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AB-1642 California Environmental Quality Act: water system well and domestic well projects: exemption. (2021-2022)

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Assembly Bill No. 1642

CHAPTER 859

An act to add and repeal Section 21080.31 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1642, Salas. California Environmental Quality Act: water system well and domestic well projects: 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. 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 California Safe Drinking Water Act provides for the operation of public water systems and imposes on the State Water Resources Control Board various responsibilities and duties relating to the regulation of drinking water to protect public health. Existing law establishes the Safe and Affordable Drinking Water Fund in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long terms. Existing law requires the state board to annually adopt, and update every 3 years, a fund expenditure plan that contains specified information, including, but not limited to, a list of water systems that consistently fail to provide an adequate supply of safe drinking water. Existing law requires the state board to develop a drinking water needs assessment to inform the board's annual fund expenditure plan.

This bill would, until January 1, 2028, exempt from CEQA a well project, as defined, that meets specified conditions, including that the domestic well or the water system to which the well is connected has been designated by the state board as high risk or medium risk in the state board's drinking water needs assessment. The bill would require a lead agency, before determining that a well project is exempt from CEQA pursuant to these provisions, to contact the state board to determine whether claiming the exemption will affect the ability of the well project to receive federal financial assistance or federally capitalized financial assistance. The bill would require a lead agency that determines that a well project is exempt from CEQA pursuant to these provisions to file a notice of exemption with the Office of Planning and Research and the county clerk, as provided. Because the bill would increase the responsibilities of a lead agency related to the applicability of this exemption, 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.

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

SECTION 1. Section 21080.31 is added to the Public Resources Code, to read:

21080.31. (a) For purposes of this section, the following terms have the following definitions:

- (1) "Adequate supply" has the same meaning as set forth in subdivision (a) of Section 116681 of the Health and Safety Code.
- (2) "Domestic well" has the same meaning as set forth in subdivision (i) of Section 116681 of the Health and Safety Code.
- (3) "Safe drinking water" has the same meaning as set forth in subdivision (o) of Section 116681 of the Health and Safety Code.
- (4) "State board" means the State Water Resources Control Board.
- (5) "Water system" means all of the following:
 - (A) A public water system, as defined in subdivision (h) of Section 116275 of the Health and Safety Code.
 - (B) A state small water system, as defined in subdivision (n) of Section 116275 of the Health and Safety Code.
 - (C) A tribal water system. For purposes of this subparagraph, "tribal water system" means a tribal water system included by the state board in the drinking water needs assessment conducted and relied upon by the state board to inform its annual fund expenditure plan pursuant to subdivision (b) of Section 116769 of the Health and Safety Code, as that assessment may be updated pursuant to Article 6 (commencing with Section 116772) of Chapter 4.6 of Part 12 of Division 104 of the Health and Safety Code.
- (6) "Well" means a wellhead that provides drinking water to a water system.
- (7) "Well project" means a project for the construction, maintenance, repair, or replacement of a well or a domestic well.

(b) This division does not apply to a well project that meets all of the following conditions:

- (1) The domestic well or water system to which the well is connected has been designated by the state board as high risk or medium risk in the state board's drinking water needs assessment conducted and relied upon by the state board to inform its annual fund expenditure plan pursuant to subdivision (b) of Section 116769 of the Health and Safety Code, as that assessment may be updated pursuant to Article 6 (commencing with Section 116772) of Chapter 4.6 of Part 12 of Division 104 of the Health and Safety Code.
- (2) The well project is designed to mitigate or prevent a failure of the well or the domestic well that would leave residents that rely on the well, the water system to which the well is connected, or the domestic well without an adequate supply of safe drinking water.
- (3) The lead agency determines all of the following:
 - (A) The well project is not designed primarily to serve irrigation or future growth.
 - (B) The well project does not affect wetlands or sensitive habitats.
 - (C) Unusual circumstances do not exist that would cause the well project to have a significant effect on the environment.
 - (D) The well project is not located on a site that is included on any list compiled pursuant to Section 65962.5 of the Government Code.
 - (E) The well project does not have the potential to cause a substantial adverse change in the significance of a historical resource.
 - (F) The well project's construction impacts are fully mitigated consistent with applicable law.
 - (G) The cumulative impact of successive reasonably anticipated projects of the same type as the well project, in the same place, over time, is not significant.

(c) Before determining that a well project is exempt pursuant to this section, a lead agency shall contact the state board to determine whether claiming the exemption under this section will affect the ability of the well project to receive federal financial

assistance or federally capitalized financial assistance.

(d) (1) A lead agency that determines that a well project is exempt pursuant to this section shall file a notice of exemption, as described in Section 15062 of Title 14 of the California Code of Regulations, with the Office of Planning and Research in the manner specified in subdivisions (b) and (c) of Section 21108 and with the county clerk in the manner specified in subdivisions (b) and (c) of Section 21152.

(2) When a lead agency files a notice of exemption pursuant to paragraph (1), the lead agency shall also include the following information:

(A) Whether Section 21080 or 21080.47 of this code or Section 15301 or 15302 of Title 14 of the California Code of Regulations could apply to the well project.

(B) If Section 21080 or 21080.47 of this code or Section 15301 or 15302 of Title 14 of the California Code of Regulations do not apply to the well project, the reason that the sections do not apply.

(e) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

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.