

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1268

Introduced by Assembly Member ~~Travis Allen~~ Steinorth

February 27, 2015

An act to amend Section ~~30500~~ 21159.21 of the Public Resources Code, relating to ~~coastal resources~~; *the California Environmental Quality Act.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1268, as amended, ~~Travis Allen~~ Steinorth. ~~Coastal resources: local coastal programs. California Environmental Quality Act: exemption for a housing project.~~

The California Environmental Quality Act (CEQA) generally requires all state and local governmental lead agencies to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on any discretionary project that they propose to carry out or approve that may result in a significant effect on the environment, that is, a substantial, or potentially substantial, adverse change in the physical conditions that exist within the area that will be affected by the project. Under existing law, a housing project qualifies for an exemption from CEQA if certain requirements are met, including the requirement that the site is not located within the boundaries of a state conservancy.

This bill would eliminate the requirement that the site not be located within the boundaries of a state conservancy.

~~The California Coastal Act of 1976 establishes procedures for the preparation, approval, and certification of local coastal programs. The act requires each local coastal program to contain a specific public~~

~~access component to ensure that maximum public access to the coast and public recreation areas is provided.~~

~~This bill would make a nonsubstantive change to that public access provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 21159.21 of the Public Resources Code
2 is amended to read:

3 21159.21. A housing project qualifies for an exemption from
4 this division pursuant to Section 21159.22, 21159.23, or 21159.24
5 if it meets the criteria in the applicable section and all of the
6 following criteria:

7 (a) The project is consistent with any applicable general plan,
8 specific plan, and local coastal program, including any mitigation
9 measures required by a plan or program, as that plan or program
10 existed on the date that the application was deemed complete and
11 with any applicable zoning ordinance, as that zoning ordinance
12 existed on the date that the application was deemed complete,
13 except that a project shall not be deemed to be inconsistent with
14 the zoning designation for the site if that zoning designation is
15 inconsistent with the general plan only because the project site has
16 not been rezoned to conform with a more recently adopted general
17 plan.

18 (b) Community-level environmental review has been adopted
19 or certified.

20 (c) The project and other projects approved prior to the approval
21 of the project can be adequately served by existing utilities, and
22 the project applicant has paid, or has committed to pay, all
23 applicable in-lieu or development fees.

24 (d) The site of the project does not contain wetlands, does not
25 have any value as a wildlife habitat, and the project does not harm
26 any species protected by the federal Endangered Species Act of
27 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection
28 Act (Chapter 10 (commencing with Section 1900) of Division 2
29 of the Fish and Game Code), the California Endangered Species
30 Act (Chapter 1.5 (commencing with Section 2050) of Division 3
31 of the Fish and Game Code), and the project does not cause the

1 destruction or removal of any species protected by a local ordinance
2 in effect at the time the application for the project was deemed
3 complete. For the purposes of this subdivision, “wetlands” has the
4 same meaning as in Section 328.3 of Title 33 of the Code of
5 Federal Regulations and “wildlife habitat” means the ecological
6 communities upon which wild animals, birds, plants, fish,
7 amphibians, and invertebrates depend for their conservation and
8 protection.

9 (e) The site of the project is not included on any list of facilities
10 and sites compiled pursuant to Section 65962.5 of the Government
11 Code.

12 (f) The site of the project is subject to a preliminary
13 endangerment assessment prepared by an environmental assessor
14 to determine the existence of any release of a hazardous substance
15 on the site and to determine the potential for exposure of future
16 occupants to significant health hazards from any nearby property
17 or activity.

18 (1) If a release of a hazardous substance is found to exist on the
19 site, the release shall be removed, or any significant effects of the
20 release shall be mitigated to a level of insignificance in compliance
21 with state and federal requirements.

22 (2) If a potential for exposure to significant hazards from
23 surrounding properties or activities is found to exist, the effects of
24 the potential exposure shall be mitigated to a level of insignificance
25 in compliance with state and federal requirements.

26 (g) The project does not have a significant effect on historical
27 resources pursuant to Section 21084.1.

28 (h) The project site is not subject to any of the following:

29 (1) A wildland fire hazard, as determined by the Department of
30 Forestry and Fire Protection, unless the applicable general plan or
31 zoning ordinance contains provisions to mitigate the risk of a
32 wildland fire hazard.

33 (2) An unusually high risk of fire or explosion from materials
34 stored or used on nearby properties.

35 (3) Risk of a public health exposure at a level that would exceed
36 the standards established by any state or federal agency.

37 (4) Within a delineated earthquake fault zone, as determined
38 pursuant to Section 2622, or a seismic hazard zone, as determined
39 pursuant to Section 2696, unless the applicable general plan or

1 zoning ordinance contains provisions to mitigate the risk of an
2 earthquake fault or seismic hazard zone.

3 (5) Landslide hazard, flood plain, flood way, or restriction zone,
4 unless the applicable general plan or zoning ordinance contains
5 provisions to mitigate the risk of a landslide or flood.

6 (i) (1) The project site is not located on developed open space.

7 (2) For the purposes of this subdivision, “developed open space”
8 means land that meets all of the following criteria:

9 (A) Is publicly owned, or financed in whole or in part by public
10 funds.

11 (B) Is generally open to, and available for use by, the public.

12 (C) Is predominantly lacking in structural development other
13 than structures associated with open spaces, including, but not
14 limited to, playgrounds, swimming pools, ballfields, enclosed child
15 play areas, and picnic facilities.

16 (3) For the purposes of this subdivision, “developed open space”
17 includes land that has been designated for acquisition by a public
18 agency for developed open space, but does not include lands
19 acquired by public funds dedicated to the acquisition of land for
20 housing purposes.

21 (j) ~~The project site is not located within the boundaries of a state
22 conservancy.~~

23 ~~SECTION 1. Section 30500 of the Public Resources Code is
24 amended to read:~~

25 ~~30500. (a) Each local government lying, in whole or in part,
26 within the coastal zone shall prepare a local coastal program for
27 that portion of the coastal zone within its jurisdiction. However,
28 any local government may request, in writing, the commission to
29 prepare a local coastal program, or a portion thereof, for the local
30 government. Each local coastal program prepared pursuant to this
31 chapter shall contain a specific public access component to ensure
32 that maximum public access to the coast and public recreation
33 areas is provided.~~

34 ~~(b) Amendments to a local general plan for the purpose of
35 developing a certified local coastal program shall not constitute
36 an amendment of a general plan for purposes of Section 65358 of
37 the Government Code.~~

38 ~~(c) The precise content of each local coastal program shall be
39 determined by the local government, consistent with Section 30501,~~

- 1 ~~in full consultation with the commission and with full public~~
- 2 ~~participation.~~

O