

SENATE BILL

No. 11

Introduced by Senator Berryhill
(Coauthors: Senators Anderson, Bates, Fuller, Gaines, Huff,
Morrell, Runner, Stone, and Vidak)
(Coauthor: Assembly Member Bigelow)

July 16, 2015

An act to amend Section 21080.37 of the Public Resources Code, relating to the California Environmental Quality Act.

LEGISLATIVE COUNSEL'S DIGEST

SB 11, as introduced, Berryhill. California Environmental Quality Act: exemption: roadway improvement.

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, until January 1, 2016, exempts a project or an activity to repair, maintain, or make minor alterations to an existing roadway, as defined, other than a state roadway, if the project or activity is carried out by a city or county with a population of less than 100,000 persons to improve public safety and meets other specified requirements.

This bill would extend the above-referenced exemption until January 1, 2025, and delete the limitation of the exemption to projects or activities in cities and counties with a population of less than 100,000 persons. The bill would also expand the exemption to include state roadways.

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 21080.37 of the Public Resources Code
2 is amended to read:

3 21080.37. (a) This division does not apply to a project or an
4 activity to repair, maintain, or make minor alterations to an existing
5 roadway if all of the following conditions are met:

6 ~~(1) The project is carried out by a city or county with a~~
7 ~~population of less than 100,000 persons to improve public safety.~~

8 ~~(2)~~

9 (1) (A) The project does not cross a waterway.

10 (B) For purposes of this paragraph, “waterway” means a bay,
11 estuary, lake, pond, river, slough, or a perennial, intermittent, or
12 ephemeral stream, lake, or estuarine-marine shoreline.

13 ~~(3)~~

14 (2) The project involves negligible or no expansion of an
15 existing use beyond that existing at the time of the lead agency’s
16 determination.

17 ~~(4) The roadway is not a state roadway.~~

18 ~~(5)~~

19 (3) (A) The site of the project does not contain wetlands or
20 riparian areas and does not have significant value as a wildlife
21 habitat, and the project does not harm any species protected by the
22 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
23 seq.), the Native Plant Protection Act (Chapter 10 (commencing
24 with Section 1900) of Division 2 of the Fish and Game Code), or
25 the California Endangered Species Act (Chapter 1.5 (commencing
26 with Section 2050) of Division 3 of the Fish and Game Code), and
27 the project does not cause the destruction or removal of any species
28 protected by a local ordinance.

29 (B) For the purposes of this paragraph:

1 (i) “Riparian areas” mean those areas transitional between
2 terrestrial and aquatic ecosystems and that are distinguished by
3 gradients in biophysical conditions, ecological processes, and biota.
4 A riparian area is an area through which surface and subsurface
5 hydrology connect waterbodies with their adjacent uplands. A
6 riparian area includes those portions of terrestrial ecosystems that
7 significantly influence exchanges of energy and matter with aquatic
8 ecosystems. A riparian area is adjacent to perennial, intermittent,
9 and ephemeral streams, lakes, and estuarine-marine shorelines.

10 (ii) “Significant value as a wildlife habitat” includes wildlife
11 habitat of national, statewide, regional, or local importance; habitat
12 for species protected by the federal Endangered Species Act of
13 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered
14 Species Act (Chapter 1.5 (commencing with Section 2050) of
15 Division 3 of the Fish and Game Code), or the Native Plant
16 Protection Act (Chapter 10 (commencing with Section 1900) of
17 Division 2 of the Fish and Game Code); habitat identified as
18 candidate, fully protected, sensitive, or species of special status
19 by local, state, or federal agencies; or habitat essential to the
20 movement of resident or migratory wildlife.

21 (iii) “Wetlands” has the same meaning as in the United States
22 Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

23 (iv) “Wildlife habitat” means the ecological communities upon
24 which wild animals, birds, plants, fish, amphibians, and
25 invertebrates depend for their conservation and protection.

26 ~~(6)~~

27 (4) The project does not impact cultural resources.

28 ~~(7)~~

29 (5) The roadway does not affect scenic resources, as provided
30 pursuant to subdivision (c) of Section 21084.

31 (b) Prior to determining that a project is exempt pursuant to this
32 section, the lead agency shall do both of the following:

33 (1) Include measures in the project to mitigate potential
34 vehicular traffic and safety impacts and bicycle and pedestrian
35 safety impacts.

36 (2) Hold a noticed public hearing on the project to hear and
37 respond to public comments. The hearing on the project may be
38 conducted with another noticed lead agency public hearing.
39 Publication of the notice shall be no fewer times than required by

1 Section 6061 of the Government Code, by the ~~public~~ *lead* agency
2 in a newspaper of general circulation in the area.

3 (c) For purposes of this section, “roadway” means a roadway
4 as defined pursuant to Section 530 of the Vehicle Code and the
5 previously graded and maintained shoulder that is within a roadway
6 right-of-way of no more than five feet from the edge of the
7 roadway.

8 (d) *(1) If a state agency determines that a project is not subject*
9 *to this division pursuant to this section, and it approves or*
10 *determines to carry out that project, it shall file a notice with the*
11 *Office of Planning and Research in the manner specified in*
12 *subdivisions (b) and (c) of Section 21108.*

13 ~~Whenever~~

14 (2) *If a local agency determines that a project is not subject to*
15 *this division pursuant to this section, and it approves or determines*
16 *to carry out that project, ~~the local agency~~ it shall file a notice with*
17 *the Office of Planning and Research, and with the county clerk in*
18 *the county in which the project will be located in the manner*
19 *specified in subdivisions (b) and (c) of Section 21152.*

20 (e) This section shall remain in effect only until January 1, ~~2016,~~
21 *2025*, and as of that date is repealed, unless a later enacted statute,
22 that is enacted before January 1, ~~2016,~~ *2025*, deletes or extends
23 that date.