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SB-174 Public resources: California Environmental Quality Act: exemptions: native fish and wildlife: Capitol Annex. (2023-2024)

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Senate Bill No. 174

CHAPTER 74

An act to amend Sections 9112, 9112.5, 9125, and 14692 of the Government Code, and to amend Section 21080.56 of, and to repeal Chapter 6.7 (commencing with Section 21189.50) of Division 13 of, the Public Resources Code, relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor July 02, 2024. Filed with Secretary of State July 02, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 174, Committee on Budget and Fiscal Review. Public resources: California Environmental Quality Act: exemptions: native fish and wildlife: Capitol Annex.

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.

Existing law, until January 1, 2025, exempts from the requirements of CEQA projects that conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife and the habitat upon which they depend and projects that restore or provide habitat for California native fish and wildlife, as provided. Existing law requires the lead agency to obtain the concurrence of the Director of Fish and Wildlife for the exemption determination. Existing law requires the lead agency to file a notice of exemption within 48 hours of making a determination that a project is exempt from CEQA with the Office of Planning and Research and requires the Department of Fish and Wildlife to post the director's concurrence on its internet website.

This bill would extend the above-described exemption from the requirements of CEQA by 5 years to instead be until January 1, 2030. By extending the duties of the lead agency in implementing the exemption, this bill would impose a state-mandated local program.

Existing law, known as the State Capitol Building Annex Act of 2016 (annex act), authorizes the Joint Rules Committee to pursue the construction of a state capitol building annex or the restoration, rehabilitation, renovation, or reconstruction of the existing State Capitol Building Annex. Existing law states that it is the intent of the Legislature that all available cash sources, as described, be used to fund the projects authorized under a specified provision of the annex act.

Existing law establishes the State Project Infrastructure Fund and continuously appropriates moneys in the fund for state projects and specified other purposes, including for transferring to the Operating Funds of the Assembly and Senate to be used for the capital outlay projects specified in the annex act, as specified.

For works undertaken pursuant to the State Capitol Building Annex Act of 2016 or the State Office Building Act of 2018, existing law requires the environmental review under CEQA be conducted in a specified manner and requires an action or proceeding alleging that a public agency has approved or is undertaking those works in violation of CEQA to be subject to the Judicial Council rule of court requiring the action or proceeding, including any appeals, be resolved, to the extent feasible within 270 days of the certification of the record of proceedings.

This bill would repeal those provisions related to environmental and judicial reviews of those works and would expressly provide that works performed under the State Capitol Building Annex Act of 2016 are exempt from CEQA. The bill would make conforming changes to the State Office Building Act of 2018.

This bill would appropriate a total of \$700,000,000 from the General Fund over 3 fiscal years, starting with the 2024–25 fiscal year, as specified, to fund the acquisition, design, construction, and equipping of projects authorized by the annex act and would require the amount appropriated for each fiscal year to be transferred to the State Project Infrastructure Fund, as provided. The bill would require the Director of Finance to augment the appropriated amounts in any fiscal year with a corresponding reduction in the subsequent fiscal year or years if needed to provide timely payments for those purposes and upon receipt of an amended transfer schedule provided by the Joint Rules Committee. The bill would require the Joint Rules Committee to confer with the Department of Finance and the Department of General Services or their designated representatives before submitting the amended transfer schedule. The bill would, upon the transfers of the appropriated amounts or the augmented amount specified in the amended transfer schedule, if any, require the Director of Finance to direct the Controller to transfer the entirety of the amount to the Operating Funds of the Assembly and Senate. The bill would, upon the transfer of \$700,000,000 from the State Project Infrastructure Fund to the General Fund, as provided, require all remaining amounts in the State Project Infrastructure Fund be transferred to the Operating Funds of the Assembly and Senate for capital outlay projects specified in the annex act.

This bill would declare the severability of its provisions.

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 a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

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

SECTION 1. With respect to Sections 2 and 7 of this act, the Legislature finds and declares all of the following:

(a) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code; “CEQA”) facilitates the maintenance of a quality environment for the people of the state.

(b) CEQA governs construction projects by public agencies on public buildings generally, but does not apply to the Legislature of this state, which is not considered a “public agency,” “state agency,” or “lead agency” within the meaning of CEQA.

(c) The State Capitol Building Annex Act of 2016 (Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code; “Annex Act”) authorized the Joint Rules Committee of the Legislature, among other things, to pursue the construction of a state capitol building annex. Working in collaboration with the Department of General Services and the Department of Finance, the Joint Rules Committee has the preeminent role in making decisions about the design and management of the project, which houses the Legislature’s Capitol offices. The parties were required “to explore and adopt any available and appropriate approaches to this work that expedite construction of the applicable projects in an efficient manner, that minimize disruption to the schedule of the Legislature in light of its occupancy of most of the State Capitol Building Annex” (Section 9114 of the Government Code).

(d) Since 2016, the Joint Rules Committee and the Department of General Services, which advises the Joint Rules Committee for purposes of the Annex Act, have conducted environmental reviews for the Capitol Annex Project and agreed to mitigation measures when undertaking the project.

(e) The amendments made in Sections 2 and 7 of this act are intended to exempt the Department of General Services from any further CEQA requirements relating to the current and future projects subject to the Annex Act and to reaffirm the Legislature’s longstanding exemption from CEQA.

SEC. 2. Section 9112 of the Government Code is amended to read:

9112. (a) (1) Notwithstanding any other law, including Section 9108, the Joint Rules Committee may pursue the construction of a state capitol building annex or the restoration, rehabilitation, renovation, or reconstruction of the State Capitol Building Annex described in Section 9105 and any other ancillary improvements to effectuate the purposes of this article.

(2) Projects authorized pursuant to this section may be pursued in phases and may include a visitor center, a relocated and expanded underground parking facility, and any related or necessary deconstruction and infrastructure work.

(b) (1) All work performed pursuant to this article shall be executed and managed by the Joint Rules Committee pursuant to its authority described in subdivision (a). The Department of General Services shall provide counsel and advice to the Joint Rules Committee for purposes of the work. The work shall be undertaken pursuant to an agreement between the Joint Rules Committee, the Department of Finance or its designated representative, and the Department of General Services or its designated representative.

(2) The agreement entered into pursuant to paragraph (1) shall establish the scope, budget, delivery method, and schedule for any work undertaken pursuant to this article.

(3) (A) Notwithstanding any other law, the Joint Rules Committee, the Department of Finance or its designated representative, and the Department of General Services or its designated representative, pursuant to the agreement entered into pursuant to paragraph (1), may agree to utilize any delivery method deemed appropriate and advantageous for the work performed pursuant to this article.

(B) Notwithstanding any other law, any changes to the scope of the projects authorized by this section shall be agreed upon by the Joint Rules Committee, the Department of Finance or its designated representative, and the Department of General Services or its designated representative, pursuant to the agreement entered into pursuant to paragraph (1).

(c) (1) Notwithstanding any other law, all work performed pursuant to this article shall be exempt from all of the following:

(A) The State Contract Act (Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code).

(B) Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3.

(C) Chapter 2.1 (commencing with Section 15813) of Part 10b of Division 3.

(D) Section 2807 of the Penal Code.

(E) Sections 5024 and 5024.5 of the Public Resources Code.

(F) Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Notwithstanding any other law, the inclusion of office space for or an emergency dispatch center of the Department of the California Highway Patrol, including any associated telecommunications or radio equipment, in the state capitol building annex constructed or the existing State Capitol Building Annex described in Section 9105 restored, rehabilitated, renovated, or reconstructed pursuant to this article shall not subject any part of the projects authorized by this article, including that office space or emergency dispatch center, to any of the following:

(A) The Essential Services Buildings Seismic Safety Act of 1986 (Chapter 2 (commencing with Section 16000) of Division 12.5 of the Health and Safety Code).

(B) Any other law that would not otherwise apply to the projects authorized by this article but for the inclusion of the office space for or emergency dispatch center of the Department of the California Highway Patrol

(C) Any rule, regulation, standard, or requirement promulgated or enforced by the Division of the State Architect or the Office of the State Fire Marshal pursuant to the laws described in subparagraphs (A) and (B).

(3) Notwithstanding any other law, for purposes of work performed pursuant to this article involving the Department of General Services, the department may enter into negotiations directly with any firm for the provision of services described in Section 4525.

(d) Prevailing wages shall be paid to all workers employed on a project that is subject to this article, in accordance with Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

SEC. 3. Section 9112.5 of the Government Code is amended to read:

9112.5. (a) It is the intent of the Legislature that available cash sources, including, but not limited to, an allocation of the moneys deposited into the State Project Infrastructure Fund prior to 2018 and moneys appropriated in the Budget Acts of 2018, 2021, and

2022, be used to fund the projects authorized by Section 9112.

(b) (1) Notwithstanding any other law, the following amounts from the General Fund are hereby appropriated in the following fiscal years for purposes specified in paragraph (2) and shall be transferred to the State Project Infrastructure Fund:

(A) Three hundred million dollars (\$300,000,000) in the 2024–25 fiscal year.

(B) Two hundred fifty million dollars (\$250,000,000) in the 2025–26 fiscal year.

(C) One hundred fifty million dollars (\$150,000,000) in the 2026–27 fiscal year.

(2) The transfers required by paragraph (1) shall be used to fund the acquisition, design, construction, and equipping of projects authorized by Section 9112.

(3) Subject to paragraph (4), the amounts identified in subparagraphs (B) and (C) of paragraph (1) shall be transferred by the Controller to the State Project Infrastructure Fund upon direction by the Director of Finance in the fiscal years identified in those subparagraphs. The Director of Finance shall direct the Controller to transfer those funds upon request by the Joint Rules Committee in the fiscal years identified in subparagraphs (B) and (C) of paragraph (1).

(4) If needed to provide timely payments for the acquisition, design, construction, and equipping of projects authorized by Section 9112, the Director of Finance, upon receipt of an amended transfer schedule provided by the Joint Rules Committee, shall augment the funds listed in paragraph (1) in any fiscal year with a corresponding reduction in the subsequent fiscal year or years. Any augmentation pursuant to this paragraph shall not result in the cumulative amount required to be transferred during the 2024–25 fiscal year through the 2026–27 fiscal year by paragraph (1) exceeding seven hundred million dollars (\$700,000,000). An amended transfer schedule provided by the Joint Rules Committee may also delay a portion of funds for each fiscal year to a subsequent fiscal year.

(5) The Joint Rules Committee shall confer with the Department of Finance and the Department of General Services or their designated representatives before submitting an amended transfer schedule pursuant to paragraph (4).

SEC. 4. Section 9125 of the Government Code is amended to read:

9125. (a) (1) In order to adequately provide for the housing and administrative requirements of the Legislature and the executive branch during the construction of a state capitol building annex or the restoration, rehabilitation, renovation, or reconstruction of the existing State Capitol Building Annex pursuant to Article 5.2 (commencing with Section 9112), and to later provide for additional state-owned facilities in close proximity to the State Capitol, the Department of General Services may pursue the design and construction of a state office building located on O Street, between 10th Street and 11th Street, in the City of Sacramento.

(2) A project authorized pursuant to this section may proceed on a schedule different from that for the projects authorized by Section 9112, subject to good faith consultation between the Department of General Services and the Joint Rules Committee to determine the scope, budget, scheduling, organization, management, delivery method, and other approaches deemed most appropriate and advantageous to advance the office building authorized by this section and other related projects. This consultation shall be conducted pursuant to the agreement entered into pursuant to paragraph (1) of subdivision (b) of Section 9112.

(b) (1) The Department of General Services, or its designated representative, shall collaborate with the Joint Rules Committee and the Department of Finance, or its designated representative, to determine the scope, budget, delivery method, and schedule for any space to be constructed, restored, rehabilitated, renovated, or reconstructed pursuant to this article.

(2) (A) The scope, cost, and delivery method of each project pursuant to this section shall be recognized by, and subject to the oversight of, the State Public Works Board pursuant to Section 13332.11 or 13332.19, as applicable and subject to the provisions of this paragraph.

(B) Notwithstanding Sections 13332.11 and 13332.19, or any other law, the Joint Rules Committee, the Department of Finance or its designated representative, and the Department of General Services or its designated representative, may agree, pursuant to paragraph (1) of subdivision (b) of Section 9112, to utilize any delivery method deemed appropriate and advantageous for the work performed pursuant to this article.

(C) Notwithstanding any provision of Section 13332.11 or 13332.19 to the contrary, or any other law, any changes to the scope of the projects authorized by this section shall be agreed upon by the Joint Rules Committee, the Department of Finance or its designated representative, and the Department of General Services or its designated representative, pursuant to the agreement entered into pursuant to paragraph (1) of subdivision (b) of Section 9112.

(3) The height limitation specified in subdivision (c) of Section 8162.7 shall apply to any structure constructed, restored, rehabilitated, renovated, or reconstructed pursuant to this article.

(c) (1) Notwithstanding any other law, all work performed pursuant to this article by the Department of General Services shall be exempt from all of the following:

(A) The State Contract Act (Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code).

(B) Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3.

(C) Chapter 2.1 (commencing with Section 15813) of Part 10b of Division 3.

(D) Section 2807 of the Penal Code.

(2) Notwithstanding any other law, the inclusion of office space for or an emergency dispatch center of the Department of the California Highway Patrol, including any associated telecommunications or radio equipment, in the state office building constructed pursuant to this article shall not subject any part of the project authorized by this article, including that office space or emergency dispatch center, to any of the following:

(A) The Essential Services Buildings Seismic Safety Act of 1986 (Chapter 2 (commencing with Section 16000) of Division 12.5 of the Health and Safety Code).

(B) Any other law that would not otherwise apply to the project authorized by this article but for the inclusion of the office space for or emergency dispatch center of the Department of the California Highway Patrol.

(C) Any rule, regulation, standard, or requirement promulgated or enforced by the Division of the State Architect or the Office of the State Fire Marshal pursuant to the laws described in subparagraphs (A) and (B).

(3) Notwithstanding any other law, the Department of General Services may enter into negotiations directly with any firm for the provision of services described in Section 4525.

(d) Prevailing wages shall be paid to all workers employed on a project that is subject to this article, in accordance with Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(e) The Department of General Services shall provide maintenance and operation services in connection with that portion of the state office building subject to this article that is utilized by the Legislature, as requested by the Joint Rules Committee.

(f) It is the intent of the Legislature to collaborate in good faith with the executive branch to consider any necessary statutory changes or actions pursuant to Section 9123 or any other law in order to facilitate the financing and continuing operation of the project authorized by this section. Furthermore, the executive branch and the Joint Rules Committee agree to collaborate, consistent with the terms of the agreement required by paragraph (1) of subdivision (b) of Section 9112, in the design, scheduling, organization, management, choice of delivery method, and other approaches needed to ensure that the project authorized by this section serves the needs of the Legislature, as well as the needs of the executive branch, during the period of the work authorized by Section 9112. Over the long term, joint occupancy by legislative and executive branch entities is contemplated, with the building's management provided by the Department of General Services, unless explicitly agreed to otherwise.

(g) Nothing in this article shall be construed to limit the jurisdiction of the Legislature over the buildings and property bounded by 10th, 11th, N, and O Streets in the City of Sacramento that are described in Article 5.5 (commencing with Section 9115).

SEC. 5. Section 14692 of the Government Code is amended to read:

14692. (a) (1) The State Project Infrastructure Fund is hereby established in the State Treasury.

(2) Except as otherwise provided in clause (vi) of subparagraph (C), notwithstanding Section 13340, the fund is continuously appropriated to the department, without regard to fiscal years, for the following purposes:

(A) Subject to authorization as provided in this article, for state projects pursuant to this article.

(B) To cover the costs of any report required by Section 9112 or any report as may be prepared under Section 9125.

(C) (i) For transfer to the Operating Funds of the Assembly and Senate, to be used for the capital outlay projects specified in Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2.

(ii) Upon the direction of the Director of Finance, the Controller shall transfer from the fund to the Operating Funds of the Assembly and Senate an amount up to eighty million dollars (\$80,000,000) for preconstruction activities for the capital

outlay projects specified in Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2 from the amounts appropriated in Item 7760-311-0001 of Section 2.00 of the Budget Act of 2022.

(iii) Upon amending the agreement entered into pursuant to paragraph (1) of subdivision (b) of Section 9112 to incorporate the project overview and sequence report required under the agreement, the Director of Finance shall direct the Controller transfer, and upon such direction the Controller shall transfer, from the fund to the Operating Funds of the Assembly and Senate an amount that is specified in the budget appropriation schedule specified in Item 7760-311-0001 of Section 2.00 of the Budget Act of 2022.

(iv) Notwithstanding any law, upon the transfer of seven hundred million dollars (\$700,000,000) from the State Project Infrastructure Fund to the General Fund pursuant to the Budget Act of 2024, all remaining amounts in the State Project Infrastructure Fund shall be transferred to the Operating Funds of the Assembly and Senate for the capital outlay projects specified in Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2.

(v) Upon the transfer of moneys pursuant to paragraphs (1) and (3) of subdivision (b) of Section 9112.5, the Director of Finance shall direct the Controller to transfer the entirety of those moneys to the Operating Funds of the Assembly and Senate unless the Joint Rules Committee provides the Director of Finance with an amended transfer schedule pursuant to paragraph (4) of subdivision (b) of Section 9112.5. If the Joint Rules Committee provides the Director of Finance with an amended transfer schedule, the Director of Finance shall direct the Controller to transfer money to the Operating Funds of the Assembly and Senate pursuant to the amended transfer schedule. The Controller shall transfer funds as directed by the Director of Finance pursuant to this clause.

(vi) Moneys transferred to the Operating Funds of the Assembly and Senate pursuant to clauses (iii) to (v), inclusive, shall not be used to alter or modify the color, detail, design, structure or fixtures of the historically restored areas of the first, second, and third floors and the exterior of the west wing of the State Capitol unless the Legislature expressly appropriates those moneys for that purpose in accordance with subdivision (b) of Section 28 of Article IV of the California Constitution.

(vii) Moneys transferred to the Operating Funds of the Assembly and Senate pursuant to clause (iii) may be invested or deposited in the manner specified in Section 9113.5.

(D) For transfer to the Architecture Revolving Fund, to be used for the capital outlay projects specified in Article 5.6 (commencing with Section 9125) of Chapter 1.5 of Part 1 of Division 2. The Department of Finance shall provide 20 days' notice to the Joint Rules Committee prior to any transfer pursuant to this subparagraph.

(b) Notwithstanding any other law, the Controller may use the funds in the State Project Infrastructure Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381.

(c) The moneys in this fund shall be exempt from statewide general administrative cost recovery pursuant to Article 2 (commencing with Section 11270) of Chapter 3 of Part 1.

(d) Any lease entered into pursuant to this article is subject to the approval of the Department of Finance and any applicable notification required by subdivision (d) of Section 14694.

SEC. 6. Section 21080.56 of the Public Resources Code is amended to read:

21080.56. (a) This division does not apply to a project that is exclusively one of the following:

(1) A project to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend.

(2) A project to restore or provide habitat for California native fish and wildlife.

(b) An eligible project may have incidental public benefits, such as public access and recreation.

(c) This section does not apply to a project unless the project does both of the following:

(1) Results in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery.

(2) Includes procedures and ongoing management for the protection of the environment.

(d) This section does not apply to a project that includes construction activities, except for construction activities solely related to habitat restoration.

(e) The lead agency shall obtain the concurrence of the Director of Fish and Wildlife for the determinations required pursuant to subdivisions (a) to (d), inclusive. The director shall document the director's concurrence using substantial evidence and best

available science.

(f) The project shall remain subject to all other applicable federal, state, and local laws and regulations, and shall not weaken or violate any applicable environmental or public health standards.

(g) Within 48 hours of making a determination that a project is exempt pursuant to this section, a lead agency shall file a notice described in subdivision (b) of Section 21108 or subdivision (b) of Section 21152 with the Office of Planning and Research, and the Department of Fish and Wildlife shall post the concurrence of the Director of Fish and Wildlife on the department's internet website.

(h) The Natural Resources Agency shall, in accordance with Section 9795 of the Government Code, report annually to the Legislature all determinations pursuant to this section.

(i) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 7. Chapter 6.7 (commencing with Section 21189.50) of Division 13 of the Public Resources Code is repealed.

SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 9. 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. 10. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.