California’s struggling
21 communities.

22 (j) Recycled water projects could and should be expedited by
23 providing relief from the time consuming provisions of the
24 California Environmental Quality Act (Division 13 (commencing
25 with Section 21000) of the Public Resources Code), while still
26 complying with all state and local laws and providing notification
27 to the public and appropriate local and state agencies.

28 SEC. 2. Section 21080.21.5 is added to the Public Resources
29 Code, to read:

30 21080.21.5. (a) This division does not apply to a project of
31 less than eight miles in length within a public street, highway, or
32 right-of-way for the construction and installation of a new recycled
33 water pipeline, or the maintenance, repair, restoration,
34 reconditioning, relocation, replacement, removal, or demolition
35 of an existing recycled water pipeline.

36 (b) For the purposes of this section, “pipeline” means subsurface
37 pipelines and subsurface or surface accessories or appurtenances
38 to a pipeline, such as mains, traps, vents, cables, conduits, vaults,
39 valves, flanges, manholes, and meters.

1 (c) For the purposes of construction and installation of a new
2 recycled water pipeline, or the maintenance, repair, restoration,
3 reconditioning, relocation, replacement, removal, or demolition
4 of an existing recycled water pipeline, a project described in
5 subdivision (a), the lead agency shall do all of the following:

6 (1) Before determining the applicability of this section to a
7 project, hold a noticed public hearing to consider and adopt
8 mitigation measures for potential traffic impacts of the project.

9 (1)

10 (2) File a notice of exemption of the project from this division
11 with the Office of Planning and Research and in the office of the
12 county clerk of each county in which the project is located within
13 20 days of the approval of the project. The county clerk shall post
14 the notice within 24 hours of receipt.

15 (2)

16 (3) Ensure that the ~~underlying~~ *overlaying* property owner has
17 given permission to access the property, in the case of a
18 right-of-way over private property, if access is not granted in the
19 express terms of the right-of-way.

20 (3)

21 (4) Ensure the restoration of the public street, highway, or
22 right-of-way to a condition consistent with all applicable local
23 laws or regulations, or a negotiated agreement.

24 (d) The project applicant shall comply with all applicable laws
25 and regulations, including Chapter 3 (commencing with Section
26 60301) of Division 4 of Title 22 of the California Code of
27 Regulations.

28 (e) This section does not apply to any of the following:

29 (1) A project that is a part of a larger project for the
30 construction and installation of a new recycled water pipeline, or
31 the maintenance, repair, restoration, reconditioning, relocation,
32 replacement, removal, or demolition of an existing recycled water
33 pipeline, that exceeds the length limitation set forth in subdivision
34 (a).

35 (2) A project that is adjacent to another project for which a
36 claim of exemption pursuant to this section has been made.

37 (3) A project that is located in a resource area, such as a park,
38 open space, protected habitat areas, or lands subject to a
39 conservation easement.

1 (f) *A project for which an excavation activity that is more than*
2 *one-half mile in length at any one time will be undertaken.*

3 (g) *This section shall remain in effect only until January 1, 2018,*
4 *and as of that date is repealed, unless a later enacted statute, that*
5 *is enacted before January 1, 2018, deletes or extends that date.*

6 SEC. 3. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 a local agency or school district has the authority to levy service
9 charges, fees, or assessments sufficient to pay for the program or
10 level of service mandated by this act, within the meaning of Section
11 17556 of the Government Code.

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