

AMENDED IN SENATE AUGUST 3, 2016

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**

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**Introduced by Assembly ~~Member Medina~~ Members Atkins and  
Gonzalez**  
*(Coauthors: Assembly Members Jones and Medina)*  
*(Coauthor: Senator Anderson)*

February 11, 2015

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An act to ~~amend Section 21152 of, and to add Section 21152.2 to,~~  
~~the Public Resources Code, relating to environmental quality. add~~  
*Section 12012.72 to the Government Code, relating to tribal gaming,*  
*and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 291, as amended, ~~Medina Atkins. California Environmental  
Quality Act: local agencies: notice of determination: water. Tribal  
gaming: compact ratification.~~

*Existing federal law, the Indian Gaming Regulatory Act of 1988,  
provides for the negotiation and execution of tribal-state gaming  
compacts for the purpose of authorizing certain types of gaming on  
Indian lands within a state. The California Constitution authorizes the  
Governor to negotiate and conclude compacts, subject to ratification  
by the Legislature. Existing law expressly ratifies a number of*

*tribal-state gaming compacts, and amendments to tribal-state gaming compacts, between the State of California and specified Indian tribes.*

*The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report 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.*

*This bill would ratify the tribal-state gaming compact entered into between the State of California and the Barona Band of Mission Indians, executed on June 22, 2016. The bill would provide that, in deference to tribal sovereignty, certain actions are not projects for the purposes of CEQA.*

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

~~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, along with any required payment to the Department of Fish and Wildlife, and with the Office of Planning and Research, and to 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 notice and the copies of the notice to be available for public inspection 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 <sup>2</sup>/<sub>3</sub>. 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 12012.72 is added to the Government  
2     Code, to read:  
3     12012.72. (a) The tribal-state gaming compact entered into  
4     in accordance with the federal Indian Gaming Regulatory Act of  
5     1988 (18 U.S.C. Secs. 1166 to 1168, inclusive, and 25 U.S.C. Sec.  
6     2701 et seq.) between the State of California and the Barona Band  
7     of Mission Indians, executed on June 22, 2016, is hereby ratified.  
8     (b) (1) In deference to tribal sovereignty, none of the following  
9     shall be deemed a project for purposes of the California  
10    Environmental Quality Act (Division 13 (commencing with Section  
11    21000) of the Public Resources Code):  
12    (A) The execution of an amendment to the tribal-state gaming  
13    compact ratified by this section.  
14    (B) The execution of the tribal-state gaming compact ratified  
15    by this section.  
16    (C) The execution of an intergovernmental agreement between  
17    a tribe and a county or city government negotiated pursuant to  
18    the express authority of, or as expressly referenced in, the  
19    tribal-state gaming compact ratified by this section.  
20    (D) The execution of an intergovernmental agreement between  
21    a tribe and the Department of Transportation negotiated pursuant  
22    to the express authority of, or as expressly referenced in, the  
23    tribal-state gaming compact ratified by this section.  
24    (E) The on-reservation impacts of compliance with the terms  
25    of the tribal-state gaming compact ratified by this section.  
26    (F) The sale of compact assets, as defined in subdivision (a) of  
27    Section 63048.6, or the creation of the special purpose trust  
28    established pursuant to Section 63048.65.

1 (2) *Except as expressly provided herein, this subdivision does*  
2 *not exempt a city, county, or city and county, or the Department*  
3 *of Transportation, from the requirements of the California*  
4 *Environmental Quality Act.*

5 SEC. 2. *This act is an urgency statute necessary for the*  
6 *immediate preservation of the public peace, health, or safety within*  
7 *the meaning of Article IV of the Constitution and shall go into*  
8 *immediate effect. The facts constituting the necessity are:*

9 *In order to enhance the economic development, stability, and*  
10 *self-sufficiency of the Barona Band of Mission Indians and to*  
11 *protect the interests of the tribe and its members, the surrounding*  
12 *community, and the California public at the earliest possible time,*  
13 *it is necessary that this act take effect immediately.*

14 SECTION 1. ~~Section 21152 of the Public Resources Code is~~  
15 ~~amended to read:~~

16 21152. (a) ~~Except as provided in Section 21152.2, if a local~~  
17 ~~agency approves or determines to carry out a project that is subject~~  
18 ~~to this division, the local agency shall file notice of the approval~~  
19 ~~or the determination within five working days after the approval~~  
20 ~~or determination becomes final, with the county clerk of each~~  
21 ~~county in which the project will be located. The notice shall~~  
22 ~~identify the person or persons in subdivision (b) or (c) of Section~~  
23 ~~21065, as reflected in the agency’s record of proceedings, and~~  
24 ~~indicate the determination of the local agency whether the project~~  
25 ~~will, or will not, have a significant effect on the environment and~~  
26 ~~shall indicate whether an environmental impact report has been~~  
27 ~~prepared pursuant to this division. The notice shall also include~~  
28 ~~certification that the final environmental impact report, if one was~~  
29 ~~prepared, together with comments and responses, is available to~~  
30 ~~the general public.~~

31 (b) ~~If a local agency determines that a project is not subject to~~  
32 ~~this division pursuant to subdivision (b) of Section 21080 and the~~  
33 ~~local agency approves or determines to carry out the project, the~~  
34 ~~local agency or the person specified in subdivision (b) or (c) of~~  
35 ~~Section 21065 may file a notice of the determination with the~~  
36 ~~county clerk of each county in which the project will be located.~~  
37 ~~A notice filed pursuant to this subdivision shall identify the person~~  
38 ~~or persons in subdivision (b) or (c) of Section 21065, as reflected~~  
39 ~~in the agency’s record of proceedings. A notice filed pursuant to~~  
40 ~~this subdivision by a person specified in subdivision (b) or (c) of~~

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

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

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

15 21152.2. (a) For purposes of this section, “water project”  
16 means an activity undertaken pursuant to Sections 1011, 1011.5,  
17 and 1211 of, Chapter 2 (commencing with Section 1250), Chapter  
18 6.6 (commencing with Section 1435), Chapter 10 (commencing  
19 with Section 1700), and Chapter 10.5 (commencing with Section  
20 1725) of Part 2 of Division 2 of, the Water Code.

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

26 (1) File the notice in the form required by subdivision (a) of  
27 Section 21152 with the county clerk of the county in which the  
28 local agency’s principal office is located and make any payment  
29 to the Department of Fish and Wildlife required by Section 711.4  
30 of the Fish and Game Code to that clerk.

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

33 (3) Transmit a copy of the notice via the United States Postal  
34 Service’s Express Mail, postage prepaid, or via another method  
35 of delivery providing for prepaid overnight delivery, to the county  
36 clerk of each county in which the water project will be located.  
37 The copy of the notice, or an attachment to the copy of the notice,  
38 shall state the date on which the notice was filed with the Office  
39 of Planning and Research pursuant to paragraph (2).

1     ~~(e) (1) The county clerk receiving a notice pursuant to paragraph~~  
2 ~~(1) of subdivision (b) shall comply with subdivision (c) of Section~~  
3 ~~21152.~~  
4     ~~(2) All notices filed pursuant to paragraph (2) of subdivision~~  
5 ~~(b) shall be available for public inspection, and a list of those~~  
6 ~~notices shall be posted on a weekly basis in the Office of Planning~~  
7 ~~and Research. Each list shall remain posted for a period of 30 days.~~  
8     ~~(3) A county clerk that receives a copy of a notice pursuant to~~  
9 ~~paragraph (3) of subdivision (b) shall comply with subdivision (c)~~  
10 ~~of Section 21152 and shall not require an original of that notice,~~  
11 ~~any information regarding the filing of the notice with the Office~~  
12 ~~of Planning and Research other than the statement described in~~  
13 ~~paragraph (3) of subdivision (b), or any additional information~~  
14 ~~from the local agency, but may charge a single fee of seventy-five~~  
15 ~~dollars (\$75) for handling the posting of the notice pursuant to~~  
16 ~~subdivision (c) of Section 21152, notwithstanding subdivision (c)~~  
17 ~~of Section 711.4 of the Fish and Game Code.~~  
18     ~~(d) The filing date of the notice specified in subdivisions (b) to~~  
19 ~~(c), 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.~~