

AMENDED IN ASSEMBLY AUGUST 23, 2002

AMENDED IN ASSEMBLY JUNE 13, 2002

AMENDED IN SENATE MAY 23, 2002

AMENDED IN SENATE MAY 16, 2002

AMENDED IN SENATE MAY 1, 2002

SENATE BILL

No. 1622

Introduced by Senator ~~Kuehl~~ Murray

February 21, 2002

~~An act to amend Sections 21080.5, 21151, 21159.9, and 21167.6 of, and to add Section 21167.6.5 to, the Public Resources Code, relating to environmental protection. An act to amend Sections 5004.5, 5095.3, 5095.4, and 5095.5 of, and to add Sections 5095.6 and 32556.2 to, the Public Resources Code, relating to public resources.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1622, as amended, ~~Kuehl~~ Murray. ~~California Environmental Quality Act~~ *Parks and recreation: California Youth Soccer and Recreation Development program: Urban parks: Ballona Creek.*

(1) Existing law establishes the California Youth Soccer and Recreation Development Program in the Department of Parks and Recreation to provide assistance to local agencies and community-based organizations with regard to funding, and fostering the development of, new youth soccer, baseball, and basketball recreation opportunities in the state. Existing law requires the department to report to the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review on the need for soccer

and baseball fields and basketball courts in the state and related facilities, and to coordinate with local agencies and community-based organizations to identify those areas in the state where there is a shortage of appropriate recreational facilities, as provided.

This bill would expand the purposes of the program to include funding and fostering softball recreation opportunities in the state, would require the department to report to those legislative committees after awarding those grants, and would eliminate the requirement that the department coordinate with local agencies and community-based organizations. The bill would require that administrative expenses be paid from funds authorized for the program, and would specify that the program would be implemented only upon appropriation of sufficient funds for this purpose.

(2) The State Urban Parks and Communities Act authorizes the department to expend moneys in the State Urban Parks and Communities Fund, upon appropriation by the Legislature, to provide grants to state agencies, local governments, and community organizations to provide environmental education and park opportunities for schoolage children. The act requires the Director of Parks and Recreation, in consultation with the State Department of Education, to develop guidelines for curriculum for outdoor education using state conservancy properties in existence on January 1, 2002.

This bill, instead, would require the director, in consultation with State Department of Education, to develop a competitive grant program to assist state parks, state conservancies in existence as of January 1, 2003, and urbanized and heavily urbanized local agencies and community-based organizations within those jurisdictions working in collaboration, to provide outdoor educational opportunities to children.

(3) The State Urban Parks and Communities Act requires the department to give special consideration to projects that wholly or partly replace an area of blight or that contribute significantly to the economic revitalization to the immediate community. The act requires that a Member of the Legislature first nominate a program or project in order for that program or project to qualify as an eligible program or project under the act.

This bill would delete those provisions. The bill would make various other changes affecting the administration of the programs and projects funded under the act, as provided.



The bill would require that all funds appropriated to the department pursuant to the act be encumbered within 3 years of the date of the appropriation, and expended within 8 years of the date of the appropriation. The bill would provide that any grants to state or local agencies, nonprofit organizations, or community groups, on or after January 1, 2003, pursuant to the act be contingent upon a future appropriation in the annual Budget Act.

(4) Existing law establishes the Baldwin Hills Conservancy, prescribes the functions and duties of the conservancy, and establishes the governing board of the conservancy. The board is required to perform a study relating to Ballona Creek, develop a proposed map for that area, and provide a report to the Legislature on those activities by January 1, 2003.

This bill would change the date the report is required to be provided to the Legislature to January 1, 2004.

~~(1) The existing 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 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 authorizes a plan or other written documentation required by a certified regulatory program or state agency to be submitted in lieu of an environmental impact report pursuant to prescribed procedures.~~

~~This bill would require the Secretary of the Resources Agency, by July 1, 2003, to develop a protocol for reviewing the prospective application of certified regulatory programs to evaluate the consistency of those programs with the requirements of CEQA, and would require the secretary to provide a report to the Senate Committee on Environmental Quality and the Assembly Committee on Natural Resources regarding the need for a grant of additional statutory authority authorizing the secretary to undertake a review of the certified regulatory programs. The bill would also require the secretary to provide a significant opportunity for public participation in developing that protocol.~~

~~(2) CEQA requires the Office of Planning and Research to implement a public assistance and information program that includes establishing a public education and training program, a data base to assist in the preparation of environmental documents, and a central~~



~~repository for the collection, storage, retrieval, and dissemination of specified CEQA notices.~~

~~This bill would require, commencing January 1, 2003, that copies of any documents submitted in electronic format to the office pursuant to CEQA be furnished by the office to the California State Library, and would require the California State Library to be the repository for those documents and to make them available for viewing by the general public upon request.~~

~~(3) CEQA authorizes the appeal of the certification of an environmental impact report by a local lead agency that is not elected to that lead agency's elected decisionmaking body, if that body exists.~~

~~This bill would expand that authorization to include any environmental review document that is certified or authorized by a local lead agency that is not elected.~~

~~(4) CEQA requires, in any action or proceeding to attack, review, set aside, void, or annul specified actions by a public agency pursuant to CEQA, except the Public Utilities Commission, that the plaintiff or petitioner file a request that the public agency prepare a record of proceedings relating to the subject of the action or proceeding. CEQA also requires that the request, together with the complaint or petition, be served on the public agency not later than 10 business days from the date that the action or proceeding was filed.~~

~~This bill would require that request to be served personally on the state agency.~~

~~This bill would also require the petitioner or plaintiff to name any recipient of an approval that is the subject of the action or proceeding as a real party in interest, and to serve the petition or complaint on that real party in interest with the petition or complaint not later than 20 business days following service of the petition or complaint on the public agency. The bill would specify that a failure to name any other potential parties would not be grounds for dismissal of the action or proceeding. The bill would also require the public agency to provide the petitioner or plaintiff, not later than 10 business days following service of the petition or complaint on the public agency, with a list of responsible agencies and public agencies with jurisdiction over a natural resource affected by the project, and would require the petitioner or plaintiff to provide those responsible agencies and public agencies with notice of the action or proceeding within 15 days of receipt of that list. By imposing additional duties on local public agencies, this bill would impose a state-mandated local program.~~



~~(5) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

1 ~~SECTION 1. Section 21080.5 of the Public Resources Code~~
2 *SECTION 1. Section 5004.5 of the Public Resources Code is*
3 *amended to read:*

4 5004.5. (a) The California Youth Soccer and Recreation
5 Development Program is hereby created in the department. The
6 department shall administer the program, which is intended to
7 provide assistance to local agencies and community-based
8 organizations with regard to funding, and fostering the
9 development of, new youth soccer, baseball, *softball*, and
10 basketball recreation opportunities in the state.

11 (b) ~~The department shall report to the Assembly Committee on~~
12 ~~Budget and the Senate Committee on Budget and Fiscal Review~~
13 ~~on the need for soccer and baseball fields and basketball courts in~~
14 ~~the state, and the need for lighting, maintenance, and capital~~
15 ~~improvements to develop and improve existing recreational areas,~~
16 ~~with special emphasis on the development of soccer, baseball, and~~
17 ~~basketball facilities. The department shall coordinate with local~~
18 ~~agencies and community-based organizations to identify those~~
19 ~~areas in the state where there is a shortage of appropriate~~
20 ~~recreational facilities, particularly in heavily populated, urban,~~
21 ~~low-income, and crime-ridden areas~~ *After all grants authorized*
22 *under this program have been awarded, the department shall*
23 *report to the Budget Committee of the Assembly and the Budget*
24 *and Fiscal Review Committee of the Senate on the number of grant*



1 *applications received, the total amount of funds sought by*
2 *applicants, and the number of eligible applications that were not*
3 *funded.*

4 (c) The California Youth Soccer and Recreation Development
5 Fund is hereby created in the State Treasury, to be used as a
6 repository of funds derived from federal, state, and private sources
7 to be used for the program.

8 (d) The department shall award grants, on a competitive basis,
9 to local agencies and community-based organizations for the
10 purposes of the program, subject to an appropriation therefor. The
11 department shall also develop eligibility guidelines for the award
12 of grants that give preference to those communities that provide
13 matching funds for grants, and that are heavily populated,
14 low-income urban areas with a high youth crime and
15 unemployment rate. The guidelines shall also require that
16 preference be given to those inner city properties that may be
17 leased for periods of at least five years or more for recreational
18 purposes. The department shall conduct public hearings
19 throughout the state prior to final adoption of eligibility
20 guidelines.

21 (e) *Any regulation, guideline, or procedural guide adopted or*
22 *developed pursuant to this section is not subject to the review or*
23 *approval of the Office of Administrative Law or to any other*
24 *requirement of Chapter 3.5 (commencing with Section 11340) of*
25 *Part 1 of Division 3 of Title 2 of the Government Code.*

26 (f) For purposes of this section, the following terms have the
27 following meanings:

28 (1) “Community-based organization” means an organization
29 that enters into a cooperative agreement with the department
30 pursuant to Section 513, a nonprofit group or organization, or a
31 friends of parks group or organization of a city, county, city and
32 county, and regional park. *All community-based organizations*
33 *shall have a current tax-exempt status as a nonprofit organization*
34 *under Section 501(c)(3) of the federal Internal Revenue Code.*

35 (2) “Local agency” means a city, county, city and county, park
36 and recreation district, open-space district, or school district.

37 (g) *This section shall be implemented only upon appropriation*
38 *of sufficient funds to the department for that purpose.*

39 (h) *All funds received by the department pursuant to this*
40 *section shall be encumbered within three years of the date of the*



1 appropriation and expended within eight years from the date of the
2 appropriation.

3 (i) Nothing in this section is intended to prohibit
4 community-based organizations from acting in partnership with
5 organizations that do not have tax-exempt status as a nonprofit
6 organization under Section 501(c)(3) of the federal Internal
7 Revenue Code.

8 SEC. 2. Section 5095.3 of the Public Resources Code is
9 amended to read:

10 5095.3. There is hereby created, in the State Treasury, the
11 State Urban Parks and Healthy Communities Fund. The
12 department shall expend moneys from this fund, upon
13 appropriation by the Legislature, to provide grants to state
14 agencies, including state conservancies in existence on the
15 effective date of the act adding this section during the 2001 portion
16 of the 2001-02 Regular Session January 1, 2002, urbanized or
17 heavily urbanized local agencies, and community-based
18 organizations, in accordance with Sections 5095.4 and 5095.5.
19 ~~The department may not expend more than 2.5 percent of the~~
20 ~~moneys in the fund to administer this chapter.~~

21 SEC. 3. Section 5095.4 of the Public Resources Code is
22 amended to read:

23 5095.4. (a) The director, in consultation with the State
24 Department of Education, shall develop ~~guidelines for curriculum~~
25 ~~for outdoor education using state conservancy properties in~~
26 ~~existence on the effective date of the act adding this section during~~
27 ~~the 2001 portion of the 2001-02 Regular Session, and state,~~
28 ~~community, and regional park units, and identify regions of the~~
29 ~~state where schoolage children lack adequate opportunities to~~
30 ~~access educational opportunities. The curriculum components~~
31 ~~may include, but not be limited to including, tapping California's~~
32 ~~vast resource areas for instruction of earth sciences, life sciences,~~
33 ~~geology, climate, history, social sciences, visual arts, performing~~
34 ~~arts, and culture. To accomplish this goal, the department shall~~
35 ~~create a competitive grant program to assist state parks, state~~
36 ~~conservancies in existence on the effective date of the act adding~~
37 ~~this section during the 2001 portion of the 2001-02 Regular~~
38 ~~Session, and urbanized and heavily urbanized local agencies and~~
39 ~~community-based organizations within those jurisdictions,~~
40 ~~working in collaboration to provide outdoor educational~~



1 ~~opportunities to children~~ a competitive grant program to assist
2 state parks, state conservancies in existence as of January 1, 2003,
3 urbanized and heavily urbanized local agencies, and
4 community-based organizations within those jurisdictions,
5 working in collaboration, to provide outdoor educational
6 opportunities to children.

7 (1) Applicant entities shall provide a 25 percent matching
8 contribution in community resources. The matching contributions
9 may be in the form of money, including funds from other state or
10 local assistance programs, gifts of real property, equipment, and
11 consumable supplies, volunteer services, free or reduced-cost use
12 of land, facilities, or equipment, and bequests and income from
13 wills, estates, and trusts. ~~The department shall evaluate the amount~~
14 ~~of the matching contribution in terms of its proportionality in~~
15 ~~relation to the economic resources of the applicant.~~ The
16 department may establish findings for hardships to waive the
17 matching requirement when an applicant cannot meet the
18 requirement.

19 (2) The department may give additional consideration to
20 applicant entities collaborating with other entities, ~~such as~~
21 *including, but not limited to*, school districts, faith-based groups
22 and others providing outreach programs to identify and attract
23 urbanized youth most in need of organized, constructive
24 recreational activities.

25 (b) The department shall make one-third of any funds
26 appropriated for the purposes of this chapter available to give
27 special priority to providing increased access for elementary
28 schoolage children in grades 2 to 8, inclusive, to conservancy or
29 state, community, and regional park properties and, in addition,
30 shall give priority, in awarding a grant pursuant to this section, to
31 all of the following:

32 (1) Programs that use curriculum tied to *the science content*
33 *standards and Science Framework adopted by the State*
34 ~~Department Board of Education standards for environmental~~
35 ~~education content.~~

36 (2) Applicants that serve children with family incomes below
37 the statewide average, based on the most recent figures computed
38 and established by the Department of Finance.

39 (3) Applicants that provide access to children who are
40 underserved or lack access to parks or other outdoor venues



1 suitable to conduct appropriate environmental education
2 instruction.

3 (4) Applicants that have developed working collaboratives to
4 develop environmental education partnerships.

5 (5) Applicants working in collaboration with local educational
6 agencies to identify those children lacking adequate opportunities
7 to access outdoor environmental education curriculum or
8 innovative or alternative recreation programming.

9 (c) The amount of a grant awarded pursuant to this section may
10 not be less than twenty thousand dollars (\$20,000) or more than
11 two hundred thousand dollars (\$200,000). A grant may be
12 expended for any of the following purposes:

13 (1) Staffing that is directly associated with the programming.

14 (2) Staff training or development directly associated with the
15 programming.

16 (3) Costs associated with transporting youth between a
17 community or school and the proposed environmental education
18 venue.

19 (4) Medical insurance for the participants, only if the insurance
20 is a requirement pursuant to the activity.

21 (5) Operational costs, such as the rental equipment, food, and
22 supplies.

23 (6) Applicants that can demonstrate that the administrative
24 costs associated with this activity will not exceed more than 7.5
25 percent of the amount of the grant.

26 (d) The department may gather information from the
27 applicants as to the effectiveness of these programs in meeting
28 program objectives. The department shall summarize this
29 information and report to the appropriate budget and fiscal
30 committees of both houses of the Legislature as to the number of
31 children served, the educational objectives met, and the level of
32 demand.

33 (e) Applicant agencies may enter into contracts with other
34 public agencies or entities to provide unique interpretive skills or
35 to present authentic, curriculum-based programs in units of
36 conservancy properties or state, community, or regional park
37 systems for services not otherwise provided. The purpose of this
38 subdivision is to authorize the applicants to provide programming
39 services, equipment, and materials that assist in the curriculum



1 program or provide educational activities that assist in the
2 presentation of cultural traditions.

3 *SEC. 4. Section 5095.5 of the Public Resources Code is*
4 *amended to read:*

5 5095.5. (a) The department shall allocate two-thirds of any
6 funds appropriated for the purposes of this chapter to provide
7 grants to urbanized or heavily urbanized local agencies or
8 community-based organizations within these jurisdictions for the
9 acquisition and development of properties for active recreational
10 purposes, as defined. Eligible projects shall meet all of the
11 following criteria:

12 (1) The amount of the grant applied for, together with any
13 matching contribution, shall meet all of the cost of acquiring and
14 developing the project, and when construction of the project is
15 completed, the new urban park or facility shall have a management
16 plan and demonstrate to the satisfaction of the department that the
17 applicant agencies have sufficient means to ensure that the park or
18 facility shall remain open and accessible to the public.

19 (2) The application includes a commitment for a matching
20 contribution. The matching contributions may be in the form of
21 money, including funds from other state or local assistance
22 programs, gifts of real property, equipment, and consumable
23 supplies, volunteer services, free or reduced-cost use of land,
24 facilities, or equipment, and bequests and income from wills,
25 estates, and trusts. ~~The department shall evaluate the amount of the~~
26 ~~matching contribution in terms of its proportionality in relation to~~
27 ~~the economic resources of the applicant.~~ The department may
28 establish findings for hardships to waive the matching requirement
29 when an applicant cannot meet the requirement.

30 (3) ~~The department may give special consideration to projects~~
31 ~~that wholly or partly replace an area of blight, or contribute~~
32 ~~significantly to the economic revitalization to the immediate~~
33 ~~community.~~

34 (4) ~~To the extent possible practicable,~~ the project is a joint-use
35 project between two or more agencies that share responsibility for
36 ownership, development, or maintenance, or both, of the project.

37 (b) The department shall adopt guidelines to amplify or clarify
38 the criteria specified in Section 5095.4 or this section, and may
39 adopt additional criteria, to supplement those criteria.



1 (c) The department may develop a procedural guide for the
2 administration of this chapter and the guidance of applicants.

3 (d) The department shall solicit written comments and hold
4 public hearings at convenient locations throughout the state on any
5 regulations, guidelines, or the procedural guide proposed to be
6 adopted or developed pursuant to this section.

7 (e) The department shall adopt guidelines to implement this
8 chapter ~~on or before June 1, 2002.~~

9 (f) Any regulation, guideline, or procedural guide adopted or
10 developed pursuant to this ~~section~~ *chapter* is not subject to the
11 review or approval of the Office of Administrative Law or to any
12 other requirement of Chapter 3.5 (commencing with Section
13 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

14 (g) A grant received pursuant to this section may be expended
15 to acquire the fee title or other interest in real property. If an
16 application proposes to acquire less than fee title, the applicant
17 shall demonstrate in the application, to the satisfaction of the
18 department, that the proposed project will provide public benefits
19 that are commensurate with the type and duration of the interest in
20 real property to be acquired.

21 (h) With the consent of an urbanized or heavily urbanized local
22 agency, any eligible nonprofit organization *that is tax exempt*
23 *pursuant to Section 501(c)(3) of the Internal Revenue Code* may
24 apply for a grant on behalf of an entity for the purposes of either
25 Section 5095.4 or this section. The application shall include a copy
26 of any contract between the local agency and the nonprofit
27 organization and the resolution or other authorization of consent.
28 The contract shall specify arrangements for the long-term
29 management and operation of the urban park or recreation area
30 *commensurate with the amount of the grant, as determined by the*
31 *department.*

32 (i) Every applicant for a grant pursuant to this section and the
33 entity that will operate and maintain the property, if that entity is
34 different than the applicant, shall agree to comply with all of the
35 following requirements:

36 (1) To operate and maintain the property developed pursuant to
37 this chapter so that it is usable by residents of the affected area.
38 With the approval of the department, the grant recipient, or its
39 successor in interest in the property, may transfer its property
40 interest and the responsibility to operate and maintain the property,



1 in accordance with the terms of the grant and any applicable law,
2 to a public agency or nonprofit organization that is able to operate
3 and maintain the property in perpetuity. Any attempt to make a
4 transfer in violation of this subdivision is void.

5 (2) To use the property only for the purposes for which the grant
6 was made and to make no other use or sale or other disposition of
7 the property, except as authorized by statute. If the use of the
8 property is changed to a use that is not permitted by the terms of
9 the grant, or if the property is sold or otherwise disposed of, the
10 grant recipient shall reimburse the department an amount equal to
11 the amount of the grant, the fair market value of the land and any
12 improvements constructed with the grant, or the proceeds from the
13 sale or other disposition, whichever amount is greater. If the
14 property that is sold or otherwise disposed of is less than the entire
15 interest in the property funded with the grant, the grant recipient
16 shall reimburse the department an amount equal to either the
17 proceeds from the sale or other disposition of the interest or the fair
18 market value of the interest sold or otherwise disposed of,
19 whichever amount is greater.

20 (3) In lieu of seeking reimbursement pursuant to paragraph (2),
21 the department may impose restrictions on the use of public park
22 property identical to the requirements for the preservation of
23 public parks set forth in the Public Park Preservation Act of 1971
24 (Chapter 2.5 (commencing with Section 5400)) with respect to any
25 property used, sold, or otherwise disposed of in a manner not
26 permitted by the terms of the grant.

27 (j) The recipient of a grant pursuant to this chapter may use the
28 grant funds to pay for any portion of the cost of cleaning up,
29 removing, or remediating any toxic materials or hazardous
30 substances, if the amount used for cleanup, removal, or
31 remediation does not exceed 20 percent of the grant allocated to
32 the project.

33 ~~(k) A grant recipient shall encumber grant moneys within two~~
34 ~~years of the date of the approval of the grant.~~

35 ~~(l)~~ The amount allocated pursuant to this chapter shall be
36 roughly divided 60 percent to the southern portion of the state
37 (south of the Tehachapi Mountains) and 40 percent to the northern
38 portion.

39 ~~(m)~~



1 (l) Recognizing that some rural areas of the state have
2 significant deficiencies of park facilities for active recreational
3 purposes, the department shall consider allocating two hundred
4 fifty thousand dollars (\$250,000) pursuant to this section to
5 nonurbanized local agencies. In awarding these grants, the
6 department shall apply the same guidelines as those established for
7 awarding a grant to a nonurbanized area pursuant to subdivision
8 (e) of Section 5621.

9 ~~(n) To qualify as an eligible program or project, a Member of
10 the Legislature must first nominate the program or project,
11 pursuant to Section 5095.4 and this section. If the department
12 determines that the program or project is eligible, the department
13 shall issue an application to the eligible agency. A Member of the
14 Legislature may nominate any and all projects within his or her
15 district.~~

16 (m) *After all grants authorized under this chapter have been
17 awarded, the department shall report to the Budget Committee of
18 the Assembly and the Budget and Fiscal Review Committee of the
19 Senate on the number of grant applications received, the total
20 amount of funds sought by applicants, and the number of eligible
21 applications that were not funded.*

22 (n) *Nothing in this section is intended to prohibit
23 community-based organizations from acting in partnership with
24 organizations that do not have tax-exempt status as a nonprofit
25 organization under Section 501(c)(3) of the federal Internal
26 Revenue Code.*

27 *SEC. 5. Section 5095.6 is added to the Public Resources
28 Code, to read:*

29 *5095.6. (a) This chapter shall be implemented only upon
30 appropriation of sufficient funds to the department for that
31 purpose.*

32 *(b) Notwithstanding any other provision, all funds that are
33 appropriated to the department pursuant to this chapter shall be
34 encumbered within three years of the date of that appropriation
35 and expended within eight years of the date of that appropriation.*

36 *(c) Any grants to state or local agencies or nonprofit
37 organizations or community groups pursuant to this chapter, on or
38 after January 1, 2003, shall be contingent upon a future
39 appropriation in the annual Budget Act.*



1 SEC. 6. Section 32556.2 is added to the Public Resources
2 Code, to read:

3 32556.2. Notwithstanding paragraph (3) of subdivision (e) of
4 Section 32556, as amended by Section 3 of Chapter 3 of the
5 Statutes of 2002, the report required under that paragraph shall be
6 provided to the Legislature on or before January 1, 2004.

7 is amended to read:

8 21080.5.—(a) Except as provided in Section 21158.1, when
9 the regulatory program of a state agency requires a plan or other
10 written documentation, containing environmental information
11 and complying with paragraph (3) of subdivision (d), to be
12 submitted in support of any activity listed in subdivision (b), the
13 plan or other written documentation may be submitted in lieu of
14 the environmental impact report required by this division if the
15 Secretary of the Resources Agency has certified the regulatory
16 program pursuant to this section.

17 (b) This section applies only to regulatory programs or portions
18 thereof which involve either of the following:

19 (1) The issuance to a person of a lease, permit, license,
20 certificate, or other entitlement for use.

21 (2) The adoption or approval of standards, rules, regulations,
22 or plans for use in the regulatory program.

23 (c) A regulatory program certified pursuant to this section is
24 exempt from Chapter 3 (commencing with Section 21100),
25 Chapter 4 (commencing with Section 21150), and Section 21167,
26 except as provided in Article 2 (commencing with Section 21157)
27 of Chapter 4.5.

28 (d) To qualify for certification pursuant to this section, a
29 regulatory program shall require the utilization of an
30 interdisciplinary approach that will ensure the integrated use of the
31 natural and social sciences in decisionmaking and that shall meet
32 all of the following criteria:

33 (1) The enabling legislation of the regulatory program does
34 both of the following:

35 (A) Includes protection of the environment among its principal
36 purposes.

37 (B) Contains authority for the administering agency to adopt
38 rules and regulations for the protection of the environment, guided
39 by standards set forth in the enabling legislation.



1 ~~(2) The rules and regulations adopted by the administering~~
2 ~~agency for the regulatory program do all of the following:~~

3 ~~(A) Require that an activity will not be approved or adopted as~~
4 ~~proposed if there are feasible alternatives or feasible mitigation~~
5 ~~measures available that would substantially lessen any significant~~
6 ~~adverse effect which the activity may have on the environment.~~

7 ~~(B) Include guidelines for the orderly evaluation of proposed~~
8 ~~activities and the preparation of the plan or other written~~
9 ~~documentation in a manner consistent with the environmental~~
10 ~~protection purposes of the regulatory program.~~

11 ~~(C) Require the administering agency to consult with all public~~
12 ~~agencies that have jurisdiction, by law, with respect to the~~
13 ~~proposed activity.~~

14 ~~(D) Require that final action on the proposed activity include~~
15 ~~the written responses of the issuing authority to significant~~
16 ~~environmental points raised during the evaluation process.~~

17 ~~(E) Require the filing of a notice of the decision by the~~
18 ~~administering agency on the proposed activity with the Secretary~~
19 ~~of the Resources Agency. Those notices shall be available for~~
20 ~~public inspection, and a list of the notices shall be posted on a~~
21 ~~weekly basis in the Office of the Resources Agency. Each list shall~~
22 ~~remain posted for a period of 30 days.~~

23 ~~(F) Require notice of the filing of the plan or other written~~
24 ~~documentation to be made to the public and to any person who~~
25 ~~requests, in writing, notification. The notification shall be made in~~
26 ~~a manner that will provide the public or any person requesting~~
27 ~~notification with sufficient time to review and comment on the~~
28 ~~filing.~~

29 ~~(3) The plan or other written documentation required by the~~
30 ~~regulatory program does both of the following:~~

31 ~~(A) Includes a description of the proposed activity with~~
32 ~~alternatives to the activity, and mitigation measures to minimize~~
33 ~~any significant adverse effect on the environment of the activity.~~

34 ~~(B) Is available for a reasonable time for review and comment~~
35 ~~by other public agencies and the general public.~~

36 ~~(e) (1) The Secretary of the Resources Agency shall certify a~~
37 ~~regulatory program that the secretary determines meets all the~~
38 ~~qualifications for certification set forth in this section, and~~
39 ~~withdraw certification on determination that the regulatory~~
40 ~~program has been altered so that it no longer meets those~~



1 ~~qualifications. Certification and withdrawal of certification shall~~
2 ~~occur only after compliance with Chapter 3.5 (commencing with~~
3 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
4 ~~Code.~~

5 ~~(2) In determining whether or not a regulatory program meets~~
6 ~~the qualifications for certification set forth in this section, the~~
7 ~~inquiry of the secretary shall extend only to the question of~~
8 ~~whether the regulatory program meets the generic requirements of~~
9 ~~subdivision (d). The inquiry shall not extend to individual~~
10 ~~decisions to be reached under the regulatory program, including~~
11 ~~the nature of specific alternatives or mitigation measures that~~
12 ~~might be proposed to lessen any significant adverse effect on the~~
13 ~~environment of the activity.~~

14 ~~(3) If the secretary determines that the regulatory program~~
15 ~~submitted for certification does not meet the qualifications for~~
16 ~~certification set forth in this section, the secretary shall adopt~~
17 ~~findings setting forth the reasons for the determination.~~

18 ~~(f) After a regulatory program has been certified pursuant to~~
19 ~~this section, any proposed change in the program that could affect~~
20 ~~compliance with the qualifications for certification specified in~~
21 ~~subdivision (d) may be submitted to the Secretary of the Resources~~
22 ~~Agency for review and comment. The scope of the secretary's~~
23 ~~review shall extend only to the question of whether the regulatory~~
24 ~~program meets the generic requirements of subdivision (d). The~~
25 ~~review shall not extend to individual decisions to be reached under~~
26 ~~the regulatory program, including specific alternatives or~~
27 ~~mitigation measures which might be proposed to lessen any~~
28 ~~significant adverse effect on the environment of the activity. The~~
29 ~~secretary shall have 30 days from the date of receipt of the~~
30 ~~proposed change to notify the state agency whether the proposed~~
31 ~~change will alter the regulatory program so that it no longer meets~~
32 ~~the qualification for certification established in this section and~~
33 ~~will result in a withdrawal of certification as provided in this~~
34 ~~section.~~

35 ~~(g) Any action or proceeding to attack, review, set aside, void,~~
36 ~~or annul a determination or decision of a state agency approving~~
37 ~~or adopting a proposed activity under a regulatory program that~~
38 ~~has been certified pursuant to this section on the basis that the plan~~
39 ~~or other written documentation prepared pursuant to paragraph (3)~~
40 ~~of subdivision (d) does not comply with this section shall be~~



1 commenced not later than 30 days from the date of the filing of
2 notice of the approval or adoption of the activity.

3 (h) ~~(1) Any action or proceeding to attack, review, set aside,~~
4 ~~void, or annul a determination of the Secretary of the Resources~~
5 ~~Agency to certify a regulatory program pursuant to this section on~~
6 ~~the basis that the regulatory program does not comply with this~~
7 ~~section shall be commenced within 30 days from the date of~~
8 ~~certification by the secretary.~~

9 (2) ~~In any action brought pursuant to paragraph (1), the inquiry~~
10 ~~shall extend only to whether there was a prejudicial abuse of~~
11 ~~discretion by the secretary. Abuse of discretion is established if the~~
12 ~~secretary has not proceeded in a manner required by law or if the~~
13 ~~determination is not supported by substantial evidence.~~

14 (i) ~~For purposes of this section, any county agricultural~~
15 ~~commissioner is a state agency.~~

16 (j) ~~For purposes of this section, any air quality management~~
17 ~~district or air pollution control district is a state agency, except that~~
18 ~~the approval, if any, by a district of a nonattainment area plan is~~
19 ~~subject to this section only if, and to the extent that, the approval~~
20 ~~adopts or amends rules or regulations.~~

21 (k) ~~(1) The secretary, by July 1, 2003, shall develop a protocol~~
22 ~~for reviewing the prospective application of certified regulatory~~
23 ~~programs to evaluate the consistency of those programs with the~~
24 ~~requirements of this division. Following the completion of the~~
25 ~~development of the protocol, the secretary shall provide a report~~
26 ~~to the Senate Committee on Environmental Quality and the~~
27 ~~Assembly Committee on Natural Resources regarding the need for~~
28 ~~a grant of additional statutory authority authorizing the secretary~~
29 ~~to undertake a review of the certified regulatory programs.~~

30 (2) ~~The secretary shall provide a significant opportunity for~~
31 ~~public participation in developing the protocol described in~~
32 ~~paragraph (1) including, but not limited to, at least two public~~
33 ~~meetings with interested parties. A notice of each meeting shall be~~
34 ~~provided at least 10 days prior to the meeting to any person who~~
35 ~~files a written request for a notice with the agency.~~

36 SEC. 2. ~~Section 21151 of the Public Resources Code is~~
37 ~~amended to read:~~

38 21151. ~~(a) All local agencies shall prepare, or cause to be~~
39 ~~prepared by contract, and certify the completion of, an~~
40 ~~environmental impact report on any project that they intend to~~



1 carry out or approve which may have a significant effect on the
2 environment. When a report is required by Section 65402 of the
3 Government Code, the environmental impact report may be
4 submitted as a part of that report.

5 (b) For purposes of this section, any significant effect on the
6 environment shall be limited to substantial, or potentially
7 substantial, adverse changes in physical conditions which exist
8 within the area as defined in Section 21060.5.

9 (c) If a nonelected decisionmaking body of a local lead agency
10 certifies an environmental impact report, approves a negative
11 declaration or mitigated negative declaration, or determines that
12 a project is not subject to this division, that certification, approval,
13 or determination may be appealed to the local lead agency's
14 elected decisionmaking body, if any.

15 SEC. 3. Section 21159.9 of the Public Resources Code is
16 amended to read:

17 21159.9. The Office of Planning and Research shall
18 implement, utilizing existing resources, a public assistance and
19 information program, to ensure efficient and effective
20 implementation of this division, to do all of the following:

21 (a) Establish a public education and training program for
22 planners, developers, and other interested parties to assist them in
23 implementing this division.

24 (b) Establish and maintain a data base to assist in the
25 preparation of environmental documents.

26 (c) Establish and maintain a central repository for the
27 collection, storage, retrieval, and dissemination of notices of
28 exemption, notices of preparation, notices of determination, and
29 notices of completion provided to the office, and make the notices
30 available through the Internet. The office may coordinate with
31 another state agency for that agency to make the notices available
32 through the Internet.

33 (d) Commencing January 1, 2003, copies of any documents
34 submitted in electronic format to the Office of Planning and
35 Research pursuant to this division shall be furnished by the office
36 to the California State Library. The California State Library shall
37 be the repository for those electronic documents, which shall be
38 made available for viewing by the general public upon request.

39 SEC. 4. Section 21167.6 of the Public Resources Code is
40 amended to read:



1 ~~21167.6.— Notwithstanding any other provision of law, in all~~
2 ~~actions or proceedings brought pursuant to Section 21167, except~~
3 ~~those involving the Public Utilities Commission, all of the~~
4 ~~following shall apply:~~

5 ~~(a) At the time that the action or proceeding is filed, the plaintiff~~
6 ~~or petitioner shall file a request that the respondent public agency~~
7 ~~prepare the record of proceedings relating to the subject of the~~
8 ~~action or proceeding. The request, together with the complaint or~~
9 ~~petition, shall be served personally upon the public agency not~~
10 ~~later than 10 business days from the date that the action or~~
11 ~~proceeding was filed.~~

12 ~~(b) (1) The public agency shall prepare and certify the record~~
13 ~~of proceedings not later than 60 days from the date that the request~~
14 ~~specified in subdivision (a) was served upon the public agency.~~
15 ~~Upon certification, the public agency shall lodge a copy of the~~
16 ~~record of proceedings with the court and shall serve on the parties~~
17 ~~notice that the record of proceedings has been certified and lodged~~
18 ~~with the court. The parties shall pay any reasonable costs or fees~~
19 ~~imposed for the preparation of the record of proceedings in~~
20 ~~conformance with any law or rule of court.~~

21 ~~(2) The plaintiff or petitioner may elect to prepare the record of~~
22 ~~proceedings or the parties may agree to an alternative method of~~
23 ~~preparation of the record of proceedings, subject to certification of~~
24 ~~its accuracy by the public agency, within the time limit specified~~
25 ~~in this subdivision.~~

26 ~~(c) The time limit established by subdivision (b) may be~~
27 ~~extended only upon the stipulation of all parties who have been~~
28 ~~properly served in the action or proceeding or upon order of the~~
29 ~~court. Extensions shall be liberally granted by the court when the~~
30 ~~size of the record of proceedings renders infeasible compliance~~
31 ~~with that time limit. There is no limit on the number of extensions~~
32 ~~which may be granted by the court, but no single extension shall~~
33 ~~exceed 60 days unless the court determines that a longer extension~~
34 ~~is in the public interest.~~

35 ~~(d) If the public agency fails to prepare and certify the record~~
36 ~~within the time limit established in paragraph (1) of subdivision~~
37 ~~(b), or any continuances of that time limit, the plaintiff or~~
38 ~~petitioner may move for sanctions, and the court may, upon that~~
39 ~~motion, grant appropriate sanctions.~~



- 1 ~~(c) The record of proceedings shall include, but is not limited~~
2 ~~to, all of the following items:~~
- 3 ~~(1) All project application materials.~~
- 4 ~~(2) All staff reports and related documents prepared by the~~
5 ~~respondent public agency with respect to its compliance with the~~
6 ~~substantive and procedural requirements of this division and with~~
7 ~~respect to the action on the project.~~
- 8 ~~(3) All staff reports and related documents prepared by the~~
9 ~~respondent public agency and written testimony or documents~~
10 ~~submitted by any person relevant to any findings or statement of~~
11 ~~overriding considerations adopted by the respondent agency~~
12 ~~pursuant to this division.~~
- 13 ~~(4) Any transcript or minutes of the proceedings at which the~~
14 ~~decisionmaking body of the respondent public agency heard~~
15 ~~testimony on, or considered any environmental document on, the~~
16 ~~project, and any transcript or minutes of proceedings before any~~
17 ~~advisory body to the respondent public agency that were presented~~
18 ~~to the decisionmaking body prior to action on the environmental~~
19 ~~documents or on the project.~~
- 20 ~~(5) All notices issued by the respondent public agency to~~
21 ~~comply with this division or with any other law governing the~~
22 ~~processing and approval of the project.~~
- 23 ~~(6) All written comments received in response to, or in~~
24 ~~connection with, environmental documents prepared for the~~
25 ~~project, including responses to the notice of preparation.~~
- 26 ~~(7) All written evidence or correspondence submitted to, or~~
27 ~~transferred from, the respondent public agency with respect to~~
28 ~~compliance with this division or with respect to the project.~~
- 29 ~~(8) Any proposed decisions or findings submitted to the~~
30 ~~decisionmaking body of the respondent public agency by its staff,~~
31 ~~or the project proponent, project opponents, or other persons.~~
- 32 ~~(9) The documentation of the final public agency decision,~~
33 ~~including the final environmental impact report, mitigated~~
34 ~~negative declaration, or negative declaration, and all documents,~~
35 ~~in addition to those referenced in paragraph (3), cited or relied on~~
36 ~~in the findings or in a statement of overriding considerations~~
37 ~~adopted pursuant to this division.~~
- 38 ~~(10) Any other written materials relevant to the respondent~~
39 ~~public agency's compliance with this division or to its decision on~~
40 ~~the merits of the project, including the initial study, any drafts of~~



1 any environmental document, or portions thereof, that have been
2 released for public review, and copies of studies or other
3 documents relied upon in any environmental document prepared
4 for the project and either made available to the public during the
5 public review period or included in the respondent public agency's
6 files on the project, and all internal agency communications,
7 including staff notes and memoranda related to the project or to
8 compliance with this division.

9 ~~(11) The full written record before any inferior administrative~~
10 ~~decisionmaking body whose decision was appealed to a superior~~
11 ~~administrative decisionmaking body prior to the filing of~~
12 ~~litigation.~~

13 ~~(f) In preparing the record of proceedings, the party preparing~~
14 ~~the record shall strive to do so at reasonable cost in light of the~~
15 ~~scope of the record.~~

16 ~~(g) The clerk of the superior court shall prepare and certify the~~
17 ~~clerk's transcript on appeal not later than 60 days from the date that~~
18 ~~the notice designating the papers or records to be included in the~~
19 ~~clerk's transcript was filed with the superior court, if the party or~~
20 ~~parties pay any costs or fees for the preparation of the clerk's~~
21 ~~transcript imposed in conformance with any law or rules of court.~~
22 ~~Nothing in this subdivision precludes an election to proceed by~~
23 ~~appendix, as provided in Rule 5.1 of the California Rules of Court.~~

24 ~~(h) Extensions of the period for the filing of any brief on appeal~~
25 ~~may be allowed only by stipulation of the parties or by order of the~~
26 ~~court for good cause shown. Extensions for the filing of a brief on~~
27 ~~appeal shall be limited to one 30-day extension for the preparation~~
28 ~~of an opening brief, and one 30-day extension for the preparation~~
29 ~~of a responding brief, except that the court may grant a longer~~
30 ~~extension or additional extensions if it determines that there is a~~
31 ~~substantial likelihood of settlement that would avoid the necessity~~
32 ~~of completing the appeal.~~

33 ~~(i) At the completion of the filing of briefs on appeal, the~~
34 ~~appellant shall notify the court of the completion of the filing of~~
35 ~~briefs, whereupon the clerk of the reviewing court shall set the~~
36 ~~appeal for hearing on the first available calendar date.~~

37 ~~SEC. 5. Section 21167.6.5 is added to the Public Resources~~
38 ~~Code, to read:~~

39 ~~21167.6.5. (a) The petitioner or plaintiff shall name, as a real~~
40 ~~party in interest, any recipient of an approval that is the subject of~~



1 an action or proceeding brought pursuant to Section 21167, 21168,
2 or 21168.5, and shall serve the petition or complaint on that real
3 party in interest, by personal service, mail facsimile, or any other
4 method permitted by law not later than 20 business days following
5 service of the petition or complaint on the public agency.

6 (b) The public agency shall provide the petitioner or plaintiff,
7 not later than 10 business days following service of the petition or
8 complaint on the public agency, with a list of responsible agencies
9 and any public agency having jurisdiction over a natural resource
10 affected by the project.

11 (c) The petitioner or plaintiff shall provide the responsible
12 agencies, and any public agency having jurisdiction over a natural
13 resource affected by the project, with notice of the action or
14 proceeding within 15 days of receipt of the list described in
15 subdivision (b).

16 (d) Failure to name potential parties, other than those described
17 in subdivision (a) or (b), is not grounds for dismissal pursuant to
18 Section 389 of the Code of Civil Procedure.

19 SEC. 6. Notwithstanding Section 17610 of the Government
20 Code, if the Commission on State Mandates determines that this
21 act contains costs mandated by the state, reimbursement to local
22 agencies and school districts for those costs shall be made pursuant
23 to Part 7 (commencing with Section 17500) of Division 4 of Title
24 2 of the Government Code. If the statewide cost of the claim for
25 reimbursement does not exceed one million dollars (\$1,000,000),
26 reimbursement shall be made from the State Mandates Claims
27 Fund.

