

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

AMENDED IN SENATE APRIL 3, 2013

SENATE BILL

No. 436

Introduced by Senator Jackson

(Principal coauthors: Assembly Members Gorell and Williams)

February 21, 2013

An act to amend ~~Sections 21083.9 and 21092~~ 85.2 of the ~~Public Resources Harbors and Navigation Code~~, relating to environmental quality, *making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 436, as amended, Jackson. ~~California Environmental Quality Act: notice.~~ *Port Hueneme Beach shoreline protection.*

Under existing law, the Division of Boating and Waterways has powers and duties pertaining to beach erosion control, beach stabilization, and beach repair and restoration.

Existing law establishes the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund, a special fund available upon appropriation by the Legislature, for purposes of parks and resources improvement. The fund makes moneys available to the State Coastal Conservancy for specified and related purposes, including, but not limited to, the acquisition, enhancement, restoration, protection, and development of coastal resources, beaches, waterfronts, and public accessways, as specified.

Existing law establishes the Harbors and Watercraft Revolving Fund, a special fund available upon appropriation by Legislature, for purposes, among other things, of the operation and maintenance of units of the state park system that have boating-related activities.

This bill would also authorize moneys in the Harbors and Watercraft Revolving Fund be available to a city for a grant or loan to fund emergency measures to prevent severe infrastructure damage to streets and property within the city caused by beach erosion and flooding.

This bill would appropriate \$1,000,000 from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund to the State Coastal Conservancy for a grant to the City of Port Hueneme. The bill would require funding be allocated for emergency measures along Hueneme Beach in the City of Port Hueneme to prevent severe infrastructure damage to streets and property caused by beach erosion and flooding, thereby making an appropriation. The bill also requires that for certain projects, \$1,000,000 from the Harbors and Watercraft Fund be allocated by either loan or grant to the City of Port Hueneme for emergency measures to prevent severe infrastructure damage to streets and property located along Hueneme Beach caused by erosion and flooding, thereby making an appropriation.

This bill would make findings and declarations as to the necessity of a special statute for Hueneme Beach.

This bill would become operative only if AB 606 is enacted and takes effect on or before January 1, 2014.

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

~~(1) The California Environmental Quality Act, commonly referred to as CEQA, requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report, also known as an EIR, on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires the lead agency to call at least one scoping meeting for a project that may affect highways or other facilities under the jurisdiction of the Department of Transportation if the meeting is requested by the department, or for a project of statewide, regional, or areawide significance. CEQA requires the lead agency to provide to specified entities a notice of at least one scoping meeting.~~

~~This bill would require a lead agency to conduct at least one public scoping meeting for the specified projects and to provide notice to the specified entities of at least one public scoping meeting.~~

~~(2) CEQA requires any lead agency that is preparing an EIR or a negative declaration or making a determination, pursuant to a specified~~

~~provision of law, to provide public notice within a reasonable period of time prior to certification of the EIR or adoption of the negative declaration. Existing law requires that notice be given to the last known name and address of all organizations and individuals who previously requested the notice and by at least one of several procedures, including by direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.~~

~~This bill would revise these notice requirements to require that the notice be given to a list of specified parties, including the State Clearinghouse and project applicants, and by at least one of the several listed procedures.~~

~~(3) 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~~^{2/3}. Appropriation: ~~no~~^{yes}. Fiscal committee: ~~yes~~. State-mandated local program: ~~yes~~^{no}.

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

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

3 *(a) Funds are needed immediately for the City of Port Hueneme*
4 *to implement emergency measures to prevent significant damage*
5 *caused by severe erosion at Hueneme Beach to public*
6 *infrastructure, public roads that include a route identified by the*
7 *Federal Emergency Management Agency as feeding into a tsunami*
8 *evacuation route, and community areas.*

9 *(b) These funds are also needed to prevent down coast negative*
10 *impacts to the Ormond Beach Wetlands, a sensitive and*
11 *ecologically important public resource, to ensure that the*
12 *environmental quality of this unique estuary is protected.*

13 *(c) Given the sizeable waste that remains at the Halaco*
14 *Superfund Site, these funds are also critically needed to prevent*
15 *downshore erosion.*

16 *SEC. 2. Section 85.2 of the Harbors and Navigation Code is*
17 *amended to read:*

18 85.2. (a) All moneys in the Harbors and Watercraft Revolving
19 Fund are available, upon appropriation by the Legislature, for

1 expenditure by the department for boating facilities development,
2 boating safety, and boating regulation programs, and for the
3 purposes of Section 656.4, including refunds, and for expenditure
4 for construction of small craft harbor and boating facilities planned,
5 designed, and constructed by the department, as specified in
6 subdivision (c) of Section 50, at sites owned or under the control
7 of the state.

8 (b) (1) The money in the fund is also available, upon
9 appropriation by the Legislature, to the Department of Parks and
10 Recreation for the operation and maintenance of units of the state
11 park system that have boating-related activities. Funds appropriated
12 to the Department of Parks and Recreation may also be used for
13 boating safety and enforcement programs for waters under its
14 jurisdiction.

15 (2) The Department of Parks and Recreation shall submit to the
16 Legislature, on or before January 1 of each year, a report describing
17 the allocation and expenditure of funds made available to the
18 Department of Parks and Recreation from the Harbors and
19 Watercraft Revolving Fund and from the Motor Vehicle Fuel
20 Account in the Transportation Tax Fund attributable to taxes
21 imposed on the distribution of motor vehicle fuel used or usable
22 in propelling vessels during the previous fiscal year. The report
23 shall list the special project or use, project location, amount of
24 money allocated or expended, the source of funds allocated or
25 expended, and the relation of the project or use to boating activities.

26 (c) The money in the fund shall also be available, upon
27 appropriation by the Legislature, to the State Water Resources
28 Control Board for boating-related water quality regulatory
29 activities.

30 (d) The money in the fund is also available, upon appropriation
31 by the Legislature, to the Department of Fish and Game for
32 activities addressing the boating-related spread of invasive species.

33 (e) The money in the fund is also available, upon appropriation
34 by the Legislature, to the Department of Food and Agriculture for
35 activities addressing the boating-related spread of invasive species.

36 (f) *The money in the fund is also available, upon appropriation*
37 *by the Legislature, to a city for a grant or loan to fund emergency*
38 *measures to prevent severe infrastructure damage to streets and*
39 *property within the city caused by beach erosion and flooding.*

1 *SEC. 3. (a) Notwithstanding any other law, the sum of one*
2 *million dollars (\$1,000,000) is hereby appropriated from the Safe*
3 *Neighborhood Parks, Clean Water, Clean Air, and Coastal*
4 *Protection Bond Fund to the State Coastal Conservancy for a*
5 *grant to the City of Port Hueneme. The funding shall be allocated,*
6 *pursuant to subdivision (o) of Section 5096.310 of the Public*
7 *Resources Code, for emergency measures to prevent severe*
8 *infrastructure damage to streets and property located along the*
9 *Hueneme Beach caused by beach erosion and flooding. This*
10 *appropriation shall only be used for erosion control projects for*
11 *which a permit has been approved by the California Coastal*
12 *Commission.*

13 *(b) If the California Coastal Commission requires a project*
14 *that is not eligible for funding under subdivision (a), the sum of*
15 *one million dollars (\$1,000,000) shall be allocated by either loan*
16 *or grant from the Harbors and Watercraft Revolving Fund for a*
17 *grant or loan to the City of Port Hueneme. The funding shall be*
18 *available for emergency measures to prevent severe infrastructure*
19 *damage to streets and property located along Hueneme Beach*
20 *caused by beach erosion and flooding. This appropriation shall*
21 *only be used for erosion control projects for which a permit has*
22 *been approved by the California Coastal Commission.*

23 *SEC. 4. The Legislature finds and declares that a special law*
24 *is necessary and that a general law cannot be made applicable*
25 *within the meaning of Section 16 of Article IV of the California*
26 *Constitution because of the severe erosion occurring at Hueneme*
27 *Beach that threatens public infrastructure, public roads, and*
28 *community areas.*

29 *SEC. 5. This act shall become operative only if Assembly Bill*
30 *606 is enacted and takes effect on or before January 1, 2014.*

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

35 *To provide the necessary funding as soon as possible to*
36 *implement emergency measures designed to prevent severe*
37 *infrastructure damage to public infrastructure, public roads, and*
38 *community areas threatened by flooding as a result of severe*
39 *erosion along Hueneme Beach in the City of Port Hueneme, it is*
40 *necessary for this measure to take effect immediately.*

1 SECTION 1. ~~Section 21083.9 of the Public Resources Code is~~
2 ~~amended to read:~~

3 ~~21083.9. (a) Notwithstanding Section 21080.4, 21104, or~~
4 ~~21153, a lead agency shall conduct at least one public scoping~~
5 ~~meeting for either of the following:~~

6 ~~(1) A proposed project that may affect highways or other~~
7 ~~facilities under the jurisdiction of the Department of Transportation~~
8 ~~if the meeting is requested by the department. The lead agency~~
9 ~~shall call the scoping meeting as soon as possible, but not later~~
10 ~~than 30 days after receiving the request from the Department of~~
11 ~~Transportation.~~

12 ~~(2) A project of statewide, regional, or areawide significance.~~

13 ~~(b) The lead agency shall provide notice of at least one public~~
14 ~~scoping meeting held pursuant to paragraph (2) of subdivision (a)~~
15 ~~to all of the following:~~

16 ~~(1) A county or city that borders on a county or city within~~
17 ~~which the project is located, unless otherwise designated annually~~
18 ~~by agreement between the lead agency and the county or city.~~

19 ~~(2) A responsible agency.~~

20 ~~(3) A public agency that has jurisdiction by law with respect to~~
21 ~~the project.~~

22 ~~(4) A transportation planning agency or public agency required~~
23 ~~to be consulted pursuant to Section 21092.4.~~

24 ~~(5) A public agency, organization, or individual who has filed~~
25 ~~a written request for the notice.~~

26 ~~(c) For a public agency, organization, or individual that is~~
27 ~~required to be provided notice of a lead agency public meeting,~~
28 ~~the requirement for notice of a scoping meeting pursuant to~~
29 ~~subdivision (b) may be met by including the notice of a scoping~~
30 ~~meeting in the public meeting notice.~~

31 ~~(d) A public scoping meeting that is held in the city or county~~
32 ~~within which the project is located pursuant to the federal National~~
33 ~~Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.)~~
34 ~~and the regulations adopted pursuant to that act shall be deemed~~
35 ~~to satisfy the requirement that a scoping meeting be held for a~~
36 ~~project subject to paragraph (2) of subdivision (a) if the lead agency~~
37 ~~meets the notice requirements of subdivision (b) or subdivision~~
38 ~~(c).~~

39 ~~(e) The referral of a proposed action to adopt or substantially~~
40 ~~amend a general plan to a city or county pursuant to paragraph (1)~~

1 of subdivision (a) of Section 65352 of the Government Code may
2 be conducted concurrently with the public scoping meeting required
3 pursuant to this section, and the city or county may submit its
4 comments as provided pursuant to subdivision (b) of Section 65352
5 of the Government Code at the public scoping meeting.

6 ~~SEC. 2. Section 21092 of the Public Resources Code is~~
7 ~~amended to read:~~

8 21092. (a) A lead agency that is preparing an environmental
9 impact report or a negative declaration or making a determination
10 pursuant to subdivision (c) of Section 21157.1 shall provide public
11 notice of that fact within a reasonable period of time prior to
12 certification of the environmental impact report, adoption of the
13 negative declaration, or making the determination pursuant to
14 subdivision (c) of Section 21157.1.

15 (b) (1) The notice shall specify the period during which
16 comments will be received on the draft environmental impact
17 report or negative declaration, and shall include the date, time, and
18 place of any public meetings or hearings on the proposed project,
19 a brief description of the proposed project and its location, the
20 significant effects on the environment, if any, anticipated as a result
21 of the project, the address where copies of the draft environmental
22 impact report or negative declaration, and all documents referenced
23 in the draft environmental impact report or negative declaration,
24 are available for review, and a description of how the draft
25 environmental impact report or negative declaration can be
26 provided in an electronic format.

27 (2) This section shall not be construed in any manner that results
28 in the invalidation of an action because of the alleged inadequacy
29 of the notice content if there has been substantial compliance with
30 the notice content requirements of this section.

31 (3) (A) The notice required by this section shall be given to all
32 of the following:

33 (i) The last known name and address of all organizations and
34 individuals who have previously requested notice.

35 (ii) By mail to the owners and occupants of contiguous property
36 shown on the latest equalized assessment roll.

37 (iii) By mail or electronic mail to responsible and trustee
38 agencies.

39 (iv) By mail or electronic mail to a project applicant, if different
40 than the lead agency, and the applicant's duly authorized agent.

1 ~~(v) The State Clearinghouse.~~

2 ~~(B) The notice required by this section shall also be given by~~
3 ~~at least one of the following procedures:~~

4 ~~(i) Publication, no fewer times than required by Section 6061~~
5 ~~of the Government Code, by the public agency in a newspaper of~~
6 ~~general circulation in the area affected by the proposed project. If~~
7 ~~more than one area will be affected, the notice shall be published~~
8 ~~in the newspaper of largest circulation from among the newspapers~~
9 ~~of general circulation in those areas.~~

10 ~~(ii) Posting of notice by the lead agency on- and off-site in the~~
11 ~~area where the project is to be located.~~

12 ~~(e) For a project involving the burning of municipal wastes,~~
13 ~~hazardous waste, or refuse-derived fuel, including, but not limited~~
14 ~~to, tires, meeting the qualifications of subdivision (d), notice shall~~
15 ~~be given to all organizations and individuals who have previously~~
16 ~~requested notice and shall also be given by at least the procedures~~
17 ~~specified in subparagraphs (A) and (B) of paragraph (3) of~~
18 ~~subdivision (b). In addition, notification shall be given by direct~~
19 ~~mailing to the owners and occupants of property within one-fourth~~
20 ~~of a mile of any parcel or parcels on which a project subject to this~~
21 ~~subdivision is located.~~

22 ~~(d) The notice requirements of subdivision (e) apply to both of~~
23 ~~the following:~~

24 ~~(1) The construction of a new facility.~~

25 ~~(2) The expansion of an existing facility that burns hazardous~~
26 ~~waste which would increase its permitted capacity by more than~~
27 ~~10 percent. For purposes of this paragraph, the amount of expansion~~
28 ~~of an existing facility shall be calculated by comparing the~~
29 ~~proposed facility capacity with whichever of the following is~~
30 ~~applicable:~~

31 ~~(A) The facility capacity approved in the facility's hazardous~~
32 ~~waste facilities permit pursuant to Section 25200 of the Health and~~
33 ~~Safety Code or its grant of interim status pursuant to Section~~
34 ~~25200.5 of the Health and Safety Code, or the facility capacity~~
35 ~~authorized in any state or local agency permit allowing the~~
36 ~~construction or operation of a facility for the burning of hazardous~~
37 ~~waste, granted before January 1, 1990.~~

38 ~~(B) The facility capacity authorized in the facility's original~~
39 ~~hazardous waste facilities permit, grant of interim status, or any~~
40 ~~state or local agency permit allowing the construction or operation~~

1 of a facility for the burning of hazardous waste, granted on or after
2 January 1, 1990.

3 (e) ~~The notice requirements specified in subdivision (b) or (c)~~
4 ~~shall not preclude a public agency from providing additional notice~~
5 ~~by other means if the agency so desires, or from providing the~~
6 ~~public notice required by this section at the same time and in the~~
7 ~~same manner as public notice otherwise required by law for the~~
8 ~~project.~~

9 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
10 ~~Section 6 of Article XIII B of the California Constitution because~~
11 ~~a local agency or school district has the authority to levy service~~
12 ~~charges, fees, or assessments sufficient to pay for the program or~~
13 ~~level of service mandated by this act, within the meaning of Section~~
14 ~~17556 of the Government Code.~~