

AMENDED IN ASSEMBLY JUNE 21, 2016

AMENDED IN ASSEMBLY MAY 19, 2016

AMENDED IN SENATE JUNE 2, 2015

SENATE BILL

No. 734

Introduced by Senator Galgiani

February 27, 2015

An act to amend Sections 21178, 21181, 21183, 21189.1, and 21189.3 ~~of~~ *of*, and to add Section 21184.5 to, 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, Galgiani. 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fails to approve a project certified by the Governor before January 1, 2017, then the certification expires and is no longer valid.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 The act is repealed by its own terms on January 1, 2017.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 The bill would provide that the certification expires and is no longer valid if the lead agency fails to approve a certified project before January 1, 2019.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.

This bill would, notwithstanding any other law, require a multifamily residential project certified pursuant to the act to provide private vehicle parking spaces that are priced and rented or purchased separately from dwelling units, except as provided.

(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.

Vote: $\frac{2}{3}$. 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 21178 of the Public Resources Code is
- 2 amended to read:
- 3 21178. The Legislature finds and declares all of the following:

1 ~~(a) The overall unemployment rate in California is 12 percent,~~
2 ~~and in certain regions of the state that rate exceeds 13 percent.~~

3 ~~(b)~~

4 (a) The California Environmental Quality Act (Division 13
5 (commencing with Section 21000) of the Public Resources Code)
6 requires that the environmental impacts of development projects
7 be identified and mitigated.

8 ~~(c)~~

9 (b) The act also guarantees the public an opportunity to review
10 and comment on the environmental impacts of a project and to
11 participate meaningfully in the development of mitigation measures
12 for potentially significant environmental impacts.

13 ~~(d)~~

14 (c) There are large projects under consideration in various
15 regions of the state that would replace old and outmoded facilities
16 with new job-creating facilities to meet those regions' needs while
17 also establishing new, cutting-edge environmental benefits to those
18 regions.

19 ~~(e)~~

20 (d) These projects are privately financed or financed from
21 revenues generated from the projects themselves and do not require
22 taxpayer financing.

23 ~~(f)~~

24 (e) These projects further will generate thousands of full-time
25 jobs during construction and thousands of additional permanent
26 jobs once they are constructed and operating.

27 ~~(g)~~

28 (f) These projects also present an unprecedented opportunity to
29 implement nation-leading innovative measures that will
30 significantly reduce traffic, air quality, and other significant
31 environmental impacts, and fully mitigate the greenhouse gas
32 emissions resulting from passenger vehicle trips attributed to the
33 project.

34 ~~(h)~~

35 (g) These pollution reductions will be the best in the nation
36 compared to other comparable projects in the United States.

37 ~~(i)~~

38 (h) The purpose of this ~~act~~ *chapter* is to provide unique and
39 unprecedented streamlining benefits under the California
40 Environmental Quality Act for projects that provide the benefits

1 described above for a limited period of time to put people to work
2 as soon as possible.

3 ~~SECTION 1.~~

4 *SEC. 2.* Section 21181 of the Public Resources Code is
5 amended to read:

6 21181. This chapter does not apply to a project if the Governor
7 does not certify the project as an environmental leadership
8 development project eligible for streamlining pursuant to this
9 chapter prior to January 1, 2018.

10 ~~SEC. 2.~~

11 *SEC. 3.* Section 21183 of the Public Resources Code is
12 amended to read:

13 21183. The Governor may certify a leadership project for
14 streamlining pursuant to this chapter if all the following conditions
15 are met:

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

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

31 (2) (A) If the project is certified pursuant to this chapter,
32 contractors and subcontractors shall pay to all construction workers
33 employed in the execution of the project at least the general
34 prevailing rate of per diem wages.

35 (B) Except as provided in subparagraph (C), the obligation of
36 the contractors and subcontractors to pay prevailing wages pursuant
37 to subparagraph (A) may be enforced by the Labor Commissioner
38 through the issuance of a civil wage and penalty assessment
39 pursuant to Section 1741 of the Labor Code, which may be
40 reviewed pursuant to Section 1742 of the Labor Code, within 18

1 months after the completion of the project, or by an underpaid
2 worker through an administrative complaint or civil action. If a
3 civil wage and penalty assessment is issued, the contractor,
4 subcontractor, and surety on a bond or bonds issued to secure the
5 payment of wages covered by the assessment shall be liable for
6 liquidated damages pursuant to Section 1742.1 of the Labor Code.

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

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

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

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

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

1 SEC. 4. Section 21184.5 is added to the Public Resources Code,
2 to read:

3 21184.5. (a) Notwithstanding any other law, except as provided
4 in subdivision (b), a multifamily residential project certified under
5 this chapter shall provide unbundled parking, such that private
6 vehicle parking spaces are priced and rented or purchased
7 separately from dwelling units.

8 (b) Subdivision (a) shall not apply if the dwelling units are
9 subject to affordability restrictions in law that prescribe rent or
10 sale prices, and the cost of parking spaces cannot be unbundled
11 from the cost of dwelling units.

12 ~~SEC. 3.~~

13 SEC. 5. Section 21189.1 of the Public Resources Code is
14 amended to read:

15 21189.1. If, prior to January 1, 2019, a lead agency fails to
16 approve a project certified by the Governor pursuant to this chapter,
17 then the certification expires and is no longer valid.

18 ~~SEC. 4.~~

19 SEC. 6. Section 21189.3 of the Public Resources Code is
20 amended to read:

21 21189.3. This chapter shall remain in effect until January 1,
22 2019, and as of that date is repealed unless a later enacted statute
23 extends or repeals that date.

24 ~~SEC. 5.~~

25 SEC. 7. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 a local agency or school district has the authority to levy service
28 charges, fees, or assessments sufficient to pay for the program or
29 level of service mandated by this act, within the meaning of Section
30 17556 of the Government Code.

31 ~~SEC. 6.~~

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

36 In order to reauthorize the Governor to certify projects as
37 environmental leadership development projects in 2016 and prevent
38 a one-year gap in this authorization, it is necessary that this act
39 take effect immediately.

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2 **CORRECTIONS:**
3 **Amended Date—Page 1.**
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