



General Assembly

Amendment

February Session, 2024

LCO No. 5810



Offered by:

REP. MESKERS, 150th Dist.

SEN. HARTLEY, 15th Dist.

REP. HARRISON, 69th Dist.

SEN. MARTIN, 31st Dist.

To: Subst. House Bill No. 5433

File No. 459

Cal. No. 303

"AN ACT ESTABLISHING A PROCEDURE FOR THE STATE HISTORIC PRESERVATION OFFICER TO MAKE DETERMINATIONS CONCERNING CERTAIN ENVIRONMENTAL EFFECTS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2024*) (a) As used in this section:

4 (1) "Actions which may significantly affect the environment" has the
5 same meaning as provided in section 22a-1c of the general statutes, but
6 does not include any action that (A) is a major federal action under the
7 National Environmental Policy Act, 42 USC 4321 et seq., as amended
8 from time to time, (B) is an undertaking under the National Historic
9 Preservation Act, 54 USC 300101 et seq., as amended from time to time,
10 (C) affects an archaeological site, or (D) affects a sacred site;

11 (2) "Archaeological site" has the same meaning as provided in section

12 10-381 of the general statutes;

13 (3) "Historic structures and landmarks" has the same meaning as
14 provided in section 10-410 of the general statutes;

15 (4) "Sacred site" has the same meaning as provided in section 10-381
16 of the general statutes;

17 (5) "Sponsoring agency" has the same meaning as described in
18 sections 22a-1 to 22a-1h, inclusive, of the general statutes;

19 (6) "State entity" means a state department, institution or agency
20 under sections 22a-1 to 22a-1h, inclusive, of the general statutes;

21 (7) "State funding recipient" means any person that receives funds
22 from the state to be used for an activity or a sequence of planned
23 activities that are subject to the process established by sections 22a-1 to
24 22a-1h, inclusive, of the general statutes; and

25 (8) "State Historic Preservation Officer" means the individual
26 appointed by the Governor pursuant to 54 USC 302301(1), as amended
27 from time to time, to administer the state historic preservation program
28 in accordance with 54 USC 302303, as amended from time to time.

29 (b) Whenever a sponsoring agency requests an initial determination
30 from the State Historic Preservation Officer, in accordance with sections
31 22a-1 to 22a-1h, inclusive, of the general statutes, as to whether an
32 individual activity or a sequence of planned activities proposed to be
33 undertaken by the sponsoring agency, a state entity or a state funding
34 recipient, as applicable, is within the category of actions which may
35 significantly affect the environment because such activity or sequence
36 of activities could have an impact on the state's historic structures and
37 landmarks, the officer shall:

38 (1) In making such initial determination, consider all information
39 provided by the sponsoring agency, state entity or state funding
40 recipient, as applicable; and

41 (2) Make such initial determination not later than thirty days after the
42 officer receives information the officer deems reasonably necessary to
43 make such initial determination.

44 (c) If the State Historic Preservation Officer makes an initial
45 determination that such individual activity or sequence of planned
46 activities will not have any effect on historic structures and landmarks,
47 or is not within the category of actions which may significantly affect
48 the environment because such activity or sequence of activities will not
49 have an impact on historic structures and landmarks, the officer shall
50 provide such determination in writing to the sponsoring agency, state
51 entity or state funding recipient, as applicable. Such written
52 determination shall constitute a final determination by the officer for the
53 purposes of this section.

54 (d) (1) If the State Historic Preservation Officer makes an initial
55 determination that such individual activity or sequence of planned
56 activities will have an effect on historic structures and landmarks, or is
57 within the category of actions which may significantly affect the
58 environment because such activity or sequence of activities will have an
59 impact on historic structures and landmarks, the officer shall, in
60 collaboration with the sponsoring agency, state entity or state funding
61 recipient, as applicable, propose a prudent or feasible alternative to such
62 individual activity or sequence of planned activities to avoid such
63 impact, if such alternative is possible.

64 (2) If the State Historic Preservation Officer and the sponsoring
65 agency, state entity or state funding recipient, as applicable, reach an
66 agreement regarding such alternative, the officer shall provide to such
67 sponsoring agency, state entity or state funding recipient, as applicable,
68 a written determination that such alternative (A) will not have any effect
69 on historic structures and landmarks, or (B) is not within the category of
70 actions which may significantly affect the environment because such
71 activity or sequence of activities will not have an impact on historic
72 structures and landmarks. Such written determination shall constitute a
73 final determination by the officer for the purposes of this section.

74 (3) (A) If the State Historic Preservation Officer and the sponsoring
75 agency, state entity or state funding recipient, as applicable, cannot
76 reach an agreement regarding such alternative, the officer shall provide
77 to such sponsoring agency, state entity or state funding recipient, as
78 applicable, a written determination that such individual activity or
79 sequence of planned activities (i) will have an effect on historic
80 structures and landmarks, or (ii) is within the category of actions which
81 may significantly affect the environment because such activity or
82 sequence of activities will have an impact on historic structures and
83 landmarks.

84 (B) (i) Notwithstanding subsection (c) of section 22a-1b of the general
85 statutes, after the State Historic Preservation Officer provides a written
86 determination under subparagraph (A) of this subdivision, the officer
87 shall, in collaboration with the sponsoring agency, state entity or state
88 funding recipient, as applicable, propose a mitigation plan requiring
89 such sponsoring agency, state entity or state funding recipient, as
90 applicable, to mitigate such impact.

91 (ii) The sponsoring agency, state entity or state funding recipient, as
92 applicable, shall, to the extent possible, submit to the State Historic
93 Preservation Officer all pertinent information regarding such individual
94 activity or sequence of planned activities that may affect such mitigation
95 plan. Such information shall be considered by the officer in the
96 development of the mitigation plan.

97 (iii) In establishing the mitigation plan, the State Historic
98 Preservation Officer shall consult with the Commissioner of Economic
99 and Community Development, or the commissioner's designee, about
100 the economic impact of (I) the individual activity or sequence of planned
101 activities proposed to be undertaken by the sponsoring agency, state
102 entity or state funding recipient, as applicable, and (II) the mitigation
103 plan. Any information provided by the commissioner during such
104 consultation shall be considered by the officer in the development of the
105 mitigation plan.

106 (iv) Not later than forty-five days after the State Historic Preservation
107 Officer receives the information submitted under subparagraph (B)(ii)
108 of this subdivision, the officer shall memorialize the mitigation plan in
109 a proposed mitigation agreement that may be executed by the
110 sponsoring agency, state entity or state funding recipient, as applicable.
111 If the sponsoring agency, state entity or state funding recipient, as
112 applicable, executes such proposed mitigation agreement, the officer
113 shall also execute such proposed mitigation agreement. The execution
114 of such mitigation agreement shall constitute (I) a determination by the
115 officer that the officer is satisfied the effect on historic structures and
116 landmarks will be mitigated pursuant to the terms of such mitigation
117 agreement, and (II) a final determination by the officer for the purposes
118 of this section.

119 (v) At the time the State Historic Preservation Officer provides the
120 mitigation agreement proposed under subparagraph (B)(iv) of this
121 subdivision to the sponsoring agency, state entity or state funding
122 recipient, as applicable, the officer shall notify such sponsoring agency,
123 state entity or state funding recipient, as applicable, that a request may
124 be submitted in accordance with the provisions of subdivision (1) of
125 subsection (e) of this section to the Commissioner of Economic and
126 Community Development to review such proposed mitigation
127 agreement.

128 (e) (1) If the sponsoring agency, state entity or state funding recipient,
129 as applicable, declines to execute the mitigation agreement proposed
130 under subparagraph (B)(iv) of subdivision (3) of subsection (d) of this
131 section, such sponsoring agency, state entity or state funding recipient,
132 as applicable, may submit, not later than fifteen days after the State
133 Historic Preservation Officer provides such proposed mitigation
134 agreement to such sponsoring agency, state entity or state funding
135 recipient, as applicable, a request to the Commissioner of Economic and
136 Community Development to review the proposed mitigation agreement
137 and make recommendations to revise such proposed mitigation
138 agreement. Such request shall be in the form and manner prescribed by
139 the commissioner and may include a request for a conference with the

140 commissioner, the officer, the sponsoring agency, the state entity or the
141 state funding recipient, as applicable, and any other interested party.

142 (2) (A) Not later than thirty days after receiving such request, the
143 commissioner shall (i) if such conference was requested, hold such
144 conference, and (ii) make recommendations, if any, for revisions to the
145 proposed mitigation agreement. If such revisions are recommended, the
146 commissioner's review pursuant to this subsection shall be concluded
147 and the State Historic Preservation Officer shall include such revisions
148 in a revised mitigation agreement. Such revised mitigation agreement
149 may be executed by the sponsoring agency, state entity or state funding
150 recipient, as applicable. If the sponsoring agency, state entity or state
151 funding recipient, as applicable, executes such revised mitigation
152 agreement, the officer shall also execute such revised mitigation
153 agreement. The execution of such revised mitigation agreement shall
154 constitute (I) a determination by the officer that the officer is satisfied
155 the effect on historic structures and landmarks will be mitigated
156 pursuant to the terms of such revised mitigation agreement, and (II) a
157 final determination by the officer for the purposes of this section.

158 (B) If the commissioner makes no recommendations for revisions to
159 the mitigation agreement, the commissioner's review pursuant to this
160 subsection shall be concluded. The sponsoring agency, state entity or
161 state funding recipient, as applicable, may subsequently elect to execute
162 the mitigation agreement proposed by the State Historic Preservation
163 Officer under subparagraph (B)(iv) of subdivision (3) of subsection (d)
164 of this section. If the sponsoring agency, state entity or state funding
165 recipient, as applicable, executes such proposed mitigation agreement,
166 the officer shall also execute such proposed mitigation agreement. The
167 execution of such mitigation agreement shall constitute (i) a
168 determination by the officer that the officer is satisfied the effect on
169 historic structures and landmarks will be mitigated pursuant to the
170 terms of such mitigation agreement, and (ii) a final determination by the
171 officer for the purposes of this section.

172 (f) (1) A state funding recipient may elect to pay mitigation costs, to

173 be used for historic preservation purposes, to an entity designated by
174 the State Historic Preservation Officer, in an amount equal to the lesser
175 of fifteen per cent of the state funding received by such state funding
176 recipient for the individual activity or sequence of planned activities
177 proposed to be undertaken by such state funding recipient or seven
178 hundred fifty thousand dollars if:

179 (A) Such state funding recipient has not executed a mitigation
180 agreement within thirty days after the State Historic Preservation
181 Officer provides to such state funding recipient a mitigation plan in a
182 proposed mitigation agreement under subparagraph (B)(iv) of
183 subdivision (3) of subsection (d) of this section; or

184 (B) Such state funding recipient has submitted a request to the
185 Commissioner of Economic and Community Development to review a
186 proposed mitigation plan under subdivision (1) of subsection (e) of this
187 section and such state funding recipient has not executed a mitigation
188 agreement within thirty days after the commissioner concludes such
189 review.

190 (2) If a state funding recipient elects to pay mitigation costs under
191 subdivision (1) of this subsection, the State Historic Preservation Officer
192 shall memorialize such election in a mitigation agreement. Such
193 mitigation agreement may be executed by such state funding recipient.
194 If such state funding recipient executes such mitigation agreement, the
195 officer shall also execute such mitigation agreement. The execution of
196 such mitigation agreement shall constitute (A) a determination by the
197 officer that the officer is satisfied that such payment will be used for
198 historic preservation purposes, (B) a determination by the officer that
199 the use of such mitigation costs for such purposes will mitigate the effect
200 on historic structures and landmarks, and (C) a final determination by
201 the officer for the purposes of this section.

202 (g) If the State Historic Preservation Officer proposes a mitigation
203 plan pursuant to subparagraph (B)(i) of subdivision (3) of subsection (d)
204 of this section but a mitigation agreement is not executed, the

205 sponsoring agency shall conduct an early public scoping process in
206 accordance with subsection (b) of section 22a-1b of the general statutes.

207 (h) Not later than January first, annually, the State Historic
208 Preservation Officer shall post on the Department of Economic and
209 Community Development's Internet web site all mitigation agreements,
210 including any mitigation costs paid under subdivision (1) of subsection
211 (f) of this section and to whom such payments were made, executed
212 during the preceding fiscal year."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	New section