

AMENDED IN ASSEMBLY APRIL 21, 2025
AMENDED IN ASSEMBLY MARCH 10, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 52

Introduced by Assembly Member Aguiar-Curry

December 02, 2024

An act to amend Section 815.3 of the Civil Code, to amend Sections 65040.2, 65092, 65351, 65352, 65352.3, 65560, and 65562.5 of, and to repeal and add Section 65352.4 of, the Government Code, and to amend Sections 5097.9, 5097.94, 5097.95, 5097.98, 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, and 21084.3 of, to repeal Section 5097.96 of, and to repeal and add Section 21083.09 of, the Public Resources Code, relating to Native American resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 52, as amended, Aguiar-Curry. Native American resources.

(1) Existing law finds and declares it to be the public policy and in the public interest of California to encourage the voluntary conveyance of conservation easements to qualified nonprofit organizations. Existing law defines the term “conservation easement” for these purposes, and authorizes certain entities and organizations to acquire and hold conservation easements, including a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission, to protect a California Native American prehistoric, archaeological, cultural, spiritual, or ceremonial place, if the conservation easement is voluntarily conveyed.

This bill would instead authorize a California Native American tribe that is on the above-described contact list, to protect a California Native American prehistoric, archaeological, cultural, spiritual, or ceremonial place, to acquire and hold conservation easements, if the conservation easement is voluntarily conveyed or otherwise conveyed pursuant to the California Environmental Quality Act.

(2) Existing law establishes the Office of Land Use and Climate Innovation to serve the Governor and the Governor’s cabinet as staff for long-range planning and research and to constitute as the comprehensive state planning agency. Existing law requires the office to, among other things, encourage the formation and proper functioning of, and provide planning assistance to, city, county, district, and regional planning agencies. In connection with these responsibilities, existing law requires the office to develop and adopt guidelines for the preparation of and the content of the mandatory elements required in city and county general plans, as prescribed. By March 1, 2005, existing law requires the guidelines to contain advice, developed in consultation with the Native American Heritage Commission, for consulting with California Native American tribes, as specified.

This bill would instead require, by March 1, 2026, the guidelines to contain advice, developed in consultation with California Native American tribes that are on the contact list administered and maintained by the ~~Native American Heritage Commission~~, *commission*, as described, and the ~~Native American Heritage Commission~~,

commission, for consulting with and obtaining tribal information and knowledge from California Native American tribes, as specified. The bill would make related conforming changes.

(3) ~~Existing law, the~~ *The* Planning and Zoning Law and the Subdivision Map ~~Act, requires~~ *Act require* local governments to hold public hearings regarding various land use actions contemplated by those governments and provide notice of those public hearings, as specified. Existing law requires specified notices to be mailed or delivered at least 10 days ~~prior to~~ *before* the hearing to any person who has filed a written request for notice with either the clerk of the governing body or with any other person designated by the governing body to receive these requests. Existing law defines a “person” to include a California Native American tribe that is on the contact list maintained by the ~~Native American Heritage Commission;~~ *commission*.

This bill would instead require notice to be given, as described above, to any California Native American tribe that is on the contact list administered and maintained by the ~~Native American Heritage Commission;~~ *commission*, as specified, that has filed a written request, as described above.

(4) ~~Existing law, the~~ *The* Planning and Zoning ~~Law;~~ *Law* requires a city, county, or city and county to prepare a general plan for its jurisdiction that contains certain mandatory elements and requires the local planning agency to provide opportunities for the involvement of citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, education, and other community groups through public hearings and other appropriate means during the preparation or amendment of a general plan. Existing law also requires a city or county, ~~prior to~~ *before* the adoption or any amendment of a general plan, to conduct consultations with California Native American tribes, as specified, for the purpose of preserving or mitigating impacts to places, features, and objects, as described, that are located within the city’s or county’s jurisdiction. Existing law defines “consultation” for these purposes and requires, among other things, the consultation between governmental agencies and Native American tribes to be conducted in a way that is mutually respectful of each party’s sovereignty.

This bill would revise the definition of “consultation” to mean, among other things, ~~a formal 2-way government-to-government process and dialogue between governmental agencies and federally recognized Native American tribes and would require the consultation to be conducted in a way that is mutually respectful of each party’s sovereignty, with deference to federally recognized tribes’ expertise, tribal knowledge, and information concerning resources to which they are culturally affiliated.~~ *the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values*. The bill would require tribal consultation for specified purposes, including to identify and determine tribal resources, places, features, and objects, as described. The bill would ~~authorize~~ *impose specific requirements when there are tribal consultations with federally recognized and nonfederally recognized California Native American tribes, including, among others, that* a California Native American ~~tribal group~~ *tribe* that is not federally recognized and is on the contact list administered and maintained by the ~~Native American Heritage Commission;~~ *commission*, as specified, *has the right* to participate in the review process related to a consultation, as provided. The bill would recast certain provisions and make related conforming changes for these purposes. By imposing additional duties on local governmental agencies, the bill would impose a state-mandated local program.

(5) 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 (EIR) 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 a lead agency, before releasing an environmental review document for a project, to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, as provided. CEQA authorizes the parties, as a part of the consultation, to propose mitigation measures capable of avoiding or substantially lessening potential significant impacts to a

tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. CEQA requires public agencies, when feasible, to avoid damaging effects to tribal cultural resources and specifies mitigation measures that should be considered to avoid or minimize significant adverse impacts on tribal cultural resources. CEQA specifies that the consultation is considered to be concluded if the parties agree to the mitigation measures or if a party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. CEQA authorizes the lead agency to certify the EIR or adopt a negative declaration or mitigation negative declaration for a project with a significant impact on an identified tribal cultural resource if the consultation process with a California Native American tribe has concluded or if the California Native American tribe fails to provide comments to the lead agency or otherwise fails to engage in the consultation process.

This bill would revise and recast provisions related to the consultation process between the lead agency and California Native American tribes to, among other things, specify that the purpose of the consultation process is ~~for the identification and determination of~~ *to identify and determine* tribal cultural resources and ~~identification of~~ *identify* mitigation measures, among other purposes. *The bill would require the lead agency or local government to invite culturally affiliated nonfederally recognized California Native American tribes to participate in processes required under CEQA.* The bill would specify that the duration of the consultation is from the point in time when the California Native American tribe requests the consultation to the completion of the implementation of the mitigation measures for the project. The bill would specify that the first step of the consultation is considered completed if the parties agree to the mitigation measure or a party, in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. The bill would authorize a lead agency to certify an EIR or adopt a negative declaration or mitigated negative declaration for the project if the first step of the consultation is completed. The bill would revise and recast mitigation measures that a public agency should take to avoid or minimize the significant adverse impacts on tribal cultural resources if the consultation process fails to result in agree-upon mitigation measures, as provided. By imposing additional duties on local agencies *and local governments* in their implementation of CEQA, ~~this~~ *the* bill would impose a state-mandated local program.

(6) Existing law establishes the Native American Heritage Commission and requires the commission to perform various duties related to Native American matters, including the identification and the cataloging of places of special religious or social significance to Native Americans, and known graves and cemeteries of known Native Americans on private properties. Existing law defines “California Native American tribe” to be a federally recognized or a nonfederally recognized Native American tribe in California that is on the contact list maintained by the commission. Existing law requires state and local agencies to cooperate with the commission in carrying out the commission’s duties, including transmitting, at the commission’s expense, copies of appropriate sections of all EIRs of projects relating to property identified by the commission as of special religious significance to Native Americans or that is reasonably foreseeable to be that type of property.

This bill would require the commission to prepare and maintain a verified inventory of Native American sacred places, to be known as the California Sacred Lands File, on public and private lands. The bill would require the commission to administer and maintain the contact list of California Native American tribes and would require the contact list to include delineation of lands and geographic areas that are culturally affiliated with California Native American tribes. The bill would instead specify the cooperation provided by state or local agencies includes transmitting copies, electronic or physical, of certain information related to projects relating to property identified by the commission as of special religious significance or that is reasonably foreseeable to be that type of ~~property~~ *property*, and would require state and local agencies to appear at commission meetings when a matter within their authority is on the commission’s agenda. By imposing additional duties on local agencies, ~~this~~ *the* bill would impose a state-mandated local program.

Existing law prohibits a public agency or private party using or occupying public property or operating on public property from interfering with the free expression or exercise of Native American religion or causing severe or irreparable damage to Native American sanctified cemeteries, places of worship, religious or ceremonial sites, or sacred shrines located on public property, except as provided. Existing law, upon the discovery of Native American human remains, imposes certain requirements on the landowner. Existing law exempts public

properties of all cities, counties, and cities and counties located within the limits of the city, county, and city and county from the above prohibition and requirements, except for parklands in excess of 100 acres.

This bill would repeal the exemption for public properties of cities, counties, and cities and counties. The bill would, upon the discovery of multiple Native American human remains during ground-disturbing land development activities, prohibit the disturbance, impairment, or harm to the location of the discovery. The bill would require the landowner to engage in conferral with the most likely descendant to include culturally appropriate treatment of those human remains, as provided. For discovery occurring during activities related to projects that are subject to CEQA, the bill would require the project to contain an open-space preservation area with an appropriate buffer for the preservation in place and protection of those human remains and the burial area site. The bill would require the landowner to take certain actions to protect the site.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text

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

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

- (1) Current state law provides a limited measure of protection for Native American human remains, burial sites, and sanctified Indian cemeteries.
- (2) Existing law provides limited protection for Native American sacred places, including, but not limited to, places of worship, religious or ceremonial sites, and sacred shrines.
- (3) In 2011, California Governor Brown issued Executive Order No. B-10-11, which affirmed the state's relationship with Indian tribes under both federal and state law, including federally recognized tribes' inherent authority, committing the State of California to sustaining and strengthening government-to-government relationships and engaging in tribal consultation on policies that affect both federally recognized tribes and other California Native Americans.
- (4) In 2019, Governor Newsom issued Executive Order No. N-15-19 wherein, on behalf of the state, the Governor acknowledged the state's history of extermination policies and apologized for these atrocities. The

executive order also reaffirmed Executive Order No. B-10-11, affirming the state's commitment to California Indians away from discriminatory and paternalistic policies.

(5) Native American sacred places, burial areas, and tribal cultural resources are vital to the cultural and spiritual well-being of Indian tribes and people. These physical places and remaining resources are directly tied to the cultural identity and sovereign self-determination of Indian tribes. Impacts to or destruction of such places can interrupt, eliminate, or adversely affect integral cultural practices and beliefs, and thus obstruct tribal sovereignty.

(6) As California Native Americans have used and continue to use natural settings in the conduct of religious observances, ceremonies, and cultural practices and beliefs, these resources reflect the tribes' continuing cultural ties to the land and their traditional heritages. Those sites, including tribal ancestral burial areas, are being lost at an alarming rate because lead agencies are not performing cumulative impact assessments and are approving land use development projects that do not consider avoidance and preservation in place.

(7) Many of these tribal cultural ~~resources~~, *resources* and archaeological, historical, cultural, burial, and sacred sites, are not located within the current boundaries of tribal government reservations and rancherias, and therefore are not covered by the protectionist policies of tribal governments.

(8) As part of the State of California's environmental protectionist policies, the California Environmental Quality Act (CEQA) (Division 13 (commencing with Section 21000) of the Public Resources Code) includes procedures for addressing impacts to the environment caused by development projects.

(9) In 2014, the Legislature enacted Chapter 532 of the Statutes of 2014 (Assembly Bill 52), a measure that included amendments to CEQA, to address the rapidly disappearing Native American cultural sites, sacred places, and heritage resources that were being lost due to land use development involving both private and public development projects in the state. Assembly Bill 52 established that an adverse impact to a tribal cultural resource is a significant environmental impact in CEQA.

(10) A new category of CEQA resources called "tribal cultural resources" was established in CEQA. Assembly Bill 52 also enacted mandatory Native American government-to-government tribal consultation processes, including processes for adopting culturally appropriate mitigation measures, with avoidance and preservation in place being the preference, confidentiality standards, and findings required by a lead agency when a CEQA project will cause adverse impacts to tribal cultural resources.

(11) Apart from Appendix G, the CEQA Guidelines were not updated by the Office of Land Use and Climate Innovation or other state agencies to reflect the amendments to CEQA made by Assembly Bill 52. The sole state guidance to lead agencies was a brief technical advisory issued by the former Office of Planning and Research, which is inadequate to accomplish proper implementation.

(12) Since the enactment of ~~the 2014~~ Assembly Bill 52 10 years ago, the provisions of the law have been misunderstood and incorrectly effectuated by lead agencies, state and local governments, land use developers, and consultants.

(13) Lack of state guidance along with a failure to update the CEQA Guidelines contributed to lead agency misunderstandings of Assembly Bill 52. These misunderstandings have resulted in state and local government practices concerning tribal cultural resources and tribal consultation that were never intended by the Legislature, such as tribal consultation treated as a simple procedural step rather than the substantive government-to-government consultation that was intended. Most concerning, it has become common practice for archaeological and historic properties standards to be used for tribal cultural resources, including the very identification of tribal cultural resources determined by archaeologists and consultants, while lead agencies and consultants dismiss critical tribal government information.

(b) In recognition of California Native American tribal sovereignty and the unique relationship of state and local governments and public agencies with California Native American tribal governments, and respecting the

interests and roles of project proponents, it is the intent of the Legislature, in enacting this act, to accomplish all of the following:

- (1) Protect tribal cultural resources, which is in the public interest of the State of California.
- (2) Clarify that the category of “tribal cultural resources” is distinct and separate from “archaeological resources” and historic properties, and that tribal methods and solutions, rather than archaeological methods, must be the foremost and principal information used to identify tribal cultural resources and define culturally appropriate treatment or mitigation, with a deference for avoidance.
- (3) Clarify that “tribal cultural resources” may include or be primarily composed of a sacred site, Native American human remains, or burial areas, and that federal government tribal registries, maintained by Tribal Historic Preservation Officers, shall serve as substantial evidence for a lead agency finding of a tribal cultural resource.
- (4) Clarify the substance, steps, and purposes of tribal consultation, to ensure that lead agencies engage in and actively seek practicable and culturally appropriate solutions with tribes early in planning and environmental review processes and throughout these processes until the mitigation measures or planning agreements have been completed.
- (5) Clarify that good faith and meaningful tribal consultation includes providing tribes with project information that is necessary to the purposes of the consultation to arrive at tribally focused solutions for avoidance and mitigation of tribal cultural resources, including Native American human remains and burial areas.
- (6) Clarify the purpose and steps of meaningful government-to-government consultation between tribal governments and lead agencies, that culturally appropriate mitigation requires avoidance consideration, and that tribally directed methods and solutions for protecting significant tribal cultural resources, including burial areas and sacred sites, to which Native American tribes are culturally affiliated, shall be granted deference.
- (7) Clarify that tribal information and knowledge is the primary basis for the identification of tribal cultural resources, and that archaeological information and methods will be supplementary to tribal methods and solutions.
- (8) Clarify that lead agencies shall engage in discussions with tribes concerning project alternatives, cumulative impacts, inadvertent discoveries, and culturally appropriate mitigation if the tribe requests.
- (9) Clarify that only federally recognized tribes are legally entitled to government-to-government consultation with lead agencies and institutions under federal and state law.
- (10) Clarify that the term “California Native American tribe” includes both federally recognized tribes and ~~lineal descendent groups~~ *tribes* that are not federally recognized because there is a legal distinction between tribes that are federally recognized and ~~tribal groups~~ *tribes* that are not federally recognized. The term California Native American tribe is for ease of reference only and does not grant political status, or state or federal recognition, to ~~tribal groups~~ *tribes* that are not federally recognized.
- (11) Clarify the role of the Native American Heritage Commission in administering and maintaining the contact list of California Native American tribes to preserve federally recognized tribal sovereignty, and to allow for the inclusion of verified nonfederally recognized tribal groups to participate in state cultural resources protection laws.
- (12) Clarify that ~~tribal lineal descendants and~~ nonfederally recognized ~~tribal groups~~ *tribes* that are included on the Native American Heritage Commission’s contact list may participate in state cultural protection laws as additional consulting parties, a construct used in federal law, so there is no violation of federal law by the State of California or any of its political entities or subdivisions.

(13) As provided in federal ~~law~~, *law for a Tribal Historic Preservation Officer approved by the Secretary of the Interior pursuant to Section 101 of the federal National Historic Preservation Act (54 U.S.C. Sec. 300101 et seq.)*, clarify in state law that deference shall be provided to federally recognized tribal governments concerning tribal information and knowledge, including the identification of tribal cultural resources, Native American burial sites, and sacred sites.

SEC. 2. Section 815.3 of the Civil Code is amended to read:

815.3. Only the following entities or organizations may acquire and hold conservation easements:

(a) A tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code and qualified to do business in this state which has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

(b) The state or any city, county, city and county, district, or other state or local governmental entity, if otherwise authorized to acquire and hold title to real property and if the conservation easement is voluntarily conveyed. No local governmental entity may condition the issuance of an entitlement for use on the applicant's granting of a conservation easement pursuant to this section.

(c) A California Native American tribe that is on the contact list administered and maintained by the Native American Heritage Commission, pursuant to subdivision (n) of Section 5097.94 of the Public Resources Code, to protect a California Native American prehistoric, archaeological, cultural, spiritual, or ceremonial place, if the conservation easement is voluntarily conveyed or otherwise conveyed pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 3. Section 65040.2 of the Government Code is amended to read:

65040.2. (a) In connection with its responsibilities under subdivision (l) of Section 65040, the office shall develop and adopt guidelines for the preparation of and the content of the mandatory elements required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3. For purposes of this section, the guidelines prepared pursuant to Section 50459 of the Health and Safety Code shall be the guidelines for the housing element required by Section 65302. In the event that additional elements are hereafter required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3, the office shall adopt guidelines for those elements within six months of the effective date of the legislation requiring those additional elements.

(b) The office may request from each state department and agency, as it deems appropriate, and the department or agency shall provide, technical assistance in readopting, amending, or repealing the guidelines.

(c) The guidelines shall be advisory to each city and county in order to provide assistance in preparing and maintaining their respective general plans.

(d) The guidelines shall contain the guidelines for addressing environmental justice matters developed pursuant to Section 65040.12.

(e) The guidelines shall contain advice including recommendations for best practices to allow for collaborative land use planning of adjacent civilian and military lands and facilities. The guidelines shall encourage enhanced land use compatibility between civilian lands and any adjacent or nearby military facilities through the examination of potential impacts upon one another.

(f) The guidelines shall contain advice for addressing the effects of civilian development on military readiness activities carried out on all of the following:

(1) Military installations.

(2) Military operating areas.

- (3) Military training areas.
- (4) Military training routes.
- (5) Military airspace.
- (6) Other territory adjacent to those installations and areas.

(g) By March 1, 2026, the guidelines shall contain advice, developed in consultation with California Native American tribes that are on the contact list administered and maintained by the Native American Heritage Commission pursuant to subdivision (n) of Section 5097.94 of the Public Resources Code and the Native American Heritage Commission, for consulting with and obtaining tribal information and tribal knowledge from ~~“California~~ *California* Native American ~~tribes”~~ *tribes* for all of the following:

- (1) The preservation of, or the mitigation of impacts to, places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.
- (2) Procedures for identifying the culturally affiliated ~~“California~~ *California* Native American ~~tribes”~~ *tribes* that are on the contact list administered and maintained by the Native American Heritage Commission pursuant to subdivision (n) of Section 5097.94 of the Public Resources Code.
- (3) In compliance with federal and state law, culturally appropriate procedures for continuing to protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects.
- (4) Procedures to facilitate voluntary landowner participation to preserve and protect the specific identity, location, character, and use of those places, features, and objects.

(h) Commencing January 1, 2009, but no later than January 1, 2014, upon the next revision of the guidelines pursuant to subdivision (i), the office shall prepare or amend guidelines for a legislative body to accommodate the safe and convenient travel of users of streets, roads, and highways in a manner that is suitable to the rural, suburban, or urban context of the general plan, pursuant to subdivision (b) of Section 65302.

- (1) In developing guidelines, the office shall consider how appropriate accommodation varies depending on its transportation and land use context, including urban, suburban, or rural environments.
- (2) The office may consult with leading transportation ~~experts~~ *experts*, including, but not limited to, bicycle transportation planners, pedestrian planners, public transportation planners, local air quality management districts, and disability and senior mobility planners.

(i) The office shall provide for regular review and revision of the guidelines established pursuant to this section.

SEC. 4. Section 65092 of the Government Code is amended to read:

65092. (a) When a provision of this title requires notice of a public hearing to be given pursuant to Section 65090 or 65091, the notice shall also be mailed or delivered at least 10 days ~~prior to~~ *before* the hearing to any person who has filed a written request for notice with either the clerk of the governing body or with any other person designated by the governing body to receive these requests. The local agency may charge a fee which is reasonably related to the costs of providing this service and the local agency may require each request to be annually renewed.

(b) Notice shall be given as described in subdivision (a) to any California Native American tribe that is on the contact list administered and maintained by the Native American Heritage Commission pursuant to subdivision (n) of Section 5097.94 of the Public Resources Code ~~who~~ *and that* has filed a written request as described in subdivision (a).

SEC. 5. Section 65351 of the Government Code is amended to read:

65351. During the preparation or amendment of the general plan, the planning agency shall provide opportunities for the involvement of citizens, California Native American-~~Indian~~ tribes that are on the contact list administered and maintained by the Native American Heritage Commission pursuant to subdivision (n) of Section 5097.94 of the Public Resources-~~Code~~; *Code and that have filed a written request as described in subdivision (a) of Section 65092*, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the planning agency deems appropriate.

SEC. 6. Section 65352 of the Government Code is amended to read:

65352. (a) Before a legislative body takes action to adopt or substantially amend a general plan, the planning agency shall refer the proposed action to all of the following entities:

- (1) A city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency.
- (2) An elementary, high school, or unified school district within the area covered by the proposed action.
- (3) The local agency formation commission.
- (4) An areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.
- (5) A federal agency, if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.
- (6) The branches of the United States Armed Forces that have provided the Office of Land Use and Climate Innovation with a military point of contact pursuant to subdivision (d) of Section 65944, if the proposed action is within 1,000 feet of a military installation, or lies within special use airspace, or beneath a low-level flight path, as defined in Section 21098 of the Public Resources Code.
- (7) A public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65352.5.
- (8) Any groundwater sustainability agency that has adopted a groundwater sustainability plan pursuant to Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code or local agency that otherwise manages groundwater pursuant to other provisions of law or a court order, judgment, or decree within the planning area of the proposed general plan.
- (9) The State Water Resources Control Board, if it has adopted an interim plan pursuant to Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6 of the Water Code that includes territory within the planning area of the proposed general plan.
- (10) The Bay Area Air Quality Management District for a proposed action within the boundaries of the district.
- (11) A California Native American tribe that is on the contact list administered and maintained by the Native American Heritage Commission, pursuant to subdivision (n) of Section 5097.94 of the Public Resources Code, and is *most likely* culturally affiliated with lands located within the city's or county's-~~jurisdiction~~-*jurisdiction as determined by the Native American Heritage Commission*.

(12) The Central Valley Flood Protection Board for a proposed action within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code.

(13) (A) The State Board of Forestry and Fire Protection and every local agency that provides fire protection to territory in the city or county, if the proposed action includes either of the following:

(i) The adoption or amendment of the safety element of its general plan for any county that contains a state responsibility area.

(ii) The adoption or amendment of the safety element of its general plan for any city or county that contains a very high fire hazard severity zone, as defined in subdivision (i) of Section 51177.

(B) A referral made pursuant to this paragraph shall be made no later than the date on which the county or city sends notice of preparation pursuant to Section 21080.4 of the Public Resources Code, if any, for the project.

(b) An entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it to comment unless a longer period is specified by the planning agency.

(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the entities specified in this section does not affect the validity of the action, if adopted.

(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

SEC. 7. Section 65352.3 of the Government Code is amended to read:

65352.3. (a) (1) ~~Prior to~~ *Before* the adoption or any amendment of a city's or county's general plan, proposed on or after March 1, 2005, the city or county shall conduct consultations with California Native American tribes that are on the contact list administered and maintained by the Native American Heritage Commission, pursuant to subdivision (n) of Section 5097.94 of the Public Resources Code, for the purpose of identifying, evaluating, preserving, or mitigating impacts to places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code that are located within the city's or county's jurisdiction.

(2) From the date on which a California Native American tribe that is on the contact list administered and maintained by the Native American Heritage Commission, pursuant to subdivision (n) of Section 5097.94 of the Public Resources Code, is contacted by a city or county pursuant to this subdivision, the tribe has 90 days in which to request a consultation, unless a shorter timeframe has been agreed to by that tribe.

(b) Consistent with the guidelines developed and adopted by the Office of Land Use and Climate Innovation pursuant to Section 65040.2, the city or county shall protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects.

SEC. 8. Section 65352.4 of the Government Code is repealed.

SEC. 9. Section 65352.4 is added to the Government Code, to read:

65352.4. (a) The Legislature finds and declares all of the following:

(1) ~~Federally recognized~~ California Native American tribes traditionally and culturally affiliated with a geographic area may have cultural knowledge and information concerning their own ancestry, religion, and cultural practices, and hold the foremost expertise concerning their tribal cultural resources in those geographic areas.

(2) California Native American prehistoric, archaeological, cultural, spiritual, and tribal cultural resources, traditional cultural places, and ceremonial places are essential elements in tribal cultural traditions, heritages, present-day practices, and identities.

(3) As such, it is necessary for ~~lead agencies~~ *local governments* to engage in tribal consultation for the purposes of obtaining and applying tribal information and tribal knowledge concerning places, features, and objects, described in Section 5097.9 of the Public Resources Code, to which they are culturally affiliated, and tribal cultural resources, for fulfillment of required environmental assessments and processes, pursuant to paragraph (1) of subdivision (a) of Section 65352.3.

(b) For purposes of *this section and* Sections 65351, 65352.3, and 65562.5, “consultation” means all of the following:

(1) The meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement.

~~(2) Consultation is a formal two-way government-to-government process and dialogue between governmental agencies and federally recognized Native American tribes.~~

~~(3) Tribal government consultation shall be conducted in a way that is mutually respectful of each party’s sovereignty, with deference to federally recognized tribes’ expertise, tribal knowledge, and information concerning resources to which they are culturally affiliated.~~

~~(4)~~

(2) Consultation is not meaningful or transparent if the tribe is not provided with requested technical information, including project information and constraints, data, maps, administrative drafts of environmental documents and technical studies, and any information concerning project activities as they relate to tribal cultural resources protection.

~~(5)~~

(3) Consultation shall also recognize the ~~federally recognized tribes’~~ need for confidentiality with respect to places that have traditional tribal cultural ~~significance and may adopt any additional confidentiality requirements applicable to the consultation.~~ *significance. A California Native American tribe may request additional conditions concerning confidentiality and a local agency shall adopt the conditions, if the conditions do not conflict with existing law.*

~~(e) Federally recognized tribes, including their tribal information and tribal knowledge of their culturally affiliated geographic areas and resources, as sovereign nations with the inherent rights of self-governance, shall be afforded deference over other tribal groups that are not federally recognized.~~

~~(d)~~

(c) (1) Tribal consultation is required for all of the following purposes, including, but not limited to, all of the following:

~~(1)~~

(A) Identifications and determinations of tribal cultural resources, places, features, and objects described in Section 5097.9 of the Public Resources Code.

~~(2)~~

(B) Identification of preservation, avoidance, and protective measures for tribal cultural resources, places, features, and objects described in Section 5097.9 of the Public Resources Code early in the planning

process, including consideration of the cultural aspects and purposes of the sites.

~~(3)~~

(C) Identification of standards, methods, and measures for environmental assessment of tribal cultural resources, places, features, and objects described in Section 5097.9 of the Public Resources Code, including technical studies.

~~(4)~~

(D) Providing local governments with tribal information and knowledge to use early in the land use planning processes to avoid potential conflicts over the preservation of tribal cultural resources, places, features, and objects described in Section 5097.9 of the Public Resources Code at later planning stages.

~~(5)~~

(E) (1) Providing tribes the opportunity to manage and caretake tribal cultural resources, places, features, and objects described in Section 5097.9 of the Public Resources Code.

(2) California Native American tribes, including their tribal information and tribal knowledge of their culturally affiliated geographic areas and resources, shall be afforded deference for purposes of this subdivision.

(d) For purposes of this section and Sections 65351, 65352.3, and 65562.5, all of the following shall apply when there is tribal consultation with a federally recognized California Native American tribe:

(1) Consultation with a federally recognized California Native American tribe is a formal two-way government-to-government process and dialogue between local agencies and federally recognized California Native American tribes.

(2) Consultation with a federally recognized California Native American tribe shall be conducted in a way that is mutually respectful of each party's sovereignty. A local agency shall establish standards through government-to-government consultation with federally recognized California Native American tribes for the purposes of subdivision (c) concerning tribal cultural resources, places, features, and objects with which the tribes are culturally affiliated.

(3) Consultation with a federally recognized California Native American tribe shall take into account potential federal undertakings under the federal National Historic Preservation Act (54 U.S.C. Sec. 300101 et seq.) and other applicable federal laws.

(e) For purposes of this section and Sections 65351, 65352.3, and 65562.5, all of the following shall apply when there is tribal consultation with a nonfederally recognized California Native American tribe:

~~(e)(1)~~

(1) A California Native American ~~tribal group~~ tribe that is not federally recognized and is on the contact list administered and maintained by the Native American Heritage Commission pursuant to subdivision (n) of Section 5097.94 of the Public Resources Code ~~may~~ has the right to participate in the review process for Sections 65351, 65352.3, and 65562.5 as additional consulting ~~parties, based on a demonstrated interest in a project's effects on tribal cultural resources to which they are affiliated.~~ parties if the tribe has a demonstrated most likely cultural affiliation with the project area as determined by the Native American Heritage Commission.

(2) The ~~decision to invite a nonfederally recognized tribal group~~ local agency shall invite culturally affiliated nonfederally recognized California Native American tribes to participate in any of the processes of Sections

65351, 65352.3, and ~~65562.5 is a discretionary decision by the lead agency or local government and shall not be deemed government-to-government consultation.~~ 65562.5.

(3) Inviting nonfederally recognized *California Native American* tribes to participate in the process shall not in any way diminish or alter federally recognized Indian tribes' unique legal and political status, the legal and political relationship between federal agencies, other governmental entities and federally recognized Indian tribes, or the rights of federally recognized Indian tribes.

SEC. 10. Section 65560 of the Government Code is amended to read:

65560. For purposes of this chapter:

(a) "Amount of land converted to agricultural use" means those lands that were brought into agricultural use or reestablished in agricultural use and were not shown as agricultural land on Important Farmland Series maps maintained by the department in the most recent biennial report.

(b) "Amount of land converted from agricultural use" means those lands that were permanently converted or committed to urban or other nonagricultural uses and were shown as agricultural land on Important Farmland Series maps maintained by the department and in the most recent biennial report.

(c) "Category of agricultural land" means prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance, as defined pursuant to the United States Department of Agriculture's land inventory and monitoring criteria, as modified for California, and grazing land. "Grazing land" means land on which the existing vegetation, whether grown naturally or through management, is suitable for grazing or browsing of livestock.

(d) "Department" means the Department of Conservation.

(e) "Interim Farmland maps" means those maps prepared by the department for areas that do not have the current soil survey information needed to compile Important Farmland Series maps. The Interim Farmland maps shall indicate areas of irrigated agriculture, dry-farmed agriculture, grazing lands, urban and built-up lands, and any areas committed to urban or other nonagricultural uses.

(f) "Important Farmland Series maps" means those maps compiled by the United States Soil Conservation Service and updated and modified by the department's Farmland Mapping and Monitoring Program pursuant to Section 65570.

(g) "Local open-space plan" means the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(h) "Open-space land" means any parcel or area of land or water that is devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources, including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of tribal cultural resources, places, features, and objects described in Sections 5097.9 and 5097.997 of the Public Resources Code.

(i) “Priority land” means any part, or all of a category of, agricultural or ~~open space~~ *open-space* lands, identified by a local government in that local government’s agricultural land component of its open-space element or agricultural land element of the general plan, that are prioritized for conservation, taking into consideration the need to balance competing land uses.

SEC. 11. Section 65562.5 of the Government Code is amended to read:

65562.5. If land designated, or proposed to be designated as open space, contains a place, feature, or object described in Sections 5097.9 and 5097.993 of the Public Resources Code, the city or county in which the place, feature, or object is located shall conduct consultations with the California Native American tribe that is on the contact list administered and maintained by the Native American Heritage Commission, pursuant to subdivision (n) of Section 5097.94 of the Public Resources Code, that has given notice pursuant to Section 65092 for the purpose of determining the level of confidentiality required to protect the specific identity, location, character, or use of the place, feature, or object and for the purpose of developing treatment with appropriate dignity of the place, feature, or object in any corresponding management plan.

SEC. 12. Section 5097.9 of the Public Resources Code is amended to read:

5097.9. (a) A public agency, and private party using or occupying public property, or operating on public property, under a public license, permit, grant, lease, or contract made on or after July 1, 1977, shall not in any manner whatsoever interfere with the free expression or exercise of Native American religion as provided in the United States Constitution and the California Constitution; nor shall any such agency or party cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require. The provisions of this chapter shall be enforced by the commission, pursuant to Sections 5097.94 and 5097.97.

(b) This chapter does not limit the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

SEC. 13. Section 5097.94 of the Public Resources Code is amended to read:

5097.94. The commission shall have the following powers and duties:

(a) (1) To prepare and maintain a verified inventory of Native American sacred places, based on substantial evidence, located on public and private lands that shall be known as the California Sacred Lands File. The California Sacred Lands File shall include ~~both~~ *resources that are either* of the following:

(A) Places with special religious, cultural, or social significance to California Native American tribes, including Native American human remains, graves, and cemeteries of Native Americans.

(B) Tribal cultural resources, as defined in Section 21074, and sites as identified by California Native American tribes, including places, features, objects, sacred sites, burials, cemeteries, and landscapes as described in Section 5097.9.

(2) The commission shall review regulatory and statutory protections accorded to those places identified in the California Sacred Lands File. Notwithstanding Section 10231.5 of the Government Code, beginning no later than January 1, 2027, the commission, in accordance with Section 9795 of the Government Code, shall submit to the Legislature periodic reports that include, but are not limited to, all of the following:

(A) Inventories, catalogues, findings, and actions as a result of actions taken under this subdivision and recommended actions the commission deems necessary to preserve these sacred places and to protect the free exercise of the Native American religions.

(B) For purposes of providing a baseline to address cumulative impacts, pursuant to Section 15355 of Title 14 of the California Code of Regulations, findings pursuant to this subdivision concerning the number of resources, including tribal cultural resources listed on the California Sacred Lands File, the resources, including tribal ~~culture~~ *cultural* resources, identified in environmental documents submitted to the commission pursuant to Section 5097.95, and archaeological resources, cultural resources, historic properties, and traditional cultural places on the California Register of Historical Resources that are presently in existence, and the number of resources that have been negatively affected by becoming part of the built environment.

(C) Recommendations concerning monetary incentives for local governments and landowners to preserve and protect resources listed on the California Sacred Lands File and tribal cultural resources.

(D) Recommendations concerning state actions that would assist in preservation and protection of resources listed on the California Sacred Lands File and tribal cultural ~~resources~~ *resources that are not listed*.

(3) The commission shall notify landowners on whose property graves and cemeteries of Native Americans are determined to exist and shall identify the California Native American tribe most likely descended from those Native Americans interred on the property.

(4) On or before July 1, 2028, the commission, in consultation with ~~federally recognized tribal governments, California Native American tribes, including~~ Tribal Historic Preservation Officers, ~~and California Native American tribal groups that are not federally recognized but are verified for inclusion in the contact list required pursuant to subdivision (n)~~, shall adopt regulations for the implementation of this subdivision.

(5) This subdivision does not alter confidentiality provisions in law protecting public disclosure of protected resource information, including, but not limited to, Sections 7927.000 and 7927.005 of the Government Code or subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(b) To make recommendations relative to Native American sacred places that are located on private lands, are inaccessible to Native Americans, and have cultural significance to Native Americans for acquisition by the state or other public agencies for the purpose of facilitating or assuring access to those sacred places by Native Americans.

(c) To make recommendations to the Legislature relative to procedures that will voluntarily encourage private property owners to preserve and protect sacred places in a natural state and to allow appropriate access to Native American religionists for ceremonial or spiritual activities.

(d) To appoint necessary clerical staff.

- (e) To accept grants or donations, real or in kind, to carry out the purposes of this chapter and the California Native American Graves Protection and Repatriation Act of 2001 (Chapter 5 (commencing with Section 8010) of Part 2 of Division 7 of the Health and Safety Code).
- (f) To make recommendations to the Director of Parks and Recreation and the California Arts Council relative to the California State Indian Museum and other Indian matters touched upon by department programs.
- (g) To bring an action to prevent severe and irreparable damage to, or assure appropriate access for Native Americans to, a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, pursuant to Section 5097.97. If the court finds that severe and irreparable damage will occur or that appropriate access will be denied, and appropriate mitigation measures are not available, it shall issue an injunction, unless it finds, on clear and convincing evidence, that the public interest and necessity require otherwise. The Attorney General shall represent the commission and the state in litigation concerning affairs of the commission, unless the Attorney General has determined to represent the agency against whom the commission's action is directed, in which case the commission shall be authorized to employ other counsel. In an action to enforce this subdivision the commission shall introduce evidence showing that a cemetery, place, site, or shrine has been historically regarded as a sacred or sanctified place by Native American people and represents a place of unique historical and cultural significance to an Indian tribe or community.
- (h) To request and use the advice and service of all federal, state, local, and regional agencies, including for purposes of carrying out the California Native American Graves Protection and Repatriation Act of 2001 (Chapter 5 (commencing with Section 8010) of Part 2 of Division 7 of the Health and Safety Code).
- (i) To assist Native Americans in obtaining appropriate access to sacred places that are located on public lands for ceremonial or spiritual activities.
- (j) To assist state agencies in any negotiations with agencies of the federal government for the protection of Native American sacred places that are located on federal lands.
- (k) (1) To mediate, upon application of either of the parties, disputes arising between landowners and known descendants relating to the treatment and disposition of Native American human burials, skeletal remains, and items associated with Native American burials.
- (2) The agreements shall provide protection to Native American human burials and skeletal remains from vandalism and inadvertent destruction and provide for sensitive treatment and disposition of Native American burials, skeletal remains, and associated grave goods consistent with the planned use of, or the approved project on, the land.
- (l) To assist interested landowners in developing agreements with appropriate *California* Native American ~~groups~~ *tribes* for treating or disposing, with appropriate dignity, of the human remains and any items associated with Native American burials.
- (m) To provide each California Native American tribe, as defined in Section 21073, on or before July 1, 2016, with a list of all public agencies that may be a lead agency pursuant to Division 13 (commencing with Section 21000) within the geographic area with which the tribe is traditionally and culturally affiliated, the contact information of those public agencies, and information on how the tribe may request the public agency to notify the tribe of projects within the jurisdiction of those public agencies for the purposes of requesting consultation pursuant to Section 21080.3.1.
- (n) (1) To administer and maintain the contact list of California Native American tribes that consists of all of the following:
- (A) Federally recognized California Native American tribes as defined in Section 11019.81 of the Government Code.

(B) California Native American ~~tribal groups~~ *tribes* that are not federally recognized, are verified for inclusion on the contact list by the commission.

(C) Delineation of lands and geographic areas that are culturally affiliated with California Native American tribes, including ~~verified~~ *demonstrated* most likely cultural affiliations.

(2) The sole purpose of the Native American Heritage Commission contact list of California Native American tribes is for tribal consultation and participation in review processes to provide cultural information and tribal knowledge pursuant to Section 65352.4 of the Government Code, Sections 21080.3.1, 21080.3.2, and 21084.3 of this code, the California Native American Graves Protection and Repatriation Act of 2001 (Chapter 5 (commencing with Section 8010) of Part 2 of Division 7) of the Health and Safety Code, and other state cultural resources protection laws. Any other use of the contact list that is not authorized by law is prohibited. Native American tribal groups in California shall not be entitled to participate in review processes *as a California Native American tribe* if the tribal group is not on the contact list *administered and maintained by the commission pursuant to paragraph (1)* and culturally ~~affiliated.~~ *affiliated to the geographic area at issue, but may participate as a member of the public.* Inviting nonfederally recognized ~~Indian California Native American~~ tribes to participate in review and administrative processes shall not in any way diminish or alter federally recognized Indian tribes' unique legal and political status, the legal relationship between federal *and state* agencies and federally recognized Indian tribes, or the rights of federally recognized Indian tribes. ~~Federally recognized Indian tribes, including their tribal information and tribal knowledge of their culturally affiliated geographic areas and resources, as sovereign nations with the inherent rights of self-governance, shall be afforded deference over other tribal groups that are not federally recognized.~~

(o) (1) To assume the powers and duties of the former Repatriation Oversight Commission and meet, when necessary and at least quarterly, to perform all of the following duties:

(A) Order the repatriation of human remains and cultural items in accordance with the act.

(B) Establish mediation procedures and, upon the application of the parties involved, mediate disputes among tribes and museums and agencies relating to the disposition of human remains and cultural items. The commission shall have the power of subpoena for purposes of discovery and may impose civil penalties against any agency or museum that intentionally or willfully fails to comply with the act. Members of the commission and commission staff shall receive training in mediation for purposes of this subparagraph. The commission may delegate its responsibility to mediate disputes to a certified mediator or commission staff.

(C) Establish and maintain an internet website for communication among tribes and museums and agencies.

(D) Upon the request of tribes or museums and agencies, analyze and make decisions regarding providing financial assistance to aid in specific repatriation activities.

(E) Make recommendations to the Legislature to assist tribes in obtaining the dedication of appropriate state lands for the purposes of reinterment of human remains and cultural items.

(F) (i) Prepare and submit to the Legislature an annual report detailing commission activities, disbursement of funds, and dispute resolutions relating to the repatriation activities under the act.

(ii) A report submitted to the Legislature pursuant to this subparagraph shall be submitted in compliance with Section 9795 of the Government Code.

(G) Refer any known noncompliance with the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.) to the United States Attorney General and the Secretary of the Interior.

(H) Impose administrative civil penalties pursuant to Section 8029 of the Health and Safety Code against an agency or museum that is determined by the commission to have violated the act.

(I) Establish those rules and regulations the commission determines to be necessary for the administration of the act.

(2) For purposes of this subdivision, the following terms have the following meanings:

(A) “Act” means the California Native American Graves Protection and Repatriation Act (Chapter 5 (commencing with Section 8010) of Part 2 of Division 7 of the Health and Safety Code).

(B) “Tribe” means a “California Indian tribe” as that term is used in the act.

(p) (1) To establish and assess a fee on a person or public or private entity that is reasonably related to the cost of conducting a search of catalogs, described in subdivision (a), inventories, described in Section 5097.96, or lists, described in Section 21073, for that person or entity, which funds shall be available to the commission upon appropriation by the Legislature.

(2) The Legislature finds that, pursuant to subdivision (b) of Section 3 of Article XIII A of the California Constitution, the fees established pursuant to paragraph (1) are not taxes. To the extent that these fees are appropriated through the Budget Act for the purposes for which they are collected to provide services to the people of the State of California, the Legislature finds that these fees are not subject to Article XIII B of the California Constitution.

(q) Review and provide comment and guidance on all policies and procedures proposed pursuant to Article 3 (commencing with Section 8025) and Article 3.5 (commencing with Section 8028.7) of Chapter 5 of Part 2 of Division 7 of the Health and Safety Code.

SEC. 14. Section 5097.95 of the Public Resources Code is amended to read:

5097.95. Each state and local agency shall cooperate with the commission in carrying out its duties under this chapter. The cooperation shall include, but is not limited to, transmitting copies, electronic or physical, of project information and constraints, data, including maps, environmental documents and technical studies, and any information concerning project activities relating to property identified by the commission as of special religious significance to Native Americans or that is reasonably foreseeable as that type of property and appearing at commission meetings when matters within the authority of the state or local agency are on the commission’s agenda.

SEC. 15. Section 5097.96 of the Public Resources Code is repealed.

SEC. 16. Section 5097.98 of the Public Resources Code is amended to read:

5097.98. (a) Whenever the commission receives notification of a discovery of Native American human remains from a county coroner pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, it shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The descendants may, with the permission of the owner of the land, or the landowner’s authorized representative, inspect the site of the discovery of the Native American human remains and may recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendants shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.

(b) Upon the discovery of Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in this section, with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. The landowner

shall discuss and confer with the descendants all reasonable options regarding the descendants' preferences for treatment.

(1) The descendants' preferences for treatment may include the following:

(A) The nondestructive removal and analysis of human remains and items associated with Native American human remains.

(B) Preservation of Native American human remains and associated items in place.

(C) Relinquishment of Native American human remains and associated items to the descendants for treatment.

(D) Other culturally appropriate treatment.

(2) The parties may also mutually agree to extend discussions, taking into account the possibility that additional or multiple Native American human remains, as defined in this section, are located in the project area, providing a basis for additional treatment measures.

(c) For the purposes of this section, "conferral" or "discuss and confer" means the meaningful and timely discussion and careful consideration of the views of each party, in a manner that is cognizant of all parties' cultural values, and where feasible, seeking agreement. Each party shall recognize the other's needs and concerns for confidentiality of information provided to the other.

(d) (1) Human remains of a Native American may be an inhumation or cremation, and in any state of decomposition or skeletal completeness.

(2) Any items associated with the human remains that are placed or buried with the Native American human remains are to be treated in the same manner as the remains, but do not by themselves constitute human remains.

(e) Whenever the commission is unable to identify a descendant, or the descendants identified fail to make a recommendation, or the landowner or the landowner's authorized representative rejects the recommendation of the descendants and the mediation provided for in subdivision (k) of Section 5097.94, if invoked, fails to provide measures acceptable to the landowner, the landowner or *the* landowner's authorized representative shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance. To protect these sites, the landowner shall do one or more of the following:

(1) Record the site with the commission or the appropriate ~~Information Center~~ *information center*.

(2) Use an open-space or conservation zoning designation or easement.

(3) Record a document with the county in which the property is located. The document shall be titled "Notice of Reinterment of Native American Remains" and shall include a legal description of the property, the name of the owner of the property, and the owner's acknowledged signature, in addition to any other information required by this section. The document shall be indexed as a notice under the name of the owner.

(f) Upon the discovery of multiple Native American human remains during ~~ground-disturbing~~ *ground disturbing* land development activities, all of the following apply:

(1) The location of discovery shall not be disturbed, impaired, or ~~harmed~~ *harmed until consultation with the most likely descendant has been completed*.

(2) The landowner shall engage in additional conferral with the most likely descendant to include culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of the

discovery shall be ascertained from a review of the site using tribal cultural standards, methods, and measures.

(3) If the discovery occurs during activities related to a project, as defined in Section 21065, the project shall contain an open-space preservation area with an appropriate buffer for the preservation in place and protection of the Native American human remains and the entire burial area site so that it is not adversely affected or harmed. To protect the site, the landowner shall do all of the following:

(A) Use an open-space or conservation zoning designation or easement for preservation and protection of the site.

(B) Record the site with the commission or the appropriate information center.

(C) Record a document with the county in which the property is located using the most protective method available to protect the specific location and nature of the site.

(g) Notwithstanding Section 5097.9, this section, including those actions taken by the landowner or the landowner's authorized representative to implement this section and an action taken to implement an agreement developed pursuant to subdivision (l) of Section 5097.94, shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)), except for discoveries of Native American human remains that occur during the implementation of a project subject to that act.

(h) Notwithstanding Section 30244, this section, including those actions taken by the landowner or the landowner's authorized representative to implement this section and any action taken to implement an agreement developed pursuant to subdivision (l) of Section 5097.94, shall be exempt from the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)), except for discoveries of Native American human remains that occur during the implementation of a project subject to that act.

SEC. 17. Section 21073 of the Public Resources Code is amended to read:

21073. (a) "California Native American tribe" means a federally recognized California Native American tribe located in California that is on the annual list published under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. Sec. 5131) in the Federal Register or a Native American tribe that is not federally ~~recognized~~ *and recognized*, is descended from lands located in ~~California that~~ *California, and* is on the contact list administered and maintained by the Native American Heritage Commission pursuant to Section 5097.94.

(b) A lead agency decision to invite a nonfederally recognized ~~tribal group~~ *California Native American tribe* to participate in the process shall not in any way diminish or alter the unique legal and political relationship between federal *and state* agencies and federally recognized Indian tribes or the legal rights of federally recognized Indian tribes. ~~Federally recognized tribes, including their tribal information and knowledge of their culturally affiliated geographic areas and resources, as sovereign nations with the inherent rights of self-governance, shall be afforded deference over other tribal groups that are not federally recognized.~~

SEC. 18. Section 21074 of the Public Resources Code is amended to read:

21074. (a) "Tribal cultural resources" means sites, features, places, cultural landscapes, sacred places, including Native American sanctified cemeteries, Indian cemeteries, or Indian burial areas, and objects with cultural value to a California Native American tribe that are either of the following:

(1) Included or determined to be eligible for inclusion in the California Register of Historical Resources. In applying criteria set forth in subdivision (c) of Section 5024.1, deference shall be given to the tribal information, tribal knowledge, and the significance of the resources to a California Native American ~~tribe.~~ *tribe, taking into account potential federal undertakings under the federal National Historic Preservation Act (54 U.S.C. Sec. 300101 et seq.) and other applicable federal laws.*

(2) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1 or a tribal government register maintained by ~~the federal~~ *a Tribal Historic Preservation* ~~Officer.~~ *Officer approved by the*

Secretary of the Interior pursuant to Section 101 of the federal National Historic Preservation Act (54 U.S.C. Sec. 300101 et seq.).

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

(d) If a site is a tribal cultural resource, or a possible tribal cultural resource, archaeological standards, methods, measures, conditions, and evaluations may only be used as supplemental information in determining identification, substantial adverse impacts, mitigation, and treatment for tribal cultural resources. Tribal information, standards, methods, measures, and conditions shall be given deference in determining identification, substantial adverse impacts, mitigation, and culturally appropriate treatment for tribal cultural resources.

(e) A lead agency shall not make a determination or finding that a resource is not a tribal cultural resource if tribal information and tribal knowledge meet substantial evidence standards showing that the resource is a tribal cultural resource.

SEC. 19. Section 21080.3.1 of the Public Resources Code is amended to read:

21080.3.1. (a) The Legislature finds and declares that ~~federally recognized~~ California Native American tribes traditionally and culturally affiliated with a geographic area have cultural knowledge and information concerning their own ancestry, religion, and cultural practices, and hold the foremost expertise concerning their tribal cultural resources in those geographic areas. California Native American prehistoric, archaeological, cultural, spiritual, and tribal cultural resources, traditional cultural places, and ceremonial places are essential elements in tribal cultural traditions, heritages, present-day practices, and identities. As such, it is necessary for lead agencies to engage in ~~government-to-government~~ tribal consultation for the purposes of including tribal information and tribal knowledge concerning tribal cultural resources to which ~~they~~ *California Native American tribes* are *most likely* culturally affiliated.

(b) (1) Tribal consultation shall be for the following purposes, including, but not limited to:

(A) Identification and determination of tribal cultural resources.

(B) Identification of mitigation measures.

(C) Standards, methods, and measures for environmental assessment of tribal cultural resources, including technical studies and the checklist for the implementation of this division.

(D) Implementation of mitigation measures.

(2) Consultation is not meaningful or transparent if the tribe is not provided with requested technical information, including project information and constraints, data, maps, administrative drafts of environmental documents and technical studies, and any information concerning project activities as they relate to tribal cultural resources protection.

(c) Before the release of a negative declaration, mitigated negative declaration, or environmental impact report for a project, the lead agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. When responding to the lead agency, the California Native American

tribe shall designate a lead contact person. If the California Native American tribe does not designate a lead contact person, or designates multiple lead contact people, the lead agency shall defer to the individual listed on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004.

(d) To expedite the requirements of this section, the Native American Heritage Commission shall assist the lead agency by identifying the California Native American tribes that are traditionally and culturally affiliated with the project area.

(e) (1) Consultation with a federally recognized California Native American tribe shall be as follows:

(A) Consultation with a federally recognized California Native American tribe is a formal two-way government-to-government process and dialogue between governmental agencies and federally recognized California Native American tribes.

(B) Consultation with a federally recognized California Native American tribe shall be conducted in a way that is mutually respectful of each party's sovereignty, and a public agency shall establish standards through government-to-government consultation with such tribes for the purposes of subdivision (b) concerning tribal cultural resources, places, features, and objects to which they are culturally affiliated.

(C) Consultation with a federally recognized tribe shall take into account potential federal undertakings under the federal National Historic Preservation Act (54 U.S.C. Sec. 300101 et seq.) and other applicable federal laws.

(2) Consultation with a nonfederally recognized California Native American tribe shall be as follows:

~~(d)~~

*(A) A California Native American tribe that is not federally recognized and is on the contact list administered and maintained by the Native American Heritage Commission pursuant to *subdivision (n) of Section 5097.94* may ~~has a right to~~ participate in the review process pursuant to this division as an additional consulting party ~~based on a demonstrated interest in a project's effects on tribal cultural resources to which the tribe is affiliated. The decision to invite a nonfederally recognized tribal group if the tribe has a demonstrated most likely cultural affiliation with the project area as determined by the Native American Heritage Commission.~~*

*(B) The lead agency or local government shall invite culturally affiliated nonfederally recognized California Native American tribes to participate in any of the statutory processes pursuant to this ~~division is a discretionary decision by the lead agency or local government and shall not be deemed government-to-government consultation. Inviting~~ *division.**

*(C) Inviting nonfederally recognized California Native American tribes to participate in the process shall not in any way diminish or alter federally recognized ~~Indian California Native American~~ tribes' unique legal and political status, the legal and political relationship between federal *and state* agencies, other governmental entities, and federally recognized ~~Indian California Native American~~ tribes, or the rights of federally recognized ~~Indian California Native American~~ tribes. ~~Federally recognized Indian tribes, including their tribal information and tribal knowledge of their culturally affiliated geographic areas and resources, as sovereign nations with the inherent rights of self-governance, shall be afforded deference over other tribal groups that are not federally recognized.~~*

~~(e)~~

(f) Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested

notice, which shall be accomplished by means of at least one written notification that includes a brief description of the proposed project and its location, the lead agency contact information, and a notification that the California Native American tribe has 30 days to request consultation pursuant to this section.

~~(f)~~

(g) The lead agency shall begin the consultation process within 30 days of receiving a California Native American tribe's request for consultation.

~~(g)~~

(h) For purposes of this section and Section 21080.3.2, "consultation" shall have the same meaning as provided in Section 65352.4 of the Government Code.

SEC. 20. Section 21080.3.2 of the Public Resources Code is amended to read:

21080.3.2. (a) As a part of the consultation pursuant to Section 21080.3.1, the parties shall propose mitigation measures, including, but not limited to, those recommended in Section 21084.3, capable of avoiding or reducing potential significant impacts to a tribal cultural resource or alternatives that would avoid or reduce potentially significant impacts to a tribal cultural resource. If the California Native American tribe requests consultation regarding the type of environmental review necessary, the significance of tribal cultural resources, project impacts on tribal cultural resources, alternatives to the project, mitigation measures, cumulative impacts, significant effects, or substantial adverse changes, the consultation shall include those topics and a summary of the consultation that adheres to confidentiality shall be reflected in the environmental review document.

(b) (1) Duration of tribal-~~government~~ consultation is from the point in time when the California Native American tribe requests the consultation pursuant to Section 21080.3.1 to the completion of the implementation of the mitigation measures for the project.

(2) California Native American tribes shall be afforded the opportunity to participate in technical studies relating to tribal cultural resources, archaeological resources, historic property, traditional cultural places, and cultural resources during project scoping, before the initial study and before the environmental review documents are drafted.

(c) The first step of consultation shall be considered completed when either of the following occurs:

(1) The parties agree to measures to avoid or mitigate a significant effect on tribal cultural resources and the measures are documented in an enforceable agreement between the lead agency and the California Native American-~~tribe~~. *tribe or enforceable through a negative declaration, mitigated negative declaration, or environmental impact report, including the mitigation monitoring reporting program.*

(2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. If a party asserts the application of this paragraph, the party shall provide, in writing, a notice of the assertion to the other party.

(d) The second step of consultation shall be considered completed when mitigation measures and state or local government conditions of approval *for tribal cultural resources* have been fully implemented in consultation with the California Native American tribe.

(e) (1) This section does not limit the ability of a California Native American tribe or the public to submit information to the lead agency, at any point in time, regarding the identification and significance of the tribal cultural resources, the significance of the project's impact on tribal cultural resources, or any appropriate measures to mitigate the impact, including avoidance.

(2) This section does not limit the ability of the lead agency or project proponent to incorporate changes and additions to the project as a result of the consultation, even if not legally required.

~~(f) Federally recognized tribes, including their tribal information and knowledge of their culturally affiliated geographic areas and resources, as sovereign nations with the inherent rights of self-governance, shall be afforded deference over other tribal groups that are not federally recognized.~~

~~(g)~~

(f) If the project proponent or its consultants participate in the consultation, those parties shall respect the principles set forth in this section.

SEC. 21. Section 21082.3 of the Public Resources Code is amended to read:

21082.3. (a) Any mitigation measures agreed upon in the consultation conducted pursuant to Section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to paragraph (2) of subdivision (b), and shall be fully enforceable.

(b) If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

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

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

(c) (1) Any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Sections 7927.000 and 7927.005 of the Government Code, and subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations, without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. This subdivision does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the environmental document.

(2) (A) This subdivision does not prohibit the confidential exchange of information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the lead agency, the California Native American tribe, the project applicant, or the project applicant's agent. Except as provided in subparagraph (B) or unless the California Native American tribe providing the information consents, in writing, to public disclosure, the project applicant or the project applicant's legal advisers, using a reasonable degree of care, shall maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to tribal cultural resources and shall not disclose to a third party confidential information regarding tribal cultural resources.

(B) This paragraph does not apply to data or information that are or become publicly available, are already in the lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the project applicant or the project applicant's agents, or are lawfully obtained by the project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.

(3) This subdivision does not affect or alter the application of Section 7927.000 or 7927.005 of the Government Code, or subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(4) This subdivision does not prevent a lead agency or other public agency from describing the information in general terms in the environmental document so as to inform the public of the basis of the lead agency's or

other public agency's decision without breaching the confidentiality required by this subdivision.

(d) In addition to other provisions of this division, the lead agency may certify an environmental impact report or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if the first step of the consultation process between the California Native American tribe and the lead agency has occurred as provided in Sections 21080.3.1 and 21080.3.2 and completed pursuant to subdivision (c) of Section 21080.3.2.

(e) If the mitigation measures recommended by the staff of the lead agency as a result of the first step of the consultation process are not included in the environmental document or if there are no ~~agreed-upon~~ *agreed upon* mitigation measures at the completion of the first step of the consultation or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall include feasible mitigation pursuant to subdivision (b) of Section 21084.3.

(f) Consistent with subdivision (c), the lead agency shall publish confidential information obtained from a California Native American tribe during the consultation process in a confidential appendix to the environmental document and shall include a general description of the information, as provided in paragraph (4) of subdivision (c) in the environmental document for public review during the public comment period provided pursuant to this division.

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

SEC. 22. Section 21083.09 of the Public Resources Code is repealed.

SEC. 23. Section 21083.09 is added to the Public Resources Code, to read:

21083.09. (a) On or before ~~July 1, 2026,~~ *January 1, 2027*, the Office of Land Use and Climate Innovation, along with the Native American Heritage Commission and the State Office of Historic Preservation, shall prepare and develop, and the Secretary of the Natural Resources Agency shall certify and adopt, revisions to the guidelines that update Sections 15064.5 and 15126.4, add new sections concerning identification and evaluation of tribal cultural resources with deference to tribal information and knowledge, the procedural and substantive steps of the tribal consultation process, culturally appropriate mitigation, accidental discoveries of tribal cultural resources, including Native American human remains, burial areas, Indian cemeteries, and update Appendix G of Chapter 3 (commencing with Section 15000) of Division 6 of Title 14 of the California Code of Regulations to do both of the following:

(1) Relocate and revise questions concerning Native American human remains and Indian cemeteries from the Cultural Resources section to the Tribal Cultural Resources section.

(2) Revise questions in the Tribal Cultural Resources section to include tribal information as a basis for answers to those questions.

(b) Updates to the guidelines under this section shall be developed in government-to-government consultation with ~~tribal governments.~~ *federally recognized California Native American tribes.*

SEC. 24. Section 21084.3 of the Public Resources Code is amended to read:

21084.3. (a) Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.

(b) If the lead agency determines that a project may cause a substantial adverse change to a tribal cultural resource, and measures are not otherwise identified in the first step of the tribal consultation process provided in subdivision (c) of Section 21080.3.2, mitigation measures shall be adopted to avoid or minimize the significant adverse impacts and may include, but are not limited to, any of the following:

(1) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria and include reference to those provisions in the project's environmental documents. Avoidance and preservation in place shall be the default treatment for tribal cultural resources and may include California Native American tribe access to the resources for purposes of cultural practices, continued heritage teachings, stewardship, and comanagement of lands. *Tribal monitoring is a method or tool to carry out agreed upon mitigation provisions, but alone is not a form of mitigation.*

(2) If, after consultation with the ~~federally recognized tribe or discussions with the participating nonfederally recognized tribal group~~, *California Native American tribe*, avoidance is demonstrated to be infeasible, the resource shall be treated with culturally appropriate dignity using tribal cultural values and meaning of the resource, including, but not limited to, the following:

(A) Relinquishing the ownership of the resources to the ~~consulting federally recognized tribe or participating nonfederally recognized tribal group~~ *California Native American tribe* for appropriate treatment as agreed upon by the ~~federally recognized tribes or nonfederally recognized tribal groups~~. *California Native American tribe.*

(B) Reburying or relocating the resources on the project property in a location that will be protected from further disturbance or harm in perpetuity by using permanent conservation easements or other interests in real property, with culturally appropriate management criteria.

(C) California Native American tribe access to the resources for purposes of cultural practices, continued heritage teachings, stewardship, and comanagement of lands.

(c) As part of the objectives, criteria, and procedures required by Section 21082, a lead agency shall make provisions for possible tribal cultural resources inadvertently or accidentally discovered during construction that include any of the following:

(1) No further excavation or disturbance of the site or any nearby area reasonably suspected to relate to the ~~discovery~~. *discovery until consultation with the culturally affiliated California Native American tribe has been completed.*

(2) An evaluation of the discovery by the consulting ~~federally recognized tribe or participating nonfederally recognized tribal group~~. *California Native American tribe.*

(3) If the discovery is determined to be a tribal cultural resource based upon substantial evidence, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or other culturally appropriate mitigation shall be made available. Work may continue on other parts of the project site while tribal cultural resources mitigation takes place. If the discovery contains or may contain multiple Native American human remains, subdivision (f) of Section 5097.98 shall *also* apply.

SEC. 25. The Legislature finds and declares that Sections 4, 5, 6, 7, 11, 12, 14, 16, 19, 20, 21, and 24 of this act amending Sections 65092, 65351, 65352, 65352.3, and 65562.5 of the Government Code and Sections 5097.9, 5097.95, 5097.98, 21080.3.1, 21080.3.2, 21082.3, and 21084.3 of the Public Resources Code, and Section 9 of this act adding Section 65352.4 to the Government Code, address a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 4, 5, 6, 7, 9, 11, 12, 14, 16, 19, 20, 21, and 24 of this act apply to all cities, including charter cities.

SEC. 26. 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.

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