

AMENDED IN ASSEMBLY APRIL 8, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2332

Introduced by Assembly Member Furutani

February 21, 2008

~~An act to amend Section 17213 of the Education Code, and to amend Section 21151.8 of the Public Resources Code, relating to schoolsites. An act to add Section 7534 to the Public Utilities Code, relating to railroads.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2332, as amended, Furutani. ~~Schoolsites: hazardous substances.~~ *Railroads: location or expansion of railyards near schools.*

Existing law relative to utility corporations and their employees provides for the rights and duties of railroad corporations, including the authority to take possession of, hold, and use real estate and other property as is necessary for the construction and maintenance of the railroad, and for all stations, depots, and other purposes necessary to successfully work and conduct the business of the railroad.

This bill would prohibit the construction or expansion of any railyard, as defined, if the construction is within 440 yards of a school, as defined, or the expansion will result in the railyard being within 440 yards of a school. The bill would prohibit a railyard that, on January 1, 2009, is located within 440 yards of a school from expanding those facilities that are within 440 yards of the school.

~~Existing law prohibits the governing board of a school district from approving a project that involves the acquisition of a schoolsite by a~~

~~school district unless prescribed conditions relating to the exposure of hazardous substances are met. Existing law exempts from those provisions the approval of a schoolsite that is near a significant pollution source under certain circumstances, including if the governing board finds that the school district is unable to locate an alternative site due to a severe shortage, and specified other requirements are met.~~

~~This bill would delete that exemption. The bill would also prohibit the approval of a schoolsite that is within 500 feet of a railyard. By imposing additional duties on school districts, the 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

- 1 SECTION 1. Section 7534 is added to the Public Utilities Code,
- 2 to read:
- 3 7534. (a) As used in this section, the following terms have the
- 4 following meanings:
- 5 (1) "Railyard" means a series of railroad tracks used for
- 6 storing, sorting, loading, or unloading of railroad cars or
- 7 locomotives or storing rolling stock off the mainline so that the
- 8 flow of rail traffic is not obstructed.
- 9 (2) "School" means a public or private school providing
- 10 instruction in kindergarten or grades 1 to 12, inclusive.
- 11 (b) No railyard shall be constructed within 440 yards of a
- 12 school.
- 13 (c) No railyard shall be expanded if that expansion will result
- 14 in the railyard being within 440 yards of a school.
- 15 (d) No railyard that on January 1, 2009, is located within 440
- 16 yards of a school shall expand those facilities that are within 440
- 17 yards of the school.

1 SECTION 1. Section 17213 of the Education Code is amended
2 to read:

3 17213. The governing board of a school district may not
4 approve a project involving the acquisition of a schoolsite by a
5 school district, unless all of the following occur:

6 (a) The school district, as the lead agency, as defined in Section
7 21067 of the Public Resources Code, determines that the property
8 purchased or to be built upon is not any of the following:

9 (1) The site of a current or former hazardous waste disposal site
10 or solid waste disposal site, unless if the site was a former solid
11 waste disposal site, the governing board of the school district
12 concludes that the wastes have been removed.

13 (2) A hazardous substance release site identified by the
14 Department of Toxic Substances Control in a current list adopted
15 pursuant to Section 25356 of the Health and Safety Code for
16 removal or remedial action pursuant to Chapter 6.8 (commencing
17 with Section 25300) of Division 20 of the Health and Safety Code.

18 (3) A site that contains one or more pipelines, situated
19 underground or aboveground, that carries hazardous substances,
20 extremely hazardous substances, or hazardous wastes, unless the
21 pipeline is a natural gas line that is used only to supply natural gas
22 to that school or neighborhood.

23 (4) A site that is within 500 feet of a railyard.

24 (b) The school district, as the lead agency, as defined in Section
25 21067 of the Public Resources Code, in preparing the
26 environmental impact report or negative declaration has consulted
27 with the administering agency in which the proposed schoolsite
28 is located, pursuant to Section 2735.3 of Title 19 of the California
29 Code of Regulations, and with any air pollution control district or
30 air quality management district having jurisdiction in the area, to
31 identify both permitted and nonpermitted facilities within that
32 district's authority, including, but not limited to, freeways and
33 other busy traffic corridors, large agricultural operations, and
34 railyards, within one-fourth of a mile of the proposed schoolsite,
35 that might reasonably be anticipated to emit hazardous air
36 emissions, or to handle hazardous or extremely hazardous
37 materials, substances, or waste. The school district, as the lead
38 agency, shall include a list of the locations for which information
39 is sought.

1 (e) ~~The governing board of the school district makes one of the~~
2 ~~following written findings:~~

3 (1) ~~Consultation identified none of the facilities or significant~~
4 ~~pollution sources specified in subdivision (b).~~

5 (2) ~~The facilities or other pollution sources specified in~~
6 ~~subdivision (b) exist, but one of the following conditions applies:~~

7 (A) ~~The health risks from the facilities or other pollution sources~~
8 ~~do not and will not constitute an actual or potential endangerment~~
9 ~~of public health to persons who would attend or be employed at~~
10 ~~the school.~~

11 (B) ~~The governing board finds that corrective measures required~~
12 ~~under an existing order by another governmental entity that has~~
13 ~~jurisdiction over the facilities or other pollution sources will, before~~
14 ~~the school is occupied, result in the mitigation of all chronic or~~
15 ~~accidental hazardous air emissions to levels that do not constitute~~
16 ~~an actual or potential endangerment of public health to persons~~
17 ~~who would attend or be employed at the proposed school. If the~~
18 ~~governing board makes this finding, the governing board shall also~~
19 ~~make a subsequent finding, prior to the occupancy of the school,~~
20 ~~that the emissions have been mitigated to these levels.~~

21 (C) ~~For a schoolsite with a boundary that is within 500 feet of~~
22 ~~the edge of the closest traffic lane of a freeway or other busy traffic~~
23 ~~corridor, the governing board of the school district determines,~~
24 ~~through analysis pursuant to paragraph (2) of subdivision (b) of~~
25 ~~Section 44360 of the Health and Safety Code, based on appropriate~~
26 ~~air dispersion modeling, and after considering any potential~~
27 ~~mitigation measures, that the air quality at the proposed site is such~~
28 ~~that neither short-term nor long-term exposure poses significant~~
29 ~~health risks to pupils.~~

30 (d) ~~As used in this section:~~

31 (1) ~~“Hazardous air emissions” means emissions into the ambient~~
32 ~~air of air contaminants that have been identified as a toxic air~~
33 ~~contaminant by the State Air Resources Board or by the air~~
34 ~~pollution control officer for the jurisdiction in which the project~~
35 ~~is located. As determined by the air pollution control officer,~~
36 ~~hazardous air emissions also means emissions into the ambient air~~
37 ~~from any substance identified in subdivisions (a) to (f), inclusive,~~
38 ~~of Section 44321 of the Health and Safety Code.~~

39 (2) ~~“Hazardous substance” means any substance defined in~~
40 ~~Section 25316 of the Health and Safety Code.~~

1 ~~(3) “Extremely hazardous substances” means any material~~
2 ~~defined pursuant to paragraph (2) of subdivision (g) of Section~~
3 ~~25532 of the Health and Safety Code.~~

4 ~~(4) “Hazardous waste” means any waste defined in Section~~
5 ~~25117 of the Health and Safety Code.~~

6 ~~(5) “Hazardous waste disposal site” means any site defined in~~
7 ~~Section 25114 of the Health and Safety Code.~~

8 ~~(6) “Administering agency” means any agency designated~~
9 ~~pursuant to Section 25502 of the Health and Safety Code.~~

10 ~~(7) “Handle” means handle as defined in Article 1 (commencing~~
11 ~~with Section 25500) of Chapter 6.95 of Division 20 of the Health~~
12 ~~and Safety Code.~~

13 ~~(8) “Facilities” means any source with a potential to use,~~
14 ~~generate, emit or discharge hazardous air pollutants, including,~~
15 ~~but not limited to, pollutants that meet the definition of a hazardous~~
16 ~~substance, and whose process or operation is identified as an~~
17 ~~emission source pursuant to the most recent list of source categories~~
18 ~~published by the State Air Resources Board.~~

19 ~~(9) “Freeway or other busy traffic corridors” means those~~
20 ~~roadways that, on an average day, have traffic in excess of 50,000~~
21 ~~vehicles in a rural area as defined in Section 50101 of the Health~~
22 ~~and Safety Code, and 100,000 vehicles in an urban area, as defined~~
23 ~~in Section 50104.7 of the Health and Safety Code.~~

24 ~~SEC. 2. Section 21151.8 of the Public Resources Code is~~
25 ~~amended to read:~~

26 ~~21151.8. (a) An environmental impact report or negative~~
27 ~~declaration may not be approved for any project involving the~~
28 ~~purchase of a schoolsite or the construction of a new elementary~~
29 ~~or secondary school by a school district unless all of the following~~
30 ~~occur:~~

31 ~~(1) The environmental impact report or negative declaration~~
32 ~~includes information that is needed to determine if the property~~
33 ~~proposed to be purchased, or to be constructed upon, is any of the~~
34 ~~following:~~

35 ~~(A) The site of a current or former hazardous waste disposal~~
36 ~~site or solid waste disposal site and, if so, whether the wastes have~~
37 ~~been removed.~~

38 ~~(B) A hazardous substance release site identified by the~~
39 ~~Department of Toxic Substances Control in a current list adopted~~
40 ~~pursuant to Section 25356 of the Health and Safety Code for~~

1 removal or remedial action pursuant to Chapter 6.8 (commencing
2 with Section 25300) of Division 20 of the Health and Safety Code.

3 ~~(C) A site that contains one or more pipelines, situated~~
4 ~~underground or aboveground, that carries hazardous substances,~~
5 ~~extremely hazardous substances, or hazardous wastes, unless the~~
6 ~~pipeline is a natural gas line that is used only to supply natural gas~~
7 ~~to that school or neighborhood, or other nearby schools.~~

8 ~~(D) A site that is within 500 feet of the edge of the closest traffic~~
9 ~~lane of a freeway or other busy traffic corridor.~~

10 ~~(E) A site that is within 500 feet of a railyard.~~

11 ~~(2) The school district, as the lead agency, in preparing the~~
12 ~~environmental impact report or negative declaration has notified~~
13 ~~in writing and consulted with the administering agency in which~~
14 ~~the proposed schoolsite is located, pursuant to Section 2735.3 of~~
15 ~~Title 19 of the California Code of Regulations, and with any air~~
16 ~~pollution control district or air quality management district having~~
17 ~~jurisdiction in the area, to identify both permitted and nonpermitted~~
18 ~~facilities within that district’s authority, including, but not limited~~
19 ~~to, freeways and busy traffic corridors, large agricultural operations,~~
20 ~~and railyards, within one-fourth of a mile of the proposed~~
21 ~~schoolsite, that might reasonably be anticipated to emit hazardous~~
22 ~~emissions or handle hazardous or extremely hazardous substances~~
23 ~~or waste. The notification by the school district, as the lead agency,~~
24 ~~shall include a list of the locations for which information is sought.~~

25 ~~(3) The governing board of the school district makes one of the~~
26 ~~following written findings:~~

27 ~~(A) Consultation identified no facilities of this type or other~~
28 ~~significant pollution sources specified in paragraph (2).~~

29 ~~(B) The facilities or other pollution sources specified in~~
30 ~~paragraph (2) exist, but one of the following conditions applies:~~

31 ~~(i) The health risks from the facilities or other pollution sources~~
32 ~~do not and will not constitute an actual or potential endangerment~~
33 ~~of public health to persons who would attend or be employed at~~
34 ~~the proposed school.~~

35 ~~(ii) Corrective measures required under an existing order by~~
36 ~~another agency having jurisdiction over the facilities or other~~
37 ~~pollution sources will, before the school is occupied, result in the~~
38 ~~mitigation of all chronic or accidental hazardous air emissions to~~
39 ~~levels that do not constitute an actual or potential endangerment~~
40 ~~of public health to persons who would attend or be employed at~~

1 the proposed school. If the governing board makes a finding
2 pursuant to this clause, it shall also make a subsequent finding,
3 prior to occupancy of the school, that the emissions have been so
4 mitigated.

5 (iii) For a school site with a boundary that is within 500 feet of
6 the edge of the closest traffic lane of a freeway or other busy traffic
7 corridor, the governing board of the school district determines,
8 through analysis pursuant to paragraph (2) of subdivision (b) of
9 Section 44360 of the Health and Safety Code, based on appropriate
10 air dispersion modeling, and after considering any potential
11 mitigation measures, that the air quality at the proposed site is such
12 that neither short-term nor long-term exposure poses significant
13 health risks to pupils.

14 (4) Each administering agency, air pollution control district, or
15 air quality management district receiving written notification from
16 a lead agency to identify facilities pursuant to paragraph (2) shall
17 provide the requested information and provide a written response
18 to the lead agency within 30 days of receiving the notification.
19 The environmental impact report or negative declaration shall be
20 conclusively presumed to comply with this section as to the area
21 of responsibility of any agency that does not respond within 30
22 days.

23 (b) If a school district, as a lead agency, has carried out the
24 consultation required by paragraph (2) of subdivision (a), the
25 environmental impact report or the negative declaration shall be
26 conclusively presumed to comply with this section, notwithstanding
27 any failure of the consultation to identify an existing facility or
28 other pollution source specified in paragraph (2) of subdivision
29 (a).

30 (e) As used in this section and Section 21151.4, the following
31 definitions apply:

32 (1) "Hazardous substance" means any substance defined in
33 Section 25316 of the Health and Safety Code.

34 (2) "Extremely hazardous substances" means any material
35 defined pursuant to subdivision (a) of Section 25532 of the Health
36 and Safety Code.

37 (3) "Hazardous waste" means any waste defined in Section
38 25117 of the Health and Safety Code.

39 (4) "Hazardous waste disposal site" means any site defined in
40 Section 25114 of the Health and Safety Code.

1 (5) “Hazardous air emissions” means emissions into the ambient
2 air of air contaminants that have been identified as a toxic air
3 contaminant by the State Air Resources Board or by the air
4 pollution control officer for the jurisdiction in which the project
5 is located. As determined by the air pollution control officer,
6 hazardous air emissions also means emissions into the ambient air
7 from any substances identified in subdivisions (a) to (f), inclusive,
8 of Section 44321 of the Health and Safety Code.

9 (6) “Administering agency” means an agency designated
10 pursuant to Section 25502 of the Health and Safety Code.

11 (7) “Handle” means handle as defined in Article 1 (commencing
12 with Section 25500) of Chapter 6.95 of Division 20 of the Health
13 and Safety Code.

14 (8) “Facilities” means any source with a potential to use,
15 generate, emit, or discharge hazardous air pollutants, including,
16 but not limited to, pollutants that meet the definition of a hazardous
17 substance, and whose process or operation is identified as an
18 emission source pursuant to the most recent list of source categories
19 published by the California Air Resources Board.

20 (9) “Freeway or other busy traffic corridors” means those
21 roadways that, on an average day, have traffic in excess of 50,000
22 vehicles in a rural area, as defined in Section 50101 of the Health
23 and Safety Code, and 100,000 vehicles in an urban area, as defined
24 in Section 50104.7 of the Health and Safety Code.

25 SEC. 3. If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.