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SB-1008 California Environmental Quality Act: Los Angeles Regional Interoperable Communications System: exemption. (2015-2016)

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Senate Bill No. 1008

CHAPTER 588

An act to amend Section 21080.25 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 24, 2016. Filed with Secretary of State September 24, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1008, Lara. California Environmental Quality Act: Los Angeles Regional Interoperable Communications System: exemption.

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.

Existing law, until January 1, 2017, exempts from CEQA the design, site acquisition, construction, operation, or maintenance of certain structures and equipment of the Los Angeles Regional Interoperable Communications System (LA-RICS) consisting of a long-term evolution broadband mobile data system and a land mobile radio system, if certain criteria are met at the individual project site, including that the site contains either an antenna support structure, as provided, or a public facility that transmits or receives public safety radio signals.

This bill would extend that exemption until January 1, 2020, and would specify that a fire station is not a public facility for purposes of determining if that exemption applies to an individual project site. The bill would provide that the exemption does not apply if the project site is located in certain areas. The bill would require the LA-RICS Joint Powers Authority to hold a public meeting before making a determination that a project is exempted, to file the notice of exemption with the Office of Planning and Research and the county clerk in the county in which the project is located, and to post certain information on its Internet Web site. Because a lead agency, which may include a local agency, would be required to determine whether a project qualifies for this exemption and to perform additional duties, the 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 21080.25 of the Public Resources Code is amended to read:

21080.25. (a) For purposes of this section, the following definitions shall apply:

- (1) "Antenna support structures" means lattice towers, monopoles, and roof-mounts.
- (2) "Authority" means the Los Angeles Regional Interoperable Communication System Joint Powers Authority.
- (3) "Habitat of significant value" includes all of the following:
 - (A) Wildlife habitat of national, statewide, or regional importance.
 - (B) Habitat identified as candidate, fully protected, sensitive, or species of special status by a state or federal agency.
 - (C) Habitat essential to the movement of resident or migratory wildlife.
- (4) "LA-RICS" means the Los Angeles Regional Interoperable Communications System, consisting of a long-term evolution broadband mobile data system, a land mobile radio system, or both.
- (5) "LMR" means a land mobile radio system.
- (6) "LTE" means a long-term evolution broadband mobile data system.
- (7) "Riparian area" means an area that is transitional between terrestrial and aquatic ecosystems, that is distinguished by gradients in biophysical conditions, ecological processes, and biota, and that meets the following criteria:
 - (A) Is an area through which surface and subsurface hydrology connect bodies of water with their adjacent uplands.
 - (B) Is adjacent to perennial, intermittent, and ephemeral streams, lakes, or estuarine or marine shorelines.
 - (C) Includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems.
- (8) "Wetlands" has the same meaning as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
- (9) "Wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(b) Except as provided in subdivision (d), if all the criteria specified in subdivision (c) are met at the individual project site, this division does not apply to the design, site acquisition, construction, operation, or maintenance of the following elements of the LA-RICS:

- (1) Antennas, including microwave dishes and arrays.
- (2) Antenna support structures.
- (3) Equipment enclosures.
- (4) Central system switch facilities.
- (5) Associated foundations and equipment.

(c) As a condition of the exemption specified in subdivision (b), all of the following criteria shall be met at the individual project site:

- (1) The project site is publicly owned and already contains either of the following:
 - (A) An antenna support structure and either of the following components:
 - (i) Antennas.
 - (ii) Equipment enclosures.
 - (B) A police or sheriff station or other public facility that transmits or receives public safety radio signals, except a fire station.
- (2) Construction and implementation at the project site would not have a substantial adverse impact on wetlands, riparian areas, or habitat of significant value, and would not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the

Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) or the habitat of those species.

(3) Construction and implementation of the project at the site would not have a substantial adverse impact on historical resources pursuant to Section 21084.1.

(4) Operation of the project at the site would not exceed the maximum permissible exposure standards established by the Federal Communications Commission, as set forth in Sections 1.1307 and 1.1310 of Title 47 of the Code of Federal Regulations.

(5) Any new LTE antenna support structures or LMR antenna support structures would comply with applicable state and federal height restrictions and any height restrictions mandated by an applicable comprehensive land use plan adopted by an airport land use commission. The new monopoles shall not exceed 70 feet in height without appurtenances and attachments, and new lattice towers shall not exceed 180 feet in height without appurtenances and attachments.

(6) Each new central system switch is located within an existing enclosed structure at a publicly owned project site or is housed at an existing private communications facility.

(d) Subdivision (b) does not apply if the individual project site is located on either of the following:

(1) A school site.

(2) A cultural or sacred site, as described in Section 5097.9 or 5097.993.

(e) (1) Before determining that a project is not subject to this division pursuant to this section, the authority shall hold a noticed public meeting in each county supervisorial district in which the project is located to hear and respond to public comments. The notice shall be provided at least 72 hours in advance of the meeting and published no fewer times than required by Section 6061 of the Government Code by the authority in a newspaper of general circulation in each county supervisorial district in which the project is located.

(2) If the authority determines that a project is not subject to this division pursuant to this section, and it determines to approve or carry out that project, the notice of exemption shall be filed with the Office of Planning and Research and the county clerk in the county in which the project is located in the manner specified in subdivisions (b) and (c) of Section 21152. The authority shall post the notice of exemption on its Internet Web site.

(f) The authority shall post on its Internet Web site all of the following, as applicable:

(1) Draft and final environmental documentation in compliance with this division or the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

(2) The date of filing of notices required pursuant to this division or the federal National Environmental Policy Act of 1969.

(3) All notice and hearing information regarding review and approval of environmental documentation by federal agencies.

(g) On or after January 1, 2017, the authority and its member agencies shall approve use agreements for the LA-RICS in an open and noticed public meeting.

(h) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

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.