

AMENDED IN SENATE JUNE 24, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1034

Introduced by Assembly Member Obernolte
(Principal coauthor: Senator Fuller)
(Coauthor: Assembly Member Steinorth)
(Coauthor: Senator Morrell)

February 26, 2015

An act to add Section 2777.3 to the Public Resources Code, relating to surface mining.

LEGISLATIVE COUNSEL'S DIGEST

AB 1034, as amended, Obernolte. Surface mining: reclamation plans: renewable energy generation facility.

The Surface Mining and Reclamation Act of 1975 prohibits a person from conducting a surface mining operation unless, among other things, a reclamation plan has been submitted to and approved by the lead agency, as defined, for the operation of the mining operation. The act requires an amendment to an approved reclamation plan that is a substantial deviation from the approved plan to be filed with, and approved by, the lead agency and submitted to the Director of Conservation for review and comment.

This bill would establish an alternate procedure for the approval of an amendment to an approved reclamation plan that proposes to use a designated portion of the mined lands for the construction and operation of a renewable energy generation facility. Because a lead agency would

be required to determine the applicability of and implement this alternate procedure, this bill would impose 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. Section 2777.3 is added to the Public Resources
- 2 Code, to read:
- 3 2777.3. (a) An amendment to an approved reclamation plan
- 4 that proposes to use a designated portion of the mined lands for
- 5 the construction and operation of a renewable energy generation
- 6 facility, including associated onsite structures, equipment,
- 7 machines, tools, other materials, or related land improvements,
- 8 shall not be deemed to be a substantial deviation from the original
- 9 approved reclamation plan for purposes of Section 2777 if the
- 10 operator complies with all of the following:
- 11 (1) The lead agency, prior to the commencement of land
- 12 improvements, approves the amendment to the reclamation plan
- 13 together with any other changes to the reclamation plan necessary
- 14 to conform with this chapter.
- 15 (2) The amended reclamation plan incorporates current
- 16 reclamation standards required by this chapter and Article 9
- 17 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of
- 18 Division 2 of Title 14 of the California Code of Regulations with
- 19 respect to the designated portion of the mined lands that is the
- 20 subject of the amendment to the reclamation plan.
- 21 (3) All required permits for the construction, landscaping, or
- 22 related land improvements ~~that~~ have been approved by a public
- 23 agency in accordance with applicable provisions of state law and
- 24 locally adopted plans and ordinances, including, but not limited
- 25 to, the California Environmental Quality Act (Division 13
- 26 commencing with Section 21000).
- 27 (4) The operating permit for the ~~surface mining operation~~
- 28 *renewable energy generation facility* has an approved closure plan

1 and financial assurance that the lead agency determines to be
2 sufficient to perform the removal of the ~~surface mining operation~~
3 *renewable energy generation facility* and to restore the ~~mined~~
4 *disturbed lands in conformance with the approved end use*. A
5 calculated surplus or salvage value shall not be utilized to offset
6 the costs of reclaiming the mined lands subject to the approved
7 reclamation plan.

8 (b) An amendment to an approved reclamation plan described
9 in subdivision (a) shall not be adverse to a surface mining
10 operator's vested right acquired pursuant to Section 2776 or be
11 incompatible with future mineral extraction consistent with
12 subparagraph (C) of paragraph (3) of subdivision (c) of Section
13 3676 of Title 14 of the California Code of Regulations.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 a local agency or school district has the authority to levy service
17 charges, fees, or assessments sufficient to pay for the program or
18 level of service mandated by this act, within the meaning of Section
19 17556 of the Government Code.