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AB-3227 California Environmental Quality Act: exemption: stormwater facilities: routine maintenance.
(2023-2024)

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Assembly Bill No. 3227

CHAPTER 761

An act to add and repeal Section 21080.61 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3227, Alvarez. California Environmental Quality Act: exemption: stormwater facilities: routine maintenance.

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.

This bill would, if certain conditions are met, exempt from the provisions of CEQA the routine maintenance of public stormwater facilities that are fully concrete or that have a conveyance capacity of less than a 100-year storm event. The bill would, if the lead agency determines that a project is not subject to CEQA pursuant to these provisions and determines to approve or carry out the project, require the lead agency to file a notice with the State Clearinghouse in the Office of Planning and Research and with the county clerk in the county in which the project will be located, as provided, thereby imposing a state-mandated local program. Because a lead agency would be required to determine whether a project qualifies for this exemption, the bill would impose a state-mandated local program.

This bill would repeal these provisions on January 1, 2030.

CEQA provides that, if a nonelected decisionmaking body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to CEQA, the certification, approval, or determination may be appealed to the agency's elected decisionmaking body.

This bill would prohibit the appeal of determinations by nonelected decisionmaking bodies of cities with a population of at least 1,000,000 that those routine maintenance projects of certain public stormwater facilities are exempt from CEQA to the agency's elected decisionmaking body.

This bill would repeal these provisions on January 1, 2030.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 21080.61 is added to the Public Resources Code, to read:

21080.61. (a) This division does not apply to routine maintenance of public stormwater facilities that are fully concrete or have a conveyance capacity of less than a 100-year storm event if all of the following conditions are met:

- (1) The project does not increase the designed conveyance capacity of the stormwater facility.
- (2) The project is undertaken or approved by a public agency that has adopted, by ordinance, procedures that apply to the project to minimize the impacts of construction equipment, debris, sediment, and other pollutants.
- (3) The project is not likely to result in adverse impacts to tribal cultural resources.

(b) Notwithstanding subdivision (c) of Section 21151, a determination that a project is not subject to this division pursuant to this section shall not be eligible for appeal to the agency's elected decisionmaking body if the project is approved by the nonelected decisionmaking body of a city with a population of at least 1,000,000.

(c) If the lead agency determines that a project is not subject to this division pursuant to this section and it determines to approve or carry out the project, the lead agency shall file a notice with the State Clearinghouse in the Office of Planning and Research and with the county clerk in the county in which the project will be located in the manner specified in subdivisions (b), (c), and (d) of Section 21152.

(d) This section shall remain in effect only until January 1, 2030, 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.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow for speedy maintenance of stormwater channels to prevent devastating floods like the one that occurred in January 2024, it is necessary that this act take effect immediately.