

AMENDED IN SENATE JUNE 10, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

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 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. *CEQA requires a person challenging a public agency’s action on the ground of noncompliance with CEQA to file an action or proceeding with the court within a specified time period that commences on the date of the filing of the notice of approval or determination.*

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~~ *located, along with any required payment to the Department of Fish and Wildlife, and with the Office of Planning and Research, and to ~~mail~~ transmit 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~~ notice and the copies of the notice to be available for public inspection ~~or posted, and posted by the respective county clerks, as provided. The bill would specify that the time period for filing an action or proceeding challenging a local agency’s action on the ground of noncompliance with CEQA commences on the date on which the notice is filed with the Office of Planning and Research.~~*

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.

1 (b) If a local agency determines that a project is not subject to
2 this division pursuant to subdivision (b) of Section 21080 and the
3 local agency approves or determines to carry out the project, the
4 local agency or the person specified in subdivision (b) or (c) of
5 Section 21065 may file a notice of the determination with the
6 county clerk of each county in which the project will be located.
7 A notice filed pursuant to this subdivision shall identify the person
8 or persons in subdivision (b) or (c) of Section 21065, as reflected
9 in the agency's record of proceedings. A notice filed pursuant to
10 this subdivision by a person specified in subdivision (b) or (c) of
11 Section 21065 shall have a certificate of determination attached
12 to it issued by the local agency responsible for making the
13 determination that the project is not subject to this division pursuant
14 to subdivision (b) of Section 21080. The certificate of
15 determination may be in the form of a certified copy of an existing
16 document or record of the local agency.

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

23 SEC. 2. Section 21152.2 is added to the Public Resources Code,
24 to read:

25 21152.2. (a) For purposes of this section, "water project"
26 means an activity undertaken pursuant to Sections 1011, 1011.5,
27 and 1211 of, Chapter 2 (commencing with Section 1250), Chapter
28 6.6 (commencing with Section 1435), Chapter 10 (commencing
29 with Section 1700), and Chapter 10.5 (commencing with Section
30 1725) of Part 2 of Division 2 of, the Water Code.

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

36 (1) File the notice in the form required by subdivision (a) of
37 Section 21152 with the county clerk of the county in which the
38 local agency's principal office is located *and make any payment*
39 *to the Department of Fish and Wildlife required by Section 711.4*
40 *of the Fish and Game Code to that clerk.*

1 (2) File the notice with the Office of Planning and Research
 2 *without a further payment to the Department of Fish and Wildlife.*

3 (3) ~~Mail-Transmit~~ a copy of the notice ~~through the~~ *via the* United
 4 States ~~mail, first-class postage prepaid with return receipt~~
 5 ~~requested,~~ *Postal Service’s Express Mail, postage prepaid, or via*
 6 *another method of delivery providing for prepaid overnight*
 7 *delivery, to the county clerk of each county in which the water*
 8 *project will be located. The copy of the notice, or an attachment*
 9 *to the copy of the notice, shall state the date on which the notice*
 10 *was filed with the Office of Planning and Research pursuant to*
 11 *paragraph (2).*

12 (c) (1) The county clerk receiving a notice pursuant to paragraph
 13 (1) of subdivision (b) shall comply with subdivision (c) of Section
 14 21152.

15 (2) All notices filed pursuant to paragraph (2) of subdivision
 16 (b) shall be available for public inspection, and a list of those
 17 notices shall be posted on a weekly basis in the Office of Planning
 18 and Research. Each list shall remain posted for a period of 30 days.

19 (3) ~~As promptly as possible, a~~ *A* county clerk that receives a
 20 copy of a notice pursuant to paragraph (3) of subdivision (b) shall
 21 ~~post that copy~~ *comply with subdivision (c) of Section 21152* and
 22 shall not require an original of that ~~notice~~ *notice, any information*
 23 *regarding the filing of the notice with the Office of Planning and*
 24 *Research other than the statement described in paragraph (3) of*
 25 *subdivision (b), or any additional information from the local agency*
 26 *agency, but may charge a single fee of seventy-five dollars (\$75)*
 27 *for handling the posting of the notice pursuant to subdivision (c)*
 28 *of Section 21152, notwithstanding subdivision (e) of Section 711.4*
 29 *of the Fish and Game Code.*

30 (d) The filing date of the notice specified in subdivisions (b) to
 31 (e), inclusive, of Section 21167, Section 21167.10, and Section
 32 21177 shall be the date on which the notice is filed with the Office
 33 of Planning and Research pursuant to paragraph (2) of subdivision
 34 (b).

35 (e) Nothing in this section affects the application of Section
 36 21092.2.

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