

Senate Bill No. 1301

Passed the Senate August 28, 2018

Secretary of the Senate

Passed the Assembly August 27, 2018

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2018, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Division 13.6 (commencing with Section 21200) to the Public Resources Code, relating to environmental permitting, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1301, Beall. State permitting: environment: processing procedures: dam safety or flood risk reduction project.

Existing law requires the Department of Water Resources to supervise the maintenance and operation of dams and reservoirs as necessary to safeguard life and property. Existing law requires the department to perform various flood control activities throughout the state. Existing law establishes the Central Valley Flood Protection Board and authorizes the board to engage in various flood control activities along the Sacramento River, the San Joaquin River, their tributaries, and related areas. Existing law also authorizes the board of supervisors of a county to appropriate and spend money from the general fund of the county for specified flood control purposes in connection with streams or rivers in the county.

This bill would require the Office of Planning and Research to develop a joint multiagency preapplication for supplemental consultation and a model fee-for-service agreement, in consultation with a state agency with the power to issue a permit that would authorize a dam safety project or authorize a flood risk reduction project and any interested potential project applicants. The bill would authorize a project applicant to complete a joint multiagency preapplication and submit the preapplication to each state agency named in the preapplication at any time. The bill would require the submission to cause, as appropriate for the proposed project and as specified in the preapplication, a state agency to identify how the requested supplemental consultation will be provided. The bill would require supplemental consultation to occur at least once per quarter, except that supplemental consultation would not occur until a written fee-for-service agreement is entered into. The bill would authorize the establishment and collection of fees payable by a project applicant submitting a preapplication as

reimbursement to cover specified reasonable costs, thereby making an appropriation. The bill would authorize and encourage certain federal agencies to provide supplemental consultation for those projects.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Division 13.6 (commencing with Section 21200) is added to the Public Resources Code, to read:

DIVISION 13.6. SUPPLEMENTAL CONSULTATION TO EXPEDITE PERMITTING FOR DAM SAFETY AND FLOOD RISK REDUCTION

21200. For purposes of this division, the following definitions apply:

(a) “Dam” has the same meaning as defined in Section 6002 of the Water Code.

(b) “Dam safety project” means a project or plan proposed by a federal, state, or local public agency or a public utility, for the maintenance, repair, retrofit, alteration, or replacement of a dam, in which reducing the risk of dam failure is an objective of the project.

(c) “Flood risk reduction project” means a project or plan proposed by a federal, state, or local public agency or a public utility, to construct, retrofit, maintain, manage, or improve a facility, channel, levee, or flood control modification, in which flood risk reduction is an objective of the project.

(d) “Permit” means a permit, agreement, certification, approval, authorization, permission, notice to proceed, or directive, or the issuance of the same, from any state agency, that is necessary for a project to proceed.

(e) “State agency” means any state department, agency, board, or commission with the power to issue a permit that would authorize a dam safety project or authorize a flood risk reduction project.

21202. A dam safety project or a flood risk reduction project is eligible for supplemental consultation for the purpose of expediting the permitting of the project.

21204. For the purposes of implementing the supplemental consultation, the Office of Planning and Research shall develop a joint multiagency preapplication and a model fee-for-service agreement in consultation with a state agency and any interested potential project applicants. The preapplication shall request information about a proposed project that is common to state agency permit applications and that reasonably would be expected to be available at the time of preapplication submission, and any preliminary information a state agency requests specific to its jurisdiction.

21206. (a) A project applicant may complete a joint multiagency preapplication for supplemental consultation and submit the preapplication to each state agency named in the preapplication at any time. A project applicant is encouraged to submit the joint multiagency preapplication not later than when an applicant provides a notice of preparation, notice of intent, or other similar notice required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(b) The submission of a preapplication for supplemental consultation to a state agency and the state agency's determination of the proposed project's eligibility for supplemental consultation pursuant to this division shall cause, as appropriate for the proposed project and as specified in the preapplication, a state agency to identify how the requested supplemental consultation will be provided to the applicant. Supplemental consultation shall not commence until a written fee-for-service agreement is entered into pursuant to Section 21208. Supplemental consultation shall occur at least once per quarter to discuss the proposed project with the applicant and shall have the following objectives:

(1) To identify actions that may be taken by the state agency and the applicant to expedite permit processing and approval with the goal of achieving permit approval within times established in statute or faster.

(2) To consider potential significant environmental impacts of the proposed project and the types of mitigation, if any, that may be required as a condition of the permit.

(3) To provide input on the environmental review document prepared pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(4) To identify potential conflicts between the measures or conditions proposed by the consulting state agency for permit issuance with measures or conditions proposed by other state or federal agencies.

(c) Upon the request of the project applicant, supplemental consultation by a state agency may occur with the attendance of other state or federal permitting agencies.

21208. (a) (1) A state agency providing supplemental consultation and the Office of Planning and Research shall establish and collect fees payable by a project applicant submitting a preapplication as reimbursement to cover the reasonable costs of the supplemental consultation and the costs of the Office of Planning and Research in developing the preapplication and a model fee-for-service agreement.

(2) A project applicant shall pay a flat fee to each state agency named in a joint multiagency preapplication and to the Office of Planning and Research upon the submission of a joint multiagency preapplication to cover the reasonable costs of each state agency in assessing how supplemental consultation will be provided and negotiating a written fee-for-service agreement pursuant to subdivision (b) and the reasonable costs of the Office of Planning and Research in developing the preapplication and the model fee-for-service agreement.

(b) (1) A participating state agency shall provide to the project applicant a good faith estimate of the reasonable costs that would be incurred for the requested supplemental consultation.

(2) A project applicant shall enter into a written fee-for-service agreement with the state agencies providing supplemental consultation that requires the project applicant to reimburse the state agencies for the reasonable costs incurred in providing supplemental consultation.

(c) Any fees collected pursuant to this division shall supplement, and not replace, existing fees or funding for permitting by a state agency.

21210. This division does not limit the authority or discretion of a state agency with regard to the dispensation of a permit application, the issuance of a permit, or any conditions that may be required in conjunction with the issuance of a permit.

21212. The United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries

Service, and the United States Environmental Protection Agency may and are encouraged to provide supplemental consultation to project applicants for dam safety projects or flood risk reduction projects authorized pursuant to this division.

Approved _____, 2018

Governor