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AB-1628 Environmental justice. (2019-2020)

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Date Published: 09/30/2019 09:00 PM

Assembly Bill No. 1628

CHAPTER 360

An act to amend Sections 56668 and 65040.12 of the Government Code, and to amend Section 30107.3 of the Public Resources Code, relating to environmental justice.

[Approved by Governor September 27, 2019. Filed with Secretary of State September 27, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1628, Robert Rivas. Environmental justice.

(1) Existing law requires the Secretary for Environmental Protection, on or before January 1, 2002, to convene a Working Group on Environmental Justice composed of various representatives, as specified, to assist the California Environmental Protection Agency in developing by July 1, 2002, an agencywide environmental justice strategy.

Existing law requires the Office of Planning and Research to be the coordinating agency in state government for environmental justice programs. Existing law requires the Director of State Planning and Research to, among other things, coordinate its efforts and share information regarding environmental justice programs with various federal agencies. Existing law defines "environmental justice" for these purposes to mean the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

This bill would revise the definition of "environmental justice" to also include the meaningful involvement of people of all races, cultures, incomes, and national origins with respect to those same actions, and would provide that "environmental justice" includes, among other things, the availability of a healthy environment for all people.

(2) The California Coastal Act of 1976 establishes the California Coastal Commission and requires the commission to implement and administer a coastal development permit process within the coastal zone. The act requires that one member of the 15-member commission reside in, and work directly with, communities in the state that are disproportionately burdened by, and vulnerable to, high levels of pollution and issues of environmental justice, as provided. The act also authorizes the issuing agency, or the commission on appeal, when acting on a coastal development permit, to consider environmental justice. The act defines "environmental justice" for these purposes.

This bill would revise the definition of "environmental justice" for purposes of the act to be consistent with the definition for that term described in (1) above, as the term would be revised by this bill.

(3) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization of cities and districts. The act specifies the factors that a local agency formation commission is required to consider in the review of a proposal for a change of organization or reorganization, including, among other factors, the extent to which the proposal will promote environmental justice. Existing law

defines “environmental justice” for purposes of these provisions to mean the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

This bill would revise the definition of “environmental justice” for purposes of these provisions to also include the meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to those same actions, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. (a) The Legislature finds and declares that generations of injustice towards people of color, low-income residents, tribal communities, and other marginalized populations in California through discriminatory environmental and land use policies has resulted in an inequitable distribution of environmental benefits and burdens that continues to disproportionately burden these communities today. These populations and communities also experience high poverty and unemployment, and other socioeconomic burdens.

(b) It is therefore the intent of the Legislature to ensure that the populations and communities disproportionately impacted by pollution have equitable access to, and can meaningfully contribute to, environmental and land use decisionmaking, and can enjoy the equitable distribution of environmental benefits.

SEC. 2. Section 56668 of the Government Code is amended to read:

56668. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population and population density; land area and land use; assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; and the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) (1) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; and probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

(2) “Services,” as used in this subdivision, refers to governmental services whether or not the services are services that would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) A regional transportation plan adopted pursuant to Section 65080.

(h) The proposal’s consistency with city or county general and specific plans.

(i) The sphere of influence of any local agency that may be applicable to the proposal being reviewed.

(j) The comments of any affected local agency or other public agency.

(k) The ability of the newly formed or receiving entity to provide the services that are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

(l) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

(m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with

Section 65580) of Chapter 3 of Division 1 of Title 7.

(n) Any information or comments from the landowner or landowners, voters, or residents of the affected territory.

(o) Any information relating to existing land use designations.

(p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities.

(q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.

SEC. 3. Section 65040.12 of the Government Code is amended to read:

65040.12. (a) The office shall be the coordinating agency in state government for environmental justice programs.

(b) The director shall do all of the following:

(1) Consult with all of the following:

(A) The Secretary for Environmental Protection.

(B) The Secretary of the Natural Resources Agency.

(C) The Secretary of Transportation.

(D) The Secretary of Business, Consumer Services, and Housing.

(E) The Working Group on Environmental Justice established pursuant to Section 71113 of the Public Resources Code.

(F) Any other appropriate state agencies and all other interested members of the public and private sectors in this state.

(2) Coordinate the office's efforts and share information regarding environmental justice programs with the Council on Environmental Quality, the United States Environmental Protection Agency, the General Accounting Office, the Office of Management and Budget, and other federal agencies.

(3) Review and evaluate any information from federal agencies that is obtained as a result of their respective regulatory activities under federal Executive Order 12898, and from the Working Group on Environmental Justice established pursuant to Section 71113 of the Public Resources Code.

(c) When it adopts its next edition of the general plan guidelines pursuant to Section 65040.2, but in no case later than July 1, 2003, the office shall include guidelines for addressing environmental justice matters in city and county general plans. The office shall hold at least one public hearing before the release of any draft guidelines, and at least one public hearing after the release of the draft guidelines. The hearings may be held at the regular meetings of the Planning Advisory and Assistance Council.

(d) The guidelines developed by the office pursuant to subdivision (c) shall recommend provisions for general plans to do all of the following:

(1) Propose methods for planning for the equitable distribution of new public facilities and services that increase and enhance community quality of life throughout the community, given the fiscal and legal constraints that restrict the siting of these facilities.

(2) Propose methods for providing for the location, if any, of industrial facilities and uses that, even with the best available technology, will contain or produce material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant hazard to human health and safety, in a manner that seeks to avoid overconcentrating these uses in proximity to schools or residential dwellings.

(3) Propose methods for providing for the location of new schools and residential dwellings in a manner that seeks to avoid locating these uses in proximity to industrial facilities and uses that will contain or produce material that because of its quantity, concentration, or physical or chemical characteristics, poses a significant hazard to human health and safety.

(4) Propose methods for promoting more livable communities by expanding opportunities for transit-oriented development so that residents minimize traffic and pollution impacts from traveling for purposes of work, shopping, schools, and recreation.

(e) (1) For purposes of this section, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(2) "Environmental justice" includes, but is not limited to, all of the following:

(A) The availability of a healthy environment for all people.

(B) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.

(C) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decisionmaking process.

(D) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

SEC. 4. Section 30107.3 of the Public Resources Code is amended to read:

30107.3. (a) "Environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(b) "Environmental justice" includes, but is not limited to, all of the following:

(1) The availability of a healthy environment for all people.

(2) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.

(3) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decisionmaking process.

(4) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.