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## SB-80 California Environmental Quality Act: notices. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

**SENATE BILL**

**NO. 80**

Introduced by Senator Wieckowski

January 11, 2017

An act to amend Sections 21092.2, 21092.3, 21108, and 21152 of the Public Resources Code, relating to environmental quality.

### LEGISLATIVE COUNSEL'S DIGEST

SB 80, Wieckowski. California Environmental Quality Act: notices.

(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 act requires the lead agency to mail certain notices to persons who have filed a written request for notices. The act provides that if the agency offers to provide the notices by email, upon filing a written request for notices, a person may request that the notices be provided to him or her by email.

This bill would require the lead agency to post those notices on the agency's Internet Web site. The bill would require the agency to offer to provide those notices by email. Because this bill would increase the level of service provided by a local agency, this bill would impose a state-mandated local program.

(2) CEQA requires that certain notices regarding an environmental impact report be posted for a period of 30 days in the office of the county clerk of each county in which the project will be located. CEQA specifies that notices regarding a negative declaration

be posted for a period of 20 days unless otherwise specified.

This bill would require the county clerk to post the notices regarding an environmental impact report or a negative declaration on the county's Internet Web site. Because the bill would require a county clerk to post those notices on the county's Internet Web site, this bill would impose a state-mandated local program.

(3) CEQA exempts certain projects from its requirements. CEQA also requires the Office of Planning and Research to develop guidelines for the implementation of CEQA to exempt classes of projects that have been determined not to have a significant effect on the environment. If a lead agency determines that the project is not subject to the requirements of CEQA and the agency approves or determines to carry out the project, CEQA authorizes the lead agency or certain persons to file a notice of the determination, as specified.

This bill would require the filing of the notice if the lead agency determines that a project falls within a class of projects that is exempted from the requirements of CEQA by the guidelines. Because the bill would increase the duties of a local agency, this bill would impose a state-mandated local program.

(4) 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

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

**SECTION 1.** Section 21092.2 of the Public Resources Code is amended to read:

**21092.2.** (a) The notices required pursuant to Sections 21080.4, 21083.9, 21092, 21108, 21152, and 21161 shall be mailed to every person who has filed a written request for notices with either the clerk of the governing body or, if there is no governing body, the director of the agency. The agency shall offer to provide the notices by email to a person requesting the notices. The request may also be filed with any other person designated by the governing body or director to receive these requests. The agency may require requests for notices to be annually renewed. The public agency may charge a fee, except to other public agencies, that is reasonably related to the costs of providing this service.

(b) Subdivision (a) shall not be construed in any manner that results in the invalidation of an action because of the failure of a person to receive a requested notice, if there has been substantial compliance with the requirements of this section.

(c) The notices required pursuant to Sections 21080.4 and 21161 shall be provided by the State Clearinghouse to any legislator in whose district the project has an environmental impact, if the legislator requests the notice and the State Clearinghouse has received it.

(d) An agency shall post the notices specified in subdivision (a) on its Internet Web site, if any.

**SEC. 2.** Section 21092.3 of the Public Resources Code is amended to read:

**21092.3.** The notices required pursuant to Sections 21080.4 and 21092 for an environmental impact report shall be posted in the office of the county clerk of each county in which the project will be located and shall remain posted for a period of 30 days. The notice required pursuant to Section 21092 for a negative declaration shall be so posted for a period of 20 days, unless otherwise required by law to be posted for 30 days. The notices shall also be posted on the county's Internet Web site, if any, for a period of 30 days. The county clerk shall post the notices within 24 hours of receipt.

**SEC. 3.** Section 21108 of the Public Resources Code is amended to read:

**21108.** (a) If a state agency approves or determines to carry out a project that is subject to this division, the state agency shall file notice of that approval or that determination with the Office of Planning and Research. The notice shall identify the person or persons in subdivision (b) or (c) of Section 21065, as reflected in the agency's record of proceedings, and indicate the determination of the state agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to this division.

(b) (1) If a state agency determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or Section 21172, and the state agency approves or determines to carry out the project, the state agency or the person specified in subdivision (b) or (c) of Section 21065 may file a notice of the determination with the Office of Planning and Research.

(2) If a state agency determines that a project is not subject to this division as a categorical exemption pursuant to the guidelines developed pursuant to Section 21084, and the state agency approves or determines to carry out the project, the state agency or the person specified in subdivision (b) or (c) of Section 21065 shall file a notice of the determination with the Office of Planning and Research.

(3) A notice filed pursuant to this subdivision shall identify the person or persons in subdivision (b) or (c) of Section 21065, as reflected in the agency's record of proceedings. A notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the state agency responsible for making the determination that the project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21172. The certificate of determination may be in the form of a certified copy of an existing document or record of the state agency.

(c) A state agency may electronically file the notice under this section with the Office of Planning and Research.

(d) A notice filed pursuant to this section shall be available for public inspection, and a list of these notices shall be posted on a weekly basis in the Office of Planning and Research. Each list shall remain posted for a period of 30 days. The Office of Planning and Research shall retain each notice for not less than 12 months.

**SEC. 4.** Section 21152 of the Public Resources Code is amended to read:

**21152.** (a) If a local agency approves or determines to carry out a project that is subject to this division, the local agency shall file notice of the approval or the determination within five working days after the approval or determination becomes final, with the county clerk of each county in which the project will be located. The notice shall identify the person or persons in subdivision (b) or (c) of Section 21065, as reflected in the agency's record of proceedings, and indicate the determination of the local agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to this division. The notice shall also include certification that the final environmental impact report, if one was prepared, together with comments and responses, is available to the general public.

(b) (1) If a local agency determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21172, and the local agency approves or determines to carry out the project, the local agency or the person specified in subdivision (b) or (c) of Section 21065 may file a notice of the determination with the county clerk of each county in which the project will be located.

(2) If a local agency determines that a project is not subject to this division as a categorical exemption pursuant to the guidelines developed pursuant to Section 21084, and the local agency approves or determines to carry out the project, the local agency or the person specified in subdivision (b) or (c) of Section 21065 shall file a notice of the determination with the county clerk of each county in which the project will be located.

(3) A notice filed pursuant to this subdivision shall identify the person or persons in subdivision (b) or (c) of Section 21065, as reflected in the agency's record of proceedings. A notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the local agency responsible for making the determination that the project is not subject to this division pursuant to subdivision (b) of Section 21080 or Section 21172. The certificate of determination may be in the form of a certified copy of an existing document or record of the local agency.

(c) A local agency may electronically file the notice under this section with the county clerk if that option is offered by the county clerk.

(d) A notice filed pursuant to this section shall be available for public inspection, and shall be posted within 24 hours of receipt in the office of the county clerk. A notice shall remain posted for a period of 30 days. Thereafter, the clerk shall return the notice to the local agency with a notation of the period it was posted. The local agency shall retain the notice for not less than 12 months.

**SEC. 5.** 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.