

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 291

Introduced by Assembly Member Medina

February 11, 2015

An act to amend Section 21152 of, and to add Section 21152.2 to, the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 291, as amended, Medina. California Environmental Quality Act: local agencies: notice of determination: water.

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 ~~(EIR)~~ 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 requires a local agency that approves or determines to carry out a project subject to CEQA to file a notice of the approval or determination with the county clerk of each county in which the project will be located and requires the county clerk to make the notice available for public inspection.

This bill would authorize a local agency, for certain water projects, to file the notice with the county clerk of the county in which the local

agency’s principal office is located in lieu of the county clerk of each county in which the project is located and would, if the local agency exercises this authorization, require the local agency to file the notice with the Office of Planning and Research, and with the Office of Planning and Research, and to mail a copy of the notice to the county clerks of the counties in which the water project is located, as specified. The bill would require the notices to be available for public inspection or posted, as provided.

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. Section 21152 of the Public Resources Code is
 2 amended to read:
 3 21152. (a) Except as provided in Section 21152.2, if a local
 4 agency approves or determines to carry out a project that is subject
 5 to this division, the local agency shall file notice of the approval
 6 or the determination within five working days after the approval
 7 or determination becomes final, with the county clerk of each
 8 county in which the project will be located. The notice shall
 9 identify the person or persons in subdivision (b) or (c) of Section
 10 21065, as reflected in the agency’s record of proceedings, and
 11 indicate the determination of the local agency whether the project
 12 will, or will not, have a significant effect on the environment and
 13 shall indicate whether an environmental impact report has been
 14 prepared pursuant to this division. The notice shall also include
 15 certification that the final environmental impact report, if one was
 16 prepared, together with comments and responses, is available to
 17 the general public.
 18 (b) If a local agency determines that a project is not subject to
 19 this division pursuant to subdivision (b) of Section 21080 ~~or~~
 20 ~~pursuant to Section 21172~~, and the local agency approves or
 21 determines to carry out the project, the local agency or the person
 22 specified in subdivision (b) or (c) of Section 21065 may file a
 23 notice of the determination with the county clerk of each county
 24 in which the project will be located. A notice filed pursuant to this
 25 subdivision shall identify the person or persons in subdivision (b)
 26 or (c) of Section 21065, as reflected in the agency’s record of
 27 proceedings. A notice filed pursuant to this subdivision by a person

1 specified in subdivision (b) or (c) of Section 21065 shall have a
2 certificate of determination attached to it issued by the local agency
3 responsible for making the determination that the project is not
4 subject to this division pursuant to subdivision (b) of Section 21080
5 ~~or Section 21172~~. The certificate of determination may be in the
6 form of a certified copy of an existing document or record of the
7 local agency.

8 (c) A notice filed pursuant to this section shall be available for
9 public inspection, and shall be posted within 24 hours of receipt
10 in the office of the county clerk. A notice shall remain posted for
11 a period of 30 days. Thereafter, the clerk shall return the notice to
12 the local agency with a notation of the period it was posted. The
13 local agency shall retain the notice for not less than 12 months.

14 SEC. 2. Section 21152.2 is added to the Public Resources Code,
15 to read:

16 21152.2. (a) For purposes of this section, “water project”
17 means an activity undertaken pursuant to Sections 1011, 1011.5,
18 and 1211 of, Chapter 2 (commencing with Section 1250), Chapter
19 6.6 (commencing with Section 1435), Chapter 10 (commencing
20 with Section ~~1700~~ 1700), and Chapter 10.5 (commencing with
21 Section 1725) of Part 2 of Division 2 of, the Water Code.

22 ~~(b) A local agency that is required to file a notice pursuant to~~
23 ~~Section 21152 for a water project may, in lieu of the filing~~
24 ~~requirements of that section, file the notice in the form required~~
25 ~~by that section with the county clerk of the county in which the~~
26 ~~local agency’s principal office is located.~~

27 ~~(c) If the lead agency files a notice pursuant to this section, the~~
28 ~~local agency shall also file the notice with the Office of Planning~~
29 ~~and Research.~~

30 *(b) Within five working days after a local agency has approved*
31 *or made a determination to carry out a water project, a local*
32 *agency, in lieu of the notice filing requirements of subdivision (a)*
33 *of Section 21152 for that water project, may take all of the*
34 *following actions:*

35 *(1) File the notice in the form required by subdivision (a) of*
36 *Section 21152 with the county clerk of the county in which the*
37 *local agency’s principal office is located.*

38 *(2) File the notice with the Office of Planning and Research.*

39 *(3) Mail copies of the notice through the United States mail,*
40 *first-class postage prepaid with return receipt requested, to the*

1 county clerk of all the counties in which the water project will be
2 located.

3 ~~(d)~~

4 (c) (1) The county clerk receiving a notice pursuant to
5 paragraph (1) of subdivision (b) shall comply with subdivision
6 (c) of Section ~~25112~~. 21152.

7 (2) ~~(A)~~ All notices filed pursuant to paragraph (2) of
8 subdivision ~~(e)~~ (b) shall be available for public inspection, and a
9 list of those notices shall be posted on a weekly basis in the Office
10 of Planning and Research. Each list shall remain posted for a period
11 of 30 days.

12 ~~(B) Failure to file the notice pursuant to subdivision (c) does~~
13 ~~not affect the validity of a project.~~

14 (3) As promptly as possible, a county clerk that receives a copy
15 of a notice pursuant to paragraph (3) of subdivision (b) shall post
16 that copy and shall not require an original of that notice or any
17 additional information from the local agency.

18 (d) The filing date of the notice specified in subdivisions (b) to
19 (e), inclusive, of Section 21167, Section 21167.10, and Section
20 21177 shall be the date on which the notice is filed with the Office
21 of Planning and Research pursuant to paragraph (2) of subdivision
22 (b).

23 (e) Nothing in this section affects the application of Section
24 21092.2.