

AMENDED IN ASSEMBLY MAY 19, 2016

AMENDED IN SENATE JUNE 2, 2015

SENATE BILL

No. 734

Introduced by Senator ~~De León~~ Galgiani

February 27, 2015

An act to amend ~~Section 12805.2 of the Government Code, relating to public lands. Sections 21181, 21183, 21189.1, and 21189.3 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 734, as amended, ~~De León~~ Galgiani. ~~State lands acquisitions: public transparency. Environmental quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2011.~~

(1) *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.*

The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 authorizes the Governor, until January 1, 2016, to certify projects meeting certain requirements, including the requirement that the project creates high-wage, highly skilled jobs that

pay prevailing wages and living wages, for streamlining benefits provided by that act. The act provides that if a lead agency fails to approve a project certified by the Governor before January 1, 2017, then the certification expires and is no longer valid. The act requires a lead agency to prepare the record of proceedings for the certified project concurrent with the preparation of the environmental documents. The act is repealed by its own terms on January 1, 2017.

This bill would extend the authority of the Governor to certify a project to January 1, 2018. The bill would provide that the certification expires and is no longer valid if the lead agency fails to approve a certified project before January 1, 2019. If a project is certified by the Governor, the bill would require contractors and subcontractors to pay to all construction workers employed in the execution of the project at least the general prevailing rate of per diem wages and would provide for the enforcement of this requirement. The bill would repeal the act on January 1, 2019. Because the bill would extend the obligation of the lead agency to prepare concurrently the record of proceedings, this bill would impose a state-mandated local program.

(2) 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.

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

~~Existing law requires the Natural Resources Agency, in fiscal years for which funding is provided, to develop and maintain a database of lands and easements that have been acquired by the departments and boards within the agency. Existing law, in conjunction with the database, requires the agency to do certain things, including to establish a uniform open process to ensure that information is readily available to the general public, local, state, and federal agencies, adjacent landowners, and other interested parties regarding any state hearings to approve proposed state land acquisitions.~~

~~This bill would require the agency to implement the above uniform open process to include, but not be limited to, at least 30 days for public comment, to provide public transparency.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~^{yes}.

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

1 *SECTION 1. Section 21181 of the Public Resources Code is*
2 *amended to read:*

3 21181. This chapter does not apply to a project if the Governor
4 does not certify ~~a~~ *the* project as an environmental leadership
5 development project eligible for streamlining ~~provided~~ pursuant
6 to this chapter prior to January 1, ~~2016~~. 2018.

7 *SEC. 2. Section 21183 of the Public Resources Code is*
8 *amended to read:*

9 21183. The Governor may certify a leadership project for
10 streamlining pursuant to this chapter if all the following conditions
11 are met:

12 (a) The project will result in a minimum investment of one
13 hundred million dollars (\$100,000,000) in California upon
14 completion of construction.

15 (b) (1) The project creates high-wage, highly skilled jobs that
16 pay prevailing wages and living wages and provide construction
17 jobs and permanent jobs for Californians, and helps reduce
18 unemployment. For purposes of this subdivision, “jobs that pay
19 prevailing wages” means that all construction workers employed
20 in the execution of the project will receive at least the general
21 prevailing rate of per diem wages for the type of work and
22 geographic area, as determined by the Director of Industrial
23 Relations pursuant to Sections 1773 and 1773.9 of the Labor Code.
24 If the project is certified for streamlining, the project applicant
25 shall include this requirement in all contracts for the performance
26 of the work.

27 (2) (A) *If the project is certified pursuant to this chapter,*
28 *contractors and subcontractors shall pay to all construction*
29 *workers employed in the execution of the project at least the*
30 *general prevailing rate of per diem wages.*

31 (B) *Except as provided in subparagraph (C), the obligation of*
32 *the contractors and subcontractors to pay prevailing wages*
33 *pursuant to subparagraph (A) may be enforced by the Labor*
34 *Commissioner through the issuance of a civil wage and penalty*
35 *assessment pursuant to Section 1741 of the Labor Code, which*
36 *may be reviewed pursuant to Section 1742 of the Labor Code,*
37 *within 18 months after the completion of the project, or by an*
38 *underpaid worker through an administrative complaint or civil*

1 action. If a civil wage and penalty assessment is issued, the
2 contractor, subcontractor, and surety on a bond or bonds issued
3 to secure the payment of wages covered by the assessment shall
4 be liable for liquidated damages pursuant to Section 1742.1 of the
5 Labor Code.

6 (C) Subparagraph (B) does not apply if all contractors and
7 subcontractors performing work on the project are subject to a
8 project labor agreement that requires the payment of prevailing
9 wages to all construction workers employed in the execution of
10 the project and provides for enforcement of that obligation through
11 an arbitration procedure. For purposes of this subparagraph,
12 “project labor agreement” has the same meaning as set forth in
13 paragraph (1) of subdivision (b) of Section 2500 of the Public
14 Contract Code.

15 (c) The project does not result in any net additional emission
16 of greenhouse gases, including greenhouse gas emissions from
17 employee transportation, as determined by the State Air Resources
18 Board pursuant to Division 25.5 (commencing with Section 38500)
19 of the Health and Safety Code.

20 (d) The project applicant has entered into a binding and
21 enforceable agreement that all mitigation measures required
22 pursuant to this division to certify the project under this chapter
23 shall be conditions of approval of the project, and those conditions
24 will be fully enforceable by the lead agency or another agency
25 designated by the lead agency. In the case of environmental
26 mitigation measures, the applicant agrees, as an ongoing obligation,
27 that those measures will be monitored and enforced by the lead
28 agency for the life of the obligation.

29 (e) The project applicant agrees to pay the costs of the Court of
30 Appeal in hearing and deciding any case, including payment of
31 the costs for the appointment of a special master if deemed
32 appropriate by the court, in a form and manner specified by the
33 Judicial Council, as provided in the Rules of Court adopted by the
34 Judicial Council pursuant to ~~subdivision (f)~~ of Section 21185.

35 (f) The project applicant agrees to pay the costs of preparing
36 the administrative record for the project concurrent with review
37 and consideration of the project pursuant to this division, in a form
38 and manner specified by the lead agency for the project.

39 *SEC. 3. Section 21189.1 of the Public Resources Code is*
40 *amended to read:*

1 21189.1. If, prior to January 1, ~~2017~~, 2019, a lead agency fails
2 to approve a project certified by the Governor pursuant to this
3 chapter, then the certification expires and is no longer valid.

4 *SEC. 4. Section 21189.3 of the Public Resources Code is*
5 *amended to read:*

6 21189.3. This chapter shall remain in effect until January 1,
7 ~~2017~~, 2019, and as of that date is repealed unless a later enacted
8 statute extends or repeals that date.

9 *SEC. 5. No reimbursement is required by this act pursuant to*
10 *Section 6 of Article XIII B of the California Constitution because*
11 *a local agency or school district has the authority to levy service*
12 *charges, fees, or assessments sufficient to pay for the program or*
13 *level of service mandated by this act, within the meaning of Section*
14 *17556 of the Government Code.*

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

19 *In order to reauthorize the Governor to certify projects as*
20 *environmental leadership development projects in 2016 and*
21 *prevent a one-year gap in this authorization, it is necessary that*
22 *this act take effect immediately.*

23 ~~SECTION 1. Section 12805.2 of the Government Code is~~
24 ~~amended to read:~~

25 ~~12805.2. (a) The Natural Resources Agency, in consultation~~
26 ~~with each department, board, conservancy, and commission within~~
27 ~~the agency, shall develop and maintain a database of lands and~~
28 ~~easements that have been acquired by the departments, boards,~~
29 ~~commissions, and conservancies within the Natural Resources~~
30 ~~Agency. The database shall include, but need not be limited to, all~~
31 ~~of the following:~~

- 32 ~~(1) The name of the owner of the land or easement.~~
- 33 ~~(2) The location of the land or easement.~~
- 34 ~~(3) The statutory authority for the acquisition of the land or~~
35 ~~easement.~~

36 ~~(b) In conjunction with the database described in subdivision~~
37 ~~(a), the Natural Resources Agency shall do all of the following:~~

- 38 ~~(1) On or before September 1, 2002, and each year thereafter,~~
39 ~~request that all departments, boards, commissions, and~~
40 ~~conservancies within the Natural Resources Agency provide the~~

1 Secretary of the Natural Resources Agency with information on
2 any acquisitions of land or funding that was directed to the
3 acquisition of land, undertaken by the department, board,
4 commission, or conservancy.

5 (2) To the extent that the information is available, on or before
6 January 10, 2003, and each year thereafter, require that all
7 departments, boards, commissions, and conservancies within the
8 Natural Resources Agency provide the Secretary of the Natural
9 Resources Agency with general information, including a general
10 geographic description of land acquisition priorities and potential
11 funding sources during the next fiscal year.

12 (3) To the extent feasible, review and evaluate any available
13 information from federal agencies pertaining to its land acquisition
14 activities to coordinate and better understand the impact on
15 California state proposals.

16 (4) Provide a report to the Governor and the Legislature on or
17 before December 31, 2003, and each year thereafter, that does both
18 of the following:

19 (A) Describes the amount of land acquired by each department,
20 board, commission, and conservancy within the Natural Resources
21 Agency during the past year and the amount of money spent for
22 the acquisition.

23 (B) Projects the approximate amount of land that will be
24 acquired by the Natural Resources Agency during the following
25 year.

26 (5) Provide the report described in paragraph (4) to the Secretary
27 of Food and Agriculture and the Director of Conservation.

28 (6) Establish and implement a uniform open process, that shall
29 include, but is not limited to, at least 30 days for public comment,
30 to provide public transparency and ensure that information is
31 readily available to the general public, local, state, and federal
32 agencies, adjacent landowners, and other interested parties of
33 record regarding any state hearings to approve proposed state land
34 acquisitions.

35 (7) Develop strategies with local, state, and federal agencies so
36 that a revenue stream is established to ensure management plans
37 are adequately funded for all new acquisitions.

1 ~~(e) This section shall be implemented only during those fiscal~~
2 ~~years for which funding is provided for the purposes of this section~~
3 ~~in the annual Budget Act or in another measure.~~

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