

AMENDED IN SENATE SEPTEMBER 5, 2013

AMENDED IN SENATE AUGUST 26, 2013

AMENDED IN ASSEMBLY MAY 30, 2013

AMENDED IN ASSEMBLY APRIL 19, 2013

AMENDED IN ASSEMBLY APRIL 8, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 52

**Introduced by Assembly Member Gatto
(Principal coauthor: Assembly Member Alejo)
(Coauthors: Assembly Members Chesbro and Lowenthal)**

December 21, 2012

An act to add Sections 21073, 21074, 21080.3.1, 21083.09, 21084.2, 21084.3, and 21097 to the Public Resources Code, relating to Native Americans.

LEGISLATIVE COUNSEL'S DIGEST

AB 52, as amended, Gatto. Native Americans: California Environmental Quality Act.

Existing law, the Native American Historic Resource Protection Act, establishes a misdemeanor for unlawfully and maliciously excavating upon, removing, destroying, injuring, or defacing a Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources.

The California Environmental Quality Act, referred to as 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. CEQA requires the lead agency to provide a responsible agency with specified notice and opportunities to comment on a proposed project. CEQA requires the Office of Planning and Research to prepare and develop, and the Secretary of the Natural Resources Agency to certify and adopt, guidelines for the implementation of CEQA that include, among other things, criteria for public agencies to following in determining whether or not a proposed project may have a significant effect on the environment.

This bill would specify that a project having a potential to cause a substantial adverse change in the significance of a tribal resource, as defined, to be a project that may have a significant effect on the environment. The bill would require the implementation, if feasible, of specified mitigation measures if the lead agency determines that a project will have a substantial adverse change on a tribal cultural resource. For a tribal cultural resource that is a sacred place, the bill would prohibit severe or irreparable damage to that resource, or interference with the free expression or exercise of a Native American religion unless a clear and convincing showing that the public interest and necessity so require. The bill would require a lead agency to consult with Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project that have requested, in writing, to be informed by the lead agency of proposed projects in that geographic area prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project. The bill would ~~authorize~~ *require* the Native American tribe wishing to consult the lead agency regarding a project to notify the lead agency, as specified. The bill would make the above provisions applicable to projects that have filed a notice of preparation or a notice of negative declaration or mitigated negative declaration on or after January 1, 2014. The bill would require the Office of Planning and Research to revise the guidelines to ~~include among the criteria for determining whether a proposed project has a significant effect on the~~

~~environment the effects on tribal cultural resources. separate the consideration of cultural resources from that for paleontological resources and add consideration of tribal cultural resources.~~ By requiring the lead agency to consider these effects relative to Native Americans and to conduct additional consultations, 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 ~~following:~~

3 ~~(a) California had the largest aboriginal population in North~~
4 ~~America before contact with non-Native Americans. Spiritual~~
5 ~~integrity, community identity, political sovereignty, and governance~~
6 ~~processes are intertwined in the lifeways and identity of the~~
7 ~~California Native American tribes.~~

8 ~~(b) California Native Americans have used, and continue to use,~~
9 ~~natural settings in the conduct of spiritual practices, religious~~
10 ~~observances, ceremonies, and cultural uses and beliefs that are~~
11 ~~essential elements in tribal communities. Tribes consider these~~
12 ~~sacred and cultural places, used by generations, as vital to their~~
13 ~~existence, well-being, and identity.~~

14 ~~(c) Traditional tribal lands were diminished to reservations and~~
15 ~~rancherias that exist today with tribes losing a majority of their~~
16 ~~tribal cultural resources and sacred places.~~

17 ~~(d) Honoring the rights of California Native American tribes'~~
18 ~~efforts to protect the natural setting and integrity of sacred places~~
19 ~~is essential.~~

20 ~~(e) The California Environmental Quality Act, which is the~~
21 ~~primary environmental protection law in California, does not~~
22 ~~readily or directly solicit, include, or accommodate California~~
23 ~~Native American tribes' concerns and issues. This has resulted in~~
24 ~~significant environmental impacts to tribal cultural resources;~~

1 including sacred places and tribal government reservations and
2 rancherias, leaving them unanalyzed and unmitigated. The result
3 has been significant and unmitigated cumulative impacts to those
4 resources to the detriment of those communities and California's
5 environment.

6 ~~(f) California Native American tribes are experts concerning~~
7 ~~their traditionally and culturally affiliated resources, tribal history,~~
8 ~~and practices concerning those resources. Tribal knowledge about~~
9 ~~the land and the resources should be included in environmental~~
10 ~~assessments pursuant to state environmental laws for projects that~~
11 ~~have a potentially significant impact or effect on those resources.~~

12 ~~(g) State environmental law should not only take into account~~
13 ~~the scientific or archaeological value of cultural resources, but also~~
14 ~~the tribal cultural values, tribal interpretations, and culturally~~
15 ~~appropriate treatment when decisions are made concerning whether~~
16 ~~or how to approve a project that may significantly impact or affect~~
17 ~~those places and resources.~~

18 *SECTION 1. (a) The Legislature finds and declares all of the*
19 *following:*

20 *(1) Current state law provides a limited measure of protection*
21 *for sites, features, places, objects, and landscapes with cultural*
22 *value to California Native American tribes.*

23 *(2) Existing law provides limited protection for Native American*
24 *sacred places, including, but not limited to, places of worship,*
25 *religious or ceremonial sites, and sacred shrines.*

26 *(3) The California Environmental Quality Act (Division 13*
27 *commencing with Section 21000) of the Public Resources Code*
28 *does not readily or directly include California Native American*
29 *tribes' knowledge and concerns. This has resulted in significant*
30 *environmental impacts to tribal cultural resources and sacred*
31 *places, including cumulative impacts, to the detriment of California*
32 *Native American tribes and California's environment.*

33 *(4) As California Native Americans have used, and continue to*
34 *use, natural settings in the conduct of spiritual practices, religious*
35 *observances, ceremonies, cultural practices, and beliefs, these*
36 *resources reflect the tribes' continuing cultural ties to the land*
37 *and their traditional heritages.*

38 *(5) Many of these archaeological, historical, cultural, and*
39 *sacred sites are not located within the current boundaries of*
40 *California Native American reservations and rancherias, and*

1 *therefore are not covered by the protectionist policies of tribal*
2 *governments.*

3 *(b) In recognition of California Native American tribal*
4 *sovereignty and the unique relationship of California local*
5 *governments and public agencies with California Native American*
6 *tribal governments, and respecting the interests and roles of project*
7 *proponents, it is the intent of the Legislature, in enacting this act,*
8 *to accomplish all of the following:*

9 *(1) Recognize that California Native American prehistoric,*
10 *historic, archaeological, cultural, and sacred places are essential*
11 *elements in tribal cultural traditions, heritages, and identities.*

12 *(2) Establish that federally recognized California Native*
13 *American tribes have a tribal government role in the California*
14 *Environmental Quality Act.*

15 *(3) Establish a new category of resources in the California*
16 *Environmental Quality Act called “tribal cultural resources” that*
17 *considers the tribal cultural values in addition to the scientific and*
18 *archaeological values.*

19 *(4) Recognize California Native American tribes have expertise*
20 *with regard to their tribal history and practices, which concern*
21 *the tribal cultural resources with which they are traditionally and*
22 *culturally affiliated. Because the California Environmental Quality*
23 *Act calls for a sufficient degree of analysis, tribal knowledge about*
24 *the land and tribal cultural resources at issue should be included*
25 *in environmental assessments for projects that may have a*
26 *significant impact on those resources.*

27 *(5) Establish a meaningful consultation process between*
28 *California Native American tribal governments and lead agencies,*
29 *respecting the interests and roles of project proponents and the*
30 *level of required confidentiality concerning tribal cultural*
31 *resources, at the earliest possible point in the California*
32 *Environmental Quality Act environmental review process, so that*
33 *tribal cultural resources can be identified, and culturally*
34 *appropriate mitigation and mitigation monitoring programs can*
35 *be considered by the decisionmaking body of the lead agency.*

36 *(6) Ensure that local and tribal governments, public agencies,*
37 *and project proponents have information available early in the*
38 *California Environmental Quality Act environmental review*
39 *process, for purposes of identifying and addressing potential*
40 *adverse impacts to tribal cultural resources and to reduce the*

1 *potential for delay and conflicts in the environmental review*
 2 *process.*

3 (7) *Enable California Native American tribes to manage and*
 4 *accept conveyances of, and act as caretakers of, tribal cultural*
 5 *resources.*

6 (8) *Establish that a substantial adverse change to a tribal*
 7 *cultural resource has a significant effect on the environment.*

8 SEC. 2. Section 21073 is added to the Public Resources Code,
 9 to read:

10 21073. “Native American tribe” means a federally recognized
 11 Indian tribe located in California.

12 SEC. 3. Section 21074 is added to the Public Resources Code,
 13 to read:

14 21074. (a) “Tribal cultural resources” means either of the
 15 following:

16 (1) Sites, features, places, objects with cultural value to
 17 descendant communities, or cultural landscapes that are consistent
 18 with the guidance of the United States National Park Service and
 19 the federal Advisory Council on Historic Preservation, that are
 20 listed in or determined to be eligible for listing in any of the
 21 following:

- 22 (A) The California Register of Historical Resources.
- 23 (B) A local register of historical resources as defined in
 24 subdivision (k) of Section 5020.1.
- 25 (C) A resource deemed to be significant pursuant to subdivision
 26 (g) of Section 5024.1.

27 (2) Sacred places including, but not limited to, Native American
 28 sanctified cemeteries, places of worship, religious or ceremonial
 29 sites, or sacred shrines that meet either of the following criteria:

- 30 (A) Listed on the California Native American Heritage
 31 Commission’s Sacred Lands File pursuant to Section 5097.94 or
 32 5097.96.
- 33 (B) Listed or determined to be eligible for listing in the
 34 California Register of Historical Resources.

35 (b) ~~A tribal cultural historical resource may also be a historical~~
 36 ~~resource pursuant to described in Section 21084.1 or 21084.1, a~~
 37 ~~unique archaeological resource pursuant to as defined in~~
 38 ~~subdivision (g) of Section 21083.2. A tribal cultural resource~~
 39 ~~classified as 21083.2, or a “nonunique archaeological resource”~~
 40 ~~remains a tribal cultural resource and shall be given consideration~~

1 ~~pursuant to this division.~~ *as defined in subdivision (h) of Section*
2 *21083.2, may be a tribal cultural resource if it conforms with the*
3 *criteria of subdivision (a).*

4 SEC. 4. Section 21080.3.1 is added to the Public Resources
5 Code, to read:

6 21080.3.1. (a) Prior to determining whether a negative
7 declaration, mitigated negative declaration, or environmental
8 impact report is required for a project, the lead agency shall ~~consult~~
9 *initiate consultation* with Native American tribes that are
10 traditionally and culturally affiliated with the geographic area of
11 the proposed project that have requested, in writing, to be informed
12 by the lead agency of proposed projects in that geographic area.
13 For an activity directly undertaken by a public agency, the lead
14 agency may *also* provide for early consultation *as described in*
15 *Section 21097* to identify alternatives, mitigation measures, and
16 significant effects regarding issues of concern to the Native
17 American tribe to be analyzed in depth in the environmental ~~impact~~
18 ~~report.~~ *documents.*

19 (b) Because Native American tribes that are traditionally and
20 culturally affiliated with a geographic area may have expertise
21 concerning their tribal lands and resources in identifying,
22 interpreting, and determining significance of tribal cultural
23 resources and whether an impact of a proposed project to a tribal
24 cultural resource is significant, the lead agency shall consult with
25 Native American tribes, *as set forth in subdivision (a)*, in making
26 a determination pursuant to subdivision (a) and as set forth in
27 Sections 21084.2 and 21097.

28 (c) To expedite the requirements of this section, the Native
29 American Heritage Commission shall assist the lead agency in
30 identifying the traditionally and culturally affiliated Native
31 American tribes.

32 (d) (1) For the purposes of this section and Section 21097,
33 “consultation” means the meaningful and timely process of seeking,
34 discussing, and considering carefully the view of others, in a
35 manner that is cognizant of all parties’ cultural values and, where
36 feasible, seeking agreement. Consultation between public agencies
37 and Native American tribes shall be conducted in a way that is
38 mutually respectful of each party’s sovereignty. Consultation shall
39 recognize the tribes’ potential needs for confidentiality with respect
40 to places that have traditional tribal cultural significance.

1 ~~Consultation shall also recognize the need for the exchange and~~
2 ~~provision of project information essential to the topic of the~~
3 ~~consultation.~~

4 (2) The consultation shall be considered concluded at the point
5 at which the parties to the consultation come to a mutual agreement
6 concerning the appropriate measures for preservation or ~~mitigation,~~
7 ~~or either the lead agency mitigation that will be recommended to~~
8 ~~the lead agency, or either the authorized representative of the lead~~
9 ~~agency participating in the consultation or Native American tribe,~~
10 acting in good faith and after reasonable effort, concludes that
11 mutual agreement cannot be reached concerning *recommended*
12 appropriate measures of preservation or mitigation.

13 (3) If the project proponent or its consultants participate in the
14 consultation, those parties shall respect the principles set forth in
15 this subdivision.

16 (e) This section shall apply only to a project that has a notice
17 of preparation or a notice of negative declaration or mitigated
18 negative declaration filed on or after January 1, 2014.

19 SEC. 5. Section 21083.09 is added to the Public Resources
20 Code, to read:

21 21083.09. On or before January 1, 2015, the Office of Planning
22 and Research shall prepare and develop, and the Secretary of the
23 Natural Resources Agency shall certify and adopt, revisions to the
24 guidelines that ~~do all~~ *revise Appendix G of Chapter 3 (commencing*
25 *with Section 15000) of Division 6 of Title 4 of the California Code*
26 *of Regulations to do both* of the following:

27 (a) ~~Provide guidance on the implementation of Sections 21084.2~~
28 ~~and 21084.3.~~

29 (b) ~~Provide advice developed in consultation with the Native~~
30 ~~American Heritage Commission, Native American tribes, related~~
31 ~~to tribal cultural resources, including sacred places, for all of the~~
32 ~~following:~~

33 (1) ~~The preservation and protection of, or culturally appropriate~~
34 ~~measures to mitigate significant impacts to, tribal cultural~~
35 ~~resources.~~

36 (2) ~~Procedures for the protection of the confidentiality of~~
37 ~~information concerning the specific identity, location, character,~~
38 ~~and use of tribal cultural resources.~~

1 ~~(3) Procedures to facilitate the voluntary participation of~~
2 ~~landowners to preserve and protect the specific identity, location,~~
3 ~~character, and use of tribal cultural resources.~~

4 ~~(4) Procedures to facilitate the identification of, and culturally~~
5 ~~appropriate treatment of, tribal cultural resources.~~

6 ~~(e) Revising Appendix G of Chapter 3 (commencing with~~
7 ~~Section 15000) of Division 6 of Title 14 of the California Code of~~
8 ~~Regulations to do both of the following:~~

9 ~~(1)~~

10 ~~(a) Separate the consideration of paleontological resources~~
11 ~~from cultural resources and update the relevant sample questions.~~

12 ~~(2)~~

13 ~~(b) Add consideration of tribal cultural resources, including~~
14 ~~sacred places, resources with relevant sample questions.~~

15 SEC. 6. Section 21084.2 is added to the Public Resources Code,
16 to read:

17 21084.2. (a) A project may have a significant effect on the
18 environment if the project has the potential of causing a substantial
19 adverse change in the significance of a tribal cultural resource.

20 ~~(b) Because Native American tribes may have expertise in~~
21 ~~identifying, interpreting, and determining the significance of tribal~~
22 ~~cultural resources and whether an impact of a proposed project to~~
23 ~~a tribal cultural resource is significant, the lead agency shall consult~~
24 ~~with the relevant Native American tribes in making a determination~~
25 ~~pursuant to subdivision (a).~~

26 ~~(e)~~

27 ~~(b) This section shall apply only to a project that has a notice~~
28 ~~of preparation or a notice of negative declaration or mitigated~~
29 ~~negative declaration filed on or after January 1, 2014.~~

30 SEC. 7. Section 21084.3 is added to the Public Resources Code,
31 to read:

32 21084.3. (a) If the lead agency determines that a project ~~will~~
33 ~~have may cause~~ a substantial adverse change ~~on~~ to a tribal cultural
34 resource, the following mitigation measures *are recommended*, in
35 order of preference, that may avoid or minimize the significant
36 adverse impacts *and* shall be ~~implemented~~, *considered*, if feasible:

37 (1) Planning construction to avoid the resources and protect the
38 cultural and natural context, or planning greenspace, parks, or
39 other open space, to incorporate the resources with culturally
40 appropriate protection and management criteria.

1 (2) Consideration of project alternatives that protect the
2 resources.

3 ~~(3) Protecting resources or places through conveyance to an~~
4 ~~appropriate Native American tribe of permanent easements, or~~
5 ~~other interests in real property, with culturally appropriate~~
6 ~~management criteria for the purpose of preserving or utilizing the~~
7 ~~resources or places.~~

8 *(3) Conveyance of resources into permanent conservation*
9 *easements or other interests in real property, with culturally*
10 *appropriate management criteria for the purposes of preserving*
11 *or utilizing the resources or places.*

12 (4) Adopting mitigation measures that treat the resources with
13 culturally appropriate dignity taking into account the tribal value
14 and meaning of the resource including, but not limited to, the
15 following:

16 (A) Mitigation that protects the cultural character and integrity
17 of the resource.

18 (B) Mitigation that protects the traditional use of the resource.

19 (C) Mitigation that protects the confidentiality of the resource.

20 (5) Any of the examples of treatments set forth in Section
21 21083.2, *if executed with culturally appropriate dignity.*

22 ~~(b) If the lead agency determines that a project will have a~~
23 ~~significant adverse impact on a tribal cultural resource that is a~~
24 ~~sacred place as described in paragraph (2) of subdivision (a) of~~
25 ~~Section 21074, no severe or irreparable damage shall occur and~~
26 ~~no interference with the free expression or exercise of a Native~~
27 ~~American religion as provided in the United States Constitution~~
28 ~~and the California Constitution shall occur with regard to this place~~
29 ~~except on a clear and convincing showing that the public interest~~
30 ~~and necessity so require.~~

31 (e)

32 (b) This section shall apply only to a project that has a notice
33 of preparation or a notice of negative declaration or mitigated
34 negative declaration filed on or after January 1, 2014.

35 SEC. 8. Section 21097 is added to the Public Resources Code,
36 to read:

37 21097. (a) A Native American tribe that is traditionally and
38 culturally affiliated with the geographic area of the proposed project
39 wishing to consult with the lead agency to discuss potentially
40 feasible means by which potentially significant impacts on a tribal

1 cultural resources can be feasibly avoided or minimized to less
2 than significant, ~~may~~ *shall* notify the lead agency prior to the public
3 review period established by Section 21091, but no later than 30
4 days after receipt of the lead agency's notice of preparation of an
5 environmental impact report or 20 days after receipt of the lead
6 agency's notice of a negative declaration or mitigated negative
7 declaration. The lead agency shall provide to the Native American
8 tribe copies of any environmental document or technical report
9 relied on by the lead agency. The Native American tribe may
10 request *or consent to* the project proponent, Native American
11 Heritage Commission, the State Office of Historic Preservation,
12 and other relevant agencies or entities ~~to participate in~~ *participating*
13 *in portions of* the consultation process ~~and~~ to seek mutually
14 agreeable methods of avoiding or otherwise ~~resolving~~ *mitigating*
15 the potential adverse effects. As part of the consultation process,
16 the parties may propose mitigation measures capable of avoiding
17 or substantially lessening potential significant impacts to a tribal
18 cultural resource.

19 (b) Any mitigation measures agreed upon ~~by the lead agency~~
20 ~~and Native American tribe~~ in the consultation shall be ~~incorporated~~
21 *recommended by the lead agency staff to the decisionmaking body*
22 *of the lead agency participating in the consultation* as mitigation
23 measures in the final environmental document and *the mitigation*
24 *monitoring program, if determined to avoid or lessen the impact*
25 *pursuant to paragraph (2) of subdivision (c), and shall be* fully
26 enforceable through conditions, agreements, or measures.

27 (c) If a project may have ~~an~~ *a significant* impact on a tribal
28 cultural resource, the lead agency's environmental document shall
29 discuss both of the following:

30 (1) Whether the proposed project has a significant impact on
31 an identified *tribal* cultural resource.

32 (2) Whether feasible alternatives or mitigation measures,
33 including those measures that may be agreed to pursuant to
34 subdivision (a), avoid or substantially lessen the impact to the
35 identified tribal cultural resource.

36 (d) (1) Any information, including, but not limited to, the
37 ~~location, nature, and use of the place, feature, site, or object~~ *tribal*
38 *cultural resource* that is submitted by a Native American tribe
39 ~~regarding a tribal cultural resource~~ during the consultation process
40 may not be included in the environmental document or otherwise

1 disclosed by the lead agency or any other public agency to the
2 public without the prior consent of the tribe that provided the
3 information. Any information submitted by a Native American
4 tribe during the consultation process shall be published in a
5 confidential appendix to the environmental document unless the
6 tribe consents, *in writing*, to disclosure of all or some of the
7 information to the public. This subdivision is not intended, and
8 may not be construed, to prohibit the confidential exchange of the
9 submitted information between public agencies that have lawful
10 jurisdiction over the preparation of the environmental document.

11 (2) This subdivision does not affect or alter the application of
12 subdivision (r) of Section 6254 of the Government Code.

13 (3) *This subdivision does not prevent a lead agency or other
14 public agency from describing the information in general terms
15 in the environmental document so as to inform the public of the
16 basis of the lead agency's or other public agency's decision without
17 breaching the confidentiality required by this subdivision.*

18 (e) The lead agency for the proposed project may issue a permit
19 or grant an approval for a project with a significant impact on an
20 identified tribal cultural resource only if one of the following
21 occurs:

22 (1) Mitigation measures agreed to during the consultation
23 process pursuant to subdivision (b) or another agreement have
24 ~~been incorporated into~~ *recommended to the decisionmaking body
25 of the lead agency as mitigation measures in the final
26 environmental document and mitigation monitoring program.*

27 (2) The Native American tribe accepts the mitigation measures
28 proposed in the draft or final environmental document and
29 mitigation monitoring and reporting program.

30 (3) Consultation between the Native American tribes and the
31 lead agency has occurred pursuant to Section 65352.4 of the
32 Government Code and Section 21080.3.1.

33 (4) The Native American tribe has received notice of, and has
34 failed to comment on or reject, the proposed mitigation measures
35 during the public comment period established in Section 21091
36 and any public hearing on the project required by or held pursuant
37 to this division.

38 (f) ~~If an agreement is not reached pursuant to this section the
39 mitigation measures recommended by the staff of the lead agency
40 as a result of the consultation process are not included in the~~

1 *environmental document or if there are no agreed upon mitigation*
2 *measures at the conclusion of the consultation, and if substantial*
3 *evidence demonstrates that a project will cause a significant effect*
4 *to a tribal cultural resource resource, the lead agency shall require*
5 *consider feasible mitigation pursuant to subdivision (a) of Section*
6 *21084.3 and, if applicable, mitigation pursuant to subdivision (b)*
7 *of Section 21084.3.*

8 (g) It is the intent of the Legislature that the lead agency engage
9 in early consultation with the Native American tribe before the
10 public review period for the environmental documents commences.

11 (h) This section is not intended, and may not be construed, to
12 limit consultation between the state and tribal governments,
13 existing confidentiality provisions, or the protection of religious
14 exercise to the fullest extent permitted under state and federal law.

15 (i) This section shall apply only to a project that has a notice of
16 preparation or a notice of negative declaration or mitigated negative
17 declaration filed on or after January 1, 2014.

18 SEC. 9. (a) This act does not alter or expand the applicability
19 of the California Environmental Quality Act (Division 13
20 (commencing with Section 21000) of the Public Resources Code)
21 concerning projects occurring on Native American tribal
22 reservations or rancherias.

23 (b) This act does not prohibit any Native American tribe or
24 nonfederally recognized tribe from participating in the California
25 Environmental Quality Act on any issue of concern as an interested
26 person, citizen, or member of the public.

27 SEC. 10. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 a local agency or school district has the authority to levy service
30 charges, fees, or assessments sufficient to pay for the program or
31 level of service mandated by this act, within the meaning of Section
32 17556 of the Government Code.