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AB-1034 Surface mining: reclamation plans: renewable energy generation facility. (2015-2016)

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Assembly Bill No. 1034

CHAPTER 595

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

[Approved by Governor October 08, 2015. Filed with Secretary of State October 08, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1034, 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 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 require a lead agency to consider the construction and operation of a renewable energy generation facility on disturbed mined lands to be an interim use and would prohibit a lead agency from requiring an amendment to an approved reclamation plan if specified criteria are met. The bill would require a lead agency to submit to the director an application for an operating permit for a renewable energy generation facility prior to approving the operating permit, as specified. The bill would authorize the director to prepare written comments to the operating permit application and would require the lead agency, at least 30 days prior to approving the operating permit, to prepare a written response to the director's comments. By adding to the duties of a local government acting as a lead agency, 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2777.3 is added to the Public Resources Code, to read:

2777.3. (a) The construction and operation of a renewable energy generation facility on disturbed mined lands, including all foundations and other installations, facilities, buildings, accessory structures, and other improvements to the land that are related to the generation of energy, shall be considered an interim use for the purposes of this chapter and shall not require an amendment to an approved reclamation plan if all of the following criteria are met:

(1) The renewable energy generation facility will not adversely affect the completion of reclamation in accordance with the surface mining operation's approved reclamation plan.

(2) The permit conditions of the renewable energy generation facility address and eliminate any potentially adverse impacts on the surface mining operation.

(3) The operating permit for the renewable energy generation facility includes both of the following:

(A) An approved closure and decommissioning plan that will not affect the manner in which reclamation will be achieved pursuant to this chapter.

(B) A separate financial assurance mechanism that the lead agency determines to be sufficient to perform the removal of the renewable energy generation facility.

(4) The closure and decommissioning of the renewable energy generation facility will occur prior to the later of the following:

(A) The expiration of the use permit for the surface mining operation.

(B) The completion of reclamation in accordance with the surface mining operation's approved reclamation plan.

(5) All required permits for the construction and related land improvements have been approved by a public agency in accordance with the applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(b) (1) Prior to approving an operating permit for a renewable energy generation facility subject to this section, the lead agency shall submit the operating permit application with all the associated maps and plans to the director for review.

(2) The director shall have 30 days from the receipt of the application with associated documents to prepare written comments if the director chooses.

(3) The director may provide comments relating to whether the renewable energy generation facility meets the criteria set forth in paragraphs (1) to (4), inclusive, of subdivision (a).

(4) The lead agency shall prepare a written response to the director's comments and submit its response to the director at least 30 days prior to the approval of the operating permit for the renewable energy generation facility.

(c) Copies of all approved permits and associated documents shall be submitted to the lead agency and the director as an addendum to the approved reclamation plan no less than 30 days prior to the commencement of land improvements associated with the renewable energy generation facility.

(d) For purposes of this section, "renewable energy generation facility" means a solar photovoltaic, solar thermal under 50 megawatts, or wind energy generation facility.

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