

AMENDED IN ASSEMBLY SEPTEMBER 9, 2013

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 23, 2013

SENATE BILL

No. 731

Introduced by Senators Steinberg and Hill

February 22, 2013

An act to amend, repeal, and add Section 705 of the Fish and Game Code, to amend Sections 65088.1, 65088.4, and 65457 of the Government Code, and to amend Sections 21081, 21081.5, 21081.6, 21155, 21167, 21167.6, 21167.7, and 21168.9 of, to add Sections 21083.06, 21167.6.2, 21167.6.3 to, and to add Chapter 2.7 (commencing with Section 21099) to Division 13 of, the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

SB 731, as amended, Steinberg. Environment: California Environmental Quality Act.

(1) The California Environmental Quality Act, or CEQA, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report, or 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 the Office of Planning and Research to develop and prepare, and the Secretary of the Natural Resources Agency to certify and adopt, guidelines for the implementation of CEQA by public agencies. CEQA establishes a procedure for the preparation and certification of the record of proceedings upon the filing of an action or proceeding challenging a lead agency's action on the grounds of noncompliance with CEQA. CEQA establishes time periods within which a person is required to bring a judicial action or proceeding to challenge a public agency's action taken pursuant to CEQA.

This bill would provide that aesthetic and parking impacts of a residential, mixed-use residential, or employment center project, as defined, on an infill site, as defined, within a transit priority area, as defined, shall not be considered significant impacts on the environment. The bill would require the office to prepare and submit to the Secretary of the Natural Resources Agency, and the secretary to certify and adopt, revisions to the guidelines for the implementation of CEQA establishing thresholds of significance for noise and transportation impacts of projects within transit priority areas. The bill would require the office, on or before July 1, 2015, to prepare, develop, and transmit to the secretary recommended proposed changes or amendments to the guidelines establishing criteria for a lead agency to assess the need for translating specified notices into non-English languages and requirements for the posting of those notices in non-English languages. Because the bill would require the development of guidelines that would require a lead agency to translate notices into non-English languages and to post those translated notices, this bill would impose a state-mandated local program. *The bill would require the office to produce a report on economic displacement and would require the office to publicly circulate a draft of the report.* The bill would require the lead agency, in making specified findings, to make those findings available to the public at least 10 days prior to the ~~approval of the proposed project~~ *adoption of the findings* and to provide specified notice of the availability of the findings for public review. Because the bill would require the lead agency to make the draft finding available for public review and to provide specified notices to the public, this bill would impose a state-mandated local program. The bill would require

the lead agency, at the request of a project applicant for specified projects, to, among other things, prepare a record of proceedings concurrently with the preparation of negative declarations, mitigated negative declarations, EIRs, or other environmental documents for specified projects. Because the bill would require a lead agency to prepare the record of proceedings as provided, this bill would impose a state-mandated local program. The bill would authorize the tolling of the time period in which a person is required to bring a judicial action or proceeding challenging a public agency's action taken pursuant to CEQA through a tolling agreement that does not exceed 4 years. The bill would authorize the extension of the tolling agreement.

(2) *CEQA provides certain streamlinings benefits for transit priority projects and specifies criteria for projects to be considered transit priority projects.*

This bill would revise those criteria.

(2)

(3) For mitigation measures required pursuant to an EIR or a mitigated negative declaration, CEQA requires the lead agency to adopt a reporting and monitoring program to ensure compliance with those required mitigation measures during project implementation.

This bill would require the lead agency, upon the request of a member of the public, to prepare or cause to be prepared a report on project compliance with the required mitigation measures, as a part of the mitigation and monitoring plan, that is publicly available online. Because the lead agency would be required to prepare and make available this report, this bill would impose a state-mandated local program.

(3)

(4) Existing law exempts from the requirements of CEQA residential development projects that are undertaken to implement, and are consistent with a specific plan for which an EIR has been certified after January 1, 1980. Existing law provides that this exemption does not apply if, after the certification of the EIR, a specified event occurs, unless a supplemental EIR for the specified plan is prepared and certified.

This bill would specify that the event does not include new information consisting solely of specified information.

(4)

(5) CEQA requires the court, if the court finds that a public agency has violated the requirements of CEQA, to issue an order containing specified mandates.

This bill would require the court to issue an order that includes a peremptory writ of mandate specifying actions that a public agency needs to take to comply with the requirements of CEQA. The bill would require the writ to specify the time by which the public agency is to file an initial return to a writ containing specified information. Because a public agency would be required to file an initial return to a writ, this bill would impose a state-mandated local program.

(5)

(6) CEQA requires every person bringing an action or proceeding alleging a violation of CEQA to furnish to the Attorney General a copy of the pleading within 10 days after filing and a copy of any amended or supplemental pleading.

This bill would require the California Research Bureau, subject to the availability of funding and of information, to annually submit to the Legislature a report containing specified information on CEQA litigation in the state.

(6)

(7) Existing law requires the regional transportation plan for regions of the state with a metropolitan planning organization to each adopt a sustainable communities strategy, as part of their regional transportation plan, as specified, designed to achieve certain goals for the reduction of greenhouse gas emissions from automobiles and light trucks in a region. Existing law establishes the Strategic Growth Council to manage and award grants and loans to support the planning and development of sustainable communities strategies.

This bill would state the intent of the Legislature to appropriate \$30,000,000 annually by the council for the purposes of providing competitive grants to local agencies for planning activities for the implementation of the sustainable communities strategy.

(7)

(8) Existing law requires the development, adoption, and updating of a congestion management program for each county that includes an urbanized area, as defined. The plan is required to contain specified elements and to be submitted to regional agencies, as defined, for determination of whether the program is consistent with regional transportation plans. The regional agency is then directed to monitor the implementation of all elements of each congestion management program. The required elements include traffic level of service standards for a system of designated highways and roadways. Existing law defines “infill opportunity zone” for purposes of the above-described provisions

and exempts streets and highways in an infill opportunity zone from the level of service standards specified in the above-described provisions and instead requires alternate level of service standards to be applied. Existing law prohibits a city or county from designating an infill opportunity zone after December 31, 2009.

This bill would revise the definition of “infill opportunity zone,” as specified. The bill would authorize the designation of an infill opportunity zone that is a transit priority area within a sustainable communities strategy or alternative planning strategy adopted by an applicable metropolitan planning organization.

(8)

(9) Existing law terminates the designation of an infill opportunity zone if no development project is completed within that zone within 4 years from the date of the designation.

This bill would repeal this provision.

(9)

(10) This bill would, until January 1, 2017, establish in the office of the Governor the position of Advisor on Renewable Energy Facilities.

(10)

(11) 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.

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 CEQA Modernization Act of 2013.

3 SEC. 2. (a) The Legislature finds and declares the following:

4 (1) With the adoption of Chapter 728 of the Statutes of 2008,
5 popularly known as the Sustainable Communities and Climate
6 Protection Act of 2008, the Legislature signaled its commitment
7 to encouraging land use and transportation planning decisions and

1 investments that reduce vehicle miles traveled and contribute to
2 the reductions in greenhouse gas emissions required in the
3 California Global Warming Solutions Act of 2006 (Division 25.5
4 (commencing with Section 38500) of the Health and Safety Code).
5 Similarly, the California Complete Streets Act of 2008 (Chapter
6 657 of the Statutes of 2008) requires local governments to plan
7 for a balanced, multimodal transportation network that meets the
8 needs of all users of streets, roads, and highways for safe and
9 convenient travel.

10 (2) Transportation analyses under the California Environmental
11 Quality Act (Division 13 (commencing with Section 21000) of
12 the Public Resources Code) typically study changes in auto delay.
13 New methodologies under the California Environmental Quality
14 Act are needed for evaluating transportation impacts that are better
15 able to promote the state's goals of reducing greenhouse gas
16 emissions and traffic-related air pollution, promoting the
17 development of a multimodal transportation system, and providing
18 clean, efficient access to destinations. The Sustainable
19 Communities and Climate Protection Act of 2008 created new
20 provisions in the California Environmental Quality Act for projects
21 in transit priority areas. The Office of Planning and Research
22 should similarly be directed to prepare new criteria for assessing
23 the significance of transportation impacts that will help the state
24 to achieve its goals within transit priority areas.

25 (b) It is the intent of the Legislature to do all of the following:

26 (1) Ensure that the environmental impacts of traffic, such as
27 noise, air pollution, and safety concerns, continue to be properly
28 addressed and mitigated through the California Environmental
29 Quality Act.

30 (2) Amend Section 65457 of the Government Code, which
31 exempts from the California Environmental Quality Act projects
32 undertaken pursuant to a specific plan for which an environmental
33 impact report has been prepared, unless conditions specified under
34 Section 21166 of the Public Resources Code have occurred, to
35 define with greater specificity what "new information" means, and
36 to avoid duplicative review undertaken pursuant to the California
37 Environmental Quality Act for projects and activities that comply
38 with that plan.

39 (3) Enact amendments to Section 21168.9 of the Public
40 Resources Code to establish clearer procedures for a trial court to

1 remand to a lead agency for remedying only those portions of an
2 environmental impact report, negative declaration, or mitigated
3 negative declaration found to be in violation of the California
4 Environmental Quality Act, while retaining those portions that are
5 not in violation so that the violations can be corrected, recirculated
6 for public comment, and completed more efficiently and
7 expeditiously.

8 (4) Specify the circumstances under which a court could allow
9 project approvals to remain in place and for projects to proceed.

10 SEC. 3. Section 705 of the Fish and Game Code is amended
11 to read:

12 705. (a) For purposes of this section, “eligible renewable
13 energy resources” has the same meaning as in the California
14 Renewables Portfolio Standard Program (Article 16 (commencing
15 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
16 Public Utilities Code).

17 (b) The department shall establish an internal division with the
18 primary purpose of performing comprehensive planning and
19 environmental compliance services with priority given to projects
20 involving the building of eligible renewable energy resources.

21 (c) The internal division shall ensure the timely completion of
22 plans pursuant to the Natural Community Conservation Planning
23 Act (Chapter 10 (commencing with Section 2800) of Division 3).

24 (d) The position of Advisor on Renewable Energy Facilities is
25 hereby established in the office of the Governor.

26 (e) This section shall remain in effect only until January 1, 2017,
27 and as of that date is repealed, unless a later enacted statute, that
28 is enacted before January 1, 2017, deletes or extends that date.

29 SEC. 4. Section 705 is added to the Fish and Game Code, to
30 read:

31 705. (a) For purposes of this section, “eligible renewable
32 energy resources” has the same meaning as in the California
33 Renewables Portfolio Standard Program (Article 16 (commencing
34 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
35 Public Utilities Code).

36 (b) The department shall establish an internal division with the
37 primary purpose of performing comprehensive planning and
38 environmental compliance services with priority given to projects
39 involving the building of eligible renewable energy resources.

1 (c) The internal division shall ensure the timely completion of
2 plans pursuant to the Natural Community Conservation Planning
3 Act (Chapter 10 (commencing with Section 2800) of Division 3).

4 (d) This section shall become operative on January 1, 2017.

5 SEC. 5. Section 65088.1 of the Government Code is amended
6 to read:

7 65088.1. As used in this chapter the following terms have the
8 following meanings:

9 (a) Unless the context requires otherwise, “agency” means the
10 agency responsible for the preparation and adoption of the
11 congestion management program.

12 (b) “Bus rapid transit corridor” means a bus service that includes
13 at least four of the following attributes:

14 (1) Coordination with land use planning.

15 (2) Exclusive right-of-way.

16 (3) Improved passenger boarding facilities.

17 (4) Limited stops.

18 (5) Passenger boarding at the same height as the bus.

19 (6) Prepaid fares.

20 (7) Real-time passenger information.

21 (8) Traffic priority at intersections.

22 (9) Signal priority.

23 (10) Unique vehicles.

24 (c) “Commission” means the California Transportation
25 Commission.

26 (d) “Department” means the Department of Transportation.

27 (e) “Infill opportunity zone” means a specific area designated
28 by a city or county, pursuant to subdivision (c) of Section 65088.4,
29 that is within one-half mile of a major transit stop or high-quality
30 transit corridor included in a regional transportation plan. A major
31 transit stop is as defined in Section 21064.3 of the Public Resources
32 Code, except that, for purposes of this section, it also includes
33 major transit stops that are included in the applicable regional
34 transportation plan. For purposes of this section, a high-quality
35 transit corridor means a corridor with fixed route bus service with
36 service intervals no longer than 15 minutes during peak commute
37 hours.

38 (f) “Interregional travel” means any trips that originate outside
39 the boundary of the agency. A “trip” means a one-direction vehicle

1 movement. The origin of any trip is the starting point of that trip.
2 A roundtrip consists of two individual trips.

3 (g) “Level of service standard” is a threshold that defines a
4 deficiency on the congestion management program highway and
5 roadway system which requires the preparation of a deficiency
6 plan. It is the intent of the Legislature that the agency shall use all
7 elements of the program to implement strategies and actions that
8 avoid the creation of deficiencies and to improve multimodal
9 mobility.

10 (h) “Local jurisdiction” means a city, a county, or a city and
11 county.

12 (i) “Multimodal” means the utilization of all available modes
13 of travel that enhance the movement of people and goods,
14 including, but not limited to, highway, transit, nonmotorized, and
15 demand management strategies including, but not limited to,
16 telecommuting. The availability and practicality of specific
17 multimodal systems, projects, and strategies may vary by county
18 and region in accordance with the size and complexity of different
19 urbanized areas.

20 (j) (1) “Parking cash-out program” means an employer-funded
21 program under which an employer offers to provide a cash
22 allowance to an employee equivalent to the parking subsidy that
23 the employer would otherwise pay to provide the employee with
24 a parking space. “Parking subsidy” means the difference between
25 the out-of-pocket amount paid by an employer on a regular basis
26 in order to secure the availability of an employee parking space
27 not owned by the employer and the price, if any, charged to an
28 employee for use of that space.

29 (2) A parking cash-out program may include a requirement that
30 employee participants certify that they will comply with guidelines
31 established by the employer designed to avoid neighborhood
32 parking problems, with a provision that employees not complying
33 with the guidelines will no longer be eligible for the parking
34 cash-out program.

35 (k) “Performance measure” is an analytical planning tool that
36 is used to quantitatively evaluate transportation improvements and
37 to assist in determining effective implementation actions,
38 considering all modes and strategies. Use of a performance measure
39 as part of the program does not trigger the requirement for the
40 preparation of deficiency plans.

1 (l) “Urbanized area” has the same meaning as is defined in the
2 1990 federal census for urbanized areas of more than 50,000
3 population.

4 (m) Unless the context requires otherwise, “regional agency”
5 means the agency responsible for preparation of the regional
6 transportation improvement program.

7 SEC. 6. Section 65088.4 of the Government Code is amended
8 to read:

9 65088.4. (a) It is the intent of the Legislature to balance the
10 need for level of service standards for traffic with the need to build
11 infill housing and mixed use commercial developments within
12 walking distance of mass transit facilities, downtowns, and town
13 centers and to provide greater flexibility to local governments to
14 balance these sometimes competing needs.

15 (b) Notwithstanding any other provision of law, level of service
16 standards described in Section 65089 shall not apply to the streets
17 and highways within an infill opportunity zone.

18 (c) The city or county may designate an infill opportunity zone
19 by adopting a resolution after determining that the infill opportunity
20 zone is consistent with the general plan and any applicable specific
21 plan, and is a transit priority area within a sustainable communities
22 strategy or alternative planning strategy adopted by the applicable
23 metropolitan planning organization.

24 SEC. 7. Section 65457 of the Government Code is amended
25 to read:

26 65457. (a) A residential development project, including any
27 subdivision, or any zoning change that is undertaken to implement,
28 and is consistent with, a specific plan for which an environmental
29 impact report has been certified after January 1, 1980, is exempt
30 from the requirements of Division 13 (commencing with Section
31 21000) of the Public Resources Code. However, if after adoption
32 of the specific plan, an event as specified in Section 21166 of the
33 Public Resources Code occurs, the exemption provided by this
34 subdivision does not apply unless and until a supplemental
35 environmental impact report for the specific plan is prepared and
36 certified in accordance with the provisions of Division 13
37 (commencing with Section 21000) of the Public Resources Code.
38 After a supplemental environmental impact report is certified, the
39 exemption specified in this subdivision applies to projects
40 undertaken pursuant to the specific plan.

1 (b) An action or proceeding alleging that a public agency has
2 approved a project pursuant to a specific plan without having
3 previously certified a supplemental environmental impact report
4 for the specific plan, where required by subdivision (a), shall be
5 commenced within 30 days of the public agency’s decision to carry
6 out or approve the project.

7 (c) For the purposes of this section, “an event as specified in
8 Section 21166 of the Public Resources Code” does not include
9 any new information consisting solely of information described
10 *as not being substantial evidence* in subdivision (c) of Section
11 21082.2.

12 ~~SEC. 8. Section 21083.06 is added to the Public Resources~~
13 ~~Code, to read:~~

14 ~~21083.06. (a) On or before July 1, 2015, the Office of Planning~~
15 ~~and Research shall prepare, develop, and transmit to the Secretary~~
16 ~~of the Natural Resources Agency recommended proposed changes~~
17 ~~or amendments to the guidelines establishing criteria for a lead~~
18 ~~agency to assess the need for translating notices required pursuant~~
19 ~~to Sections 21083.9, 21092, 21108, and 21152 into non-English~~
20 ~~languages for projects considered pursuant to CEQA and~~
21 ~~requirements for posting these notices in non-English languages.~~

22 ~~(b) On or before January 1, 2016, the Secretary of the Natural~~
23 ~~Resources Agency shall certify and adopt guidelines prepared and~~
24 ~~developed by the Office of Planning and Research pursuant to~~
25 ~~subdivision (a).~~

26 ~~SEC. 9:~~

27 ~~SEC. 8. Section 21081 of the Public Resources Code is~~
28 ~~amended to read:~~

29 21081. (a) Pursuant to the policy stated in Sections 21002 and
30 21002.1, a public agency shall not approve or carry out a project
31 for which an environmental impact report has been certified that
32 identifies one or more significant effects on the environment that
33 would occur if the project is approved or carried out, unless both
34 of the following occur:

35 (1) The public agency makes one or more of the following
36 findings with respect to each significant effect:

37 (A) Changes or alterations have been required in, or incorporated
38 into, the project that mitigate or avoid the significant effects on
39 the environment.

1 (B) Those changes or alterations are within the responsibility
 2 and jurisdiction of another public agency and have been, or can
 3 and should be, adopted by that other agency.

4 (C) Specific economic, legal, social, technological, or other
 5 considerations, including considerations for the provision of
 6 employment opportunities for highly trained workers, make
 7 infeasible the mitigation measures or alternatives identified in the
 8 environmental impact report.

9 (2) With respect to significant effects that were subject to a
 10 finding under subparagraph (C) of paragraph (1), the public agency
 11 finds that specific overriding economic, legal, social, technological,
 12 or other benefits of the project outweigh the significant effects on
 13 the environment.

14 (b) A project applicant for a project, including a renewable
 15 energy project, may present to the public agency, orally or in
 16 writing, the benefits onsite or offsite of the project, including, but
 17 not limited to, measures that will mitigate greenhouse gas emissions
 18 resulting from the project or measures that will significantly reduce
 19 traffic, improve air quality, or replace higher emitting energy
 20 sources, and other significant environmental or public health
 21 impacts.

22 ~~SEC. 10.~~

23 *SEC. 9.* Section 21081.5 of the Public Resources Code is
 24 amended to read:

25 21081.5. (a) In making the findings required by paragraph (3)
 26 of subdivision (a) of, and subdivision (b) of, Section 21081, the
 27 public agency shall base its findings on substantial evidence in the
 28 record. Those findings shall be made available in draft form for
 29 review by the members of the public for at least 10 days prior to
 30 ~~approval of the proposed project.~~ *adoption of the findings by the*
 31 *public agency.* A lead agency may provide a copy of the draft
 32 findings and the notice of their proposed adoption pursuant to
 33 Section 54957.5 of the Government Code if the posting of the draft
 34 finding and notice otherwise complies with this section.

35 (b) To make the draft findings available to the members of the
 36 public for the purposes of subdivision (a), the lead agency shall
 37 provide a notice of availability of the findings for review at the
 38 lead agency's office during normal business hours through all of
 39 the following mechanisms:

1 (1) (A) Publication in a newspaper of general circulation in
2 the area affected by the proposed project. If more than one area
3 will be affected, the notice shall be published in the newspaper
4 with the largest circulation from among the newspapers of general
5 circulation in those areas.

6 (B) *In areas not served by a daily newspaper, notice may be*
7 *provided through publication in the online version of the area's*
8 *local newspaper.*

9 (2) By electronic mail, if available, and mail to the last known
10 name and address of all individuals and organizations that have
11 submitted timely comments on the draft environmental impact
12 report.

13 (3) By electronic mail, if available, and mail to responsible and
14 trustee agencies that have submitted timely comments on the draft
15 environmental impact report.

16 (4) By electronic mail, if available, and mail to the project
17 applicant, if different from the lead agency, and the applicant's
18 duly authorized agent.

19 (5) By electronic mail, if available, and mail to a person who
20 has filed a written request for notice with the clerk of the governing
21 body, if there is no governing body, the director of the agency.

22 (c) *The 10-day notice required by this section does not extend,*
23 *and shall not be construed to be a part of, the public review period*
24 *required by Section 21091.*

25 ~~SEC. 11.~~

26 *SEC. 10.* Section 21081.6 of the Public Resources Code is
27 amended to read:

28 21081.6. (a) When making the findings required by paragraph
29 (1) of subdivision (a) of Section 21081 or when adopting a
30 mitigated negative declaration pursuant to paragraph (2) of
31 subdivision (c) of Section 21080, the following requirements shall
32 apply:

33 (1) The public agency shall adopt a reporting or monitoring
34 program for the changes made to the project or conditions of
35 project approval, adopted in order to mitigate or avoid significant
36 effects on the environment. The reporting or monitoring program
37 shall be designed to ensure compliance during project
38 implementation. For those changes which have been required or
39 incorporated into the project at the request of a responsible agency
40 or a public agency having jurisdiction by law over natural resources

1 affected by the project, that agency shall, if so requested by the
2 lead agency or a responsible agency, prepare and submit a proposed
3 reporting or monitoring program.

4 (2) The lead agency shall specify the location and custodian of
5 the documents or other material which constitute the record of
6 proceedings upon which its decision is based.

7 (b) A public agency shall provide that measures to mitigate or
8 avoid significant effects on the environment are fully enforceable
9 through permit conditions, agreements, or other measures.
10 Conditions of project approval may be set forth in referenced
11 documents which address required mitigation measures or, in the
12 case of the adoption of a plan, policy, regulation, or other public
13 project, by incorporating the mitigation measures into the plan,
14 policy, regulation, or project design.

15 (c) Prior to the close of the public review period for a draft
16 environmental impact report or mitigated negative declaration, a
17 responsible agency, or a public agency having jurisdiction over
18 natural resources affected by the project, shall either submit to the
19 lead agency complete and detailed performance objectives for
20 mitigation measures which would address the significant effects
21 on the environment identified by the responsible agency or agency
22 having jurisdiction over natural resources affected by the project,
23 or refer the lead agency to appropriate, readily available guidelines
24 or reference documents. Any mitigation measures submitted to a
25 lead agency by a responsible agency or an agency having
26 jurisdiction over natural resources affected by the project shall be
27 limited to measures which mitigate impacts to resources which
28 are subject to the statutory authority of, and definitions applicable
29 to, that agency. Compliance or noncompliance by a responsible
30 agency or agency having jurisdiction over natural resources
31 affected by a project with that requirement shall not limit the
32 authority of the responsible agency or agency having jurisdiction
33 over natural resources affected by a project, or the authority of the
34 lead agency, to approve, condition, or deny projects as provided
35 by this division or any other provision of law.

36 (d) As a part of the mitigation monitoring plan established
37 pursuant to this section, and upon the request of a member of the
38 public, the lead agency shall prepare or cause to be prepared a
39 report on project compliance with mitigation measures required
40 pursuant to this division. To the extent the lead agency operates

1 or maintains an Internet Web site, the report shall be made publicly
2 available online to enhance public disclosure and accountability.
3 The lead agency may cease reporting once all mitigation measures
4 are completed.

5 *SEC. 11. Section 21083.06 is added to the Public Resources*
6 *Code, to read:*

7 *21083.06. (a) On or before July 1, 2015, the Office of Planning*
8 *and Research shall prepare, develop, and transmit to the Secretary*
9 *of the Natural Resources Agency recommended proposed changes*
10 *or amendments to the guidelines establishing criteria for a lead*
11 *agency to assess the need for translating notices required pursuant*
12 *to Sections 21083.9, 21092, 21108, and 21152 into non-English*
13 *languages for projects considered pursuant to this division and*
14 *requirements for posting these notices in non-English languages.*

15 *(b) On or before January 1, 2016, the Secretary of the Natural*
16 *Resources Agency shall certify and adopt guidelines prepared and*
17 *developed by the Office of Planning and Research pursuant to*
18 *subdivision (a) in accordance with Section 21083.*

19 *(c) This section is not a limitation on the requirements of this*
20 *division or any other law.*

21 **SEC. 12.** Chapter 2.7 (commencing with Section 21099) is
22 added to Division 13 of the Public Resources Code, to read:

23

24 **CHAPTER 2.7. MODERNIZATION OF TRANSPORTATION ANALYSIS**
25 **FOR TRANSIT-ORIENTED INFILL PROJECTS**

26

27 21099. (a) For purposes of this section, the following terms
28 mean the following:

29 (1) *“Economic displacement” refers to the involuntary*
30 *departure of residents and businesses from a community due to*
31 *increased housing or rental costs attributable to specific private*
32 *or public investments.*

33 ~~(1)~~

34 (2) *“Employment center project” means a project located on*
35 *property zoned for commercial uses with a floor area ratio of no*
36 *less than 0.75 and that is located within a transit priority area.*

37 ~~(2)~~

38 (3) *“Floor area ratio” means the ratio of gross building area of*
39 *the development, excluding structured parking areas, proposed for*
40 *the project divided by the net lot area.*

1 ~~(3)~~

2 (4) “Gross building area” means the sum of all finished areas
3 of all floors of a building included within the outside faces of its
4 exterior walls.

5 ~~(4)~~

6 (5) “Infill site” means a lot located within an urban area that
7 has been previously developed, or on a vacant site where at least
8 75 percent of the perimeter of the site adjoins, or is separated only
9 by an improved public right-of-way from, parcels that are
10 developed with qualified urban uses.

11 ~~(5)~~

12 (6) “Lot” means all parcels utilized by the project.

13 ~~(6)~~

14 (7) “Net lot area” means the area of a lot, excluding publicly
15 dedicated land and private streets that meet local standards, and
16 other public use areas as determined by the local land use authority.

17 ~~(7)~~

18 (8) “Transit priority area” means an area within one-half mile
19 of a major transit stop that is existing or planned, if the planned
20 stop is scheduled to be completed within the planning horizon
21 included in a Transportation Improvement Program adopted
22 pursuant to Section 450.216 or 450.322 of Title 23 of the Code of
23 Federal Regulations.

24 (b) (1) The Office of Planning and Research shall prepare,
25 develop, and transmit to the Secretary of the Natural Resources
26 Agency for certification and adoption proposed revisions to the
27 guidelines adopted pursuant to Section 21083 establishing criteria
28 for determining the significance of transportation impacts of
29 projects within transit priority areas. Those criteria ~~may address a~~
30 ~~project’s shall promote the reduction of greenhouse gas emissions,~~
31 ~~the development of multimodal transportation networks, and a~~
32 ~~diversity of land uses. In developing the criteria, the office shall~~
33 ~~recommend potential metrics to measure transportation impacts~~
34 ~~that may include, but are not limited to, vehicle miles traveled,~~
35 ~~vehicle miles traveled per capita, automobile trip generation rates,~~
36 ~~or automobile trips generated, or other metrics that promote the~~
37 ~~reduction of greenhouse gas emissions, the development of~~
38 ~~multimodal transportation networks, and a diversity of land uses.~~
39 ~~generated. The office may also establish criteria for models used~~
40 ~~in determining these to analyze transportation impacts in order to~~

1 ~~be sure~~ *to ensure* the models are accurate, reliable, and consistent
2 with the intent of this section.

3 (2) Upon certification of the guidelines by the Secretary of the
4 Natural Resources Agency pursuant to this section, automobile
5 delay, as described solely by level of service or similar measures
6 of *vehicular* capacity or *traffic* congestion within a transit priority
7 area, shall not support a finding of significance pursuant to this
8 division.

9 (3) This subdivision does not relieve a public agency ~~from of~~
10 the requirement ~~of analyzing~~ *to analyze* a project's potentially
11 significant *transportation* impacts related to air quality, noise,
12 safety, or any other impact associated with transportation. The
13 methodology established by these guidelines shall not create a
14 presumption that a project will not result in significant impacts
15 related to air quality, noise, safety, or any other impact associated
16 with transportation. Notwithstanding the foregoing, the adequacy
17 of parking for a project shall not support a finding of significance
18 pursuant to this section.

19 (4) This subdivision does not preclude the application of local
20 general plan policies, zoning codes, conditions of approval,
21 thresholds, or any other planning requirements pursuant to the
22 police power or any other authority.

23 (5) On or before July 1, 2014, the Office of Planning and
24 Research shall circulate a draft revision prepared pursuant to
25 paragraph (1).

26 (c) *The Office of Planning and Research may adopt guidelines*
27 *pursuant to Section 21083 establishing alternative metrics to the*
28 *metrics used for traffic levels of service for transportation impacts*
29 *outside transit priority areas. The alternative metrics may include*
30 *the retention of traffic levels of service, where appropriate and as*
31 *determined by the office.*

32 (e)

33 (d) (1) Aesthetic and parking impacts of a residential, mixed-use
34 residential, or employment center project on an infill site within
35 a transit priority area shall not be considered significant impacts
36 on the environment.

37 (2) (A) This subdivision does not affect, change, or modify the
38 authority of a lead agency to consider aesthetic impacts pursuant
39 to local design review ordinances or other discretionary powers
40 provided by other laws or policies.

1 (B) For the purposes of this subdivision, aesthetic impacts do
2 not include impacts on historical or cultural resources.

3 ~~(d)~~

4 (e) This section does not affect the authority of a public agency
5 to establish or adopt thresholds of significance that are more
6 protective of the environment.

7 (f) (1) *The Office of Planning and Research shall produce a*
8 *report on economic displacement. The report shall include all of*
9 *the following:*

10 (A) *A review of social scientific literature on economic*
11 *displacement.*

12 (B) *An explanation and analysis of any causes of economic*
13 *displacement.*

14 (C) *A review of the individual and community impacts of*
15 *economic displacement.*

16 (D) *A discussion and evaluation of available measures to*
17 *prevent or mitigate the impacts of economic displacement.*

18 (E) *A discussion of any further research needs on economic*
19 *displacement, if necessary.*

20 (2) *On or before July 1, 2014, the Office of Planning and*
21 *Research shall circulate a draft report prepared pursuant to*
22 *paragraph (1).*

23 (3) *The office shall prepare, develop, and transmit the report*
24 *to the Secretary of the Natural Resources Agency summarizing*
25 *the findings of this research and may make recommendations. The*
26 *office and the Natural Resources Agency shall incorporate some*
27 *or all of these recommendations into the guidelines adopted*
28 *pursuant to Section 21083. The office may create a technical*
29 *advisory committee providing guidance to jurisdictions on how to*
30 *evaluate potential economic and physical displacement, and adopt*
31 *policies to prevent and mitigate those impacts.*

32 *SEC. 13. Section 21155 of the Public Resources Code is*
33 *amended to read:*

34 21155. (a) This chapter applies only to a transit priority project
35 that is consistent with the general use designation, density, building
36 intensity, and applicable policies specified for the project area in
37 either a sustainable communities strategy or an alternative planning
38 strategy, for which the State Air Resources Board, pursuant to
39 subparagraph (H) of paragraph (2) of subdivision (b) of Section
40 65080 of the Government Code, has accepted a metropolitan

1 planning organization’s determination that the sustainable
2 communities strategy or the alternative planning strategy would,
3 if implemented, achieve the greenhouse gas emission reduction
4 targets.

5 (b) For purposes of this chapter, a transit priority project shall
6 (1) contain at least 50 percent residential use, based on total
7 building square footage and, if the project contains between 26
8 percent and 50 percent nonresidential uses, a floor area ratio of
9 not less than 0.75; (2) provide a minimum net density of at least
10 20 dwelling units per acre; and (3) be within one-half mile of a
11 major transit stop or high-quality transit corridor included in a
12 regional transportation plan. A major transit stop is as defined in
13 Section 21064.3, except that, for purposes of this section, it also
14 includes major transit stops that are included in the applicable
15 regional transportation ~~plan~~. *plan if the planned stop is scheduled*
16 *to be completed within the planning horizon established by Section*
17 *450.322 of Title 23 of the Code of Federal Regulations.* For
18 purposes of this section, a high-quality transit corridor means a
19 corridor with fixed route bus service with service intervals no
20 longer than 15 minutes during peak commute hours. A project
21 shall be considered to be within one-half mile of a major transit
22 stop or high-quality transit corridor if all parcels within the project
23 *are infill sites as defined in Section 21061.3 and* have no more
24 than 25 percent of their area farther than one-half mile from the
25 stop or corridor and if not more than 10 percent of the residential
26 units or 100 units, whichever is less, in the project are farther than
27 one-half mile from the stop or corridor.

28 ~~SEC. 13.~~

29 *SEC. 14.* Section 21167 of the Public Resources Code is
30 amended to read:

31 21167. An action or proceeding to attack, review, set aside,
32 void, or annul the following acts or decisions of a public agency
33 on the grounds of noncompliance with this division shall be
34 commenced as follows:

35 (a) An action or proceeding alleging that a public agency is
36 carrying out or has approved a project that may have a significant
37 effect on the environment without having determined whether the
38 project may have a significant effect on the environment shall be
39 commenced within 180 days from the date of the public agency’s
40 decision to carry out or approve the project, or, if a project is

1 undertaken without a formal decision by the public agency, within
2 180 days from the date of commencement of the project.

3 (b) An action or proceeding alleging that a public agency has
4 improperly determined whether a project may have a significant
5 effect on the environment shall be commenced within 30 days
6 from the date of the filing of the notice required by subdivision
7 (a) of Section 21108 or subdivision (a) of Section 21152.

8 (c) An action or proceeding alleging that an environmental
9 impact report does not comply with this division shall be
10 commenced within 30 days from the date of the filing of the notice
11 required by subdivision (a) of Section 21108 or subdivision (a) of
12 Section 21152 by the lead agency.

13 (d) An action or proceeding alleging that a public agency has
14 improperly determined that a project is not subject to this division
15 pursuant to subdivision (b) of Section 21080 or Section 21172
16 shall be commenced within 35 days from the date of the filing by
17 the public agency, or person specified in subdivision (b) or (c) of
18 Section 21065, of the notice authorized by subdivision (b) of
19 Section 21108 or subdivision (b) of Section 21152. If the notice
20 has not been filed, the action or proceeding shall be commenced
21 within 180 days from the date of the public agency's decision to
22 carry out or approve the project, or, if a project is undertaken
23 without a formal decision by the public agency, within 180 days
24 from the date of commencement of the project.

25 (e) An action or proceeding alleging that another act or omission
26 of a public agency does not comply with this division shall be
27 commenced within 30 days from the date of the filing of the notice
28 required by subdivision (a) of Section 21108 or subdivision (a) of
29 Section 21152.

30 (f) If a person has made a written request to the public agency
31 for a copy of the notice specified in Section 21108 or 21152 prior
32 to the date on which the agency approves or determines to carry
33 out the project, then not later than five days from the date of the
34 agency's action, the public agency shall deposit a written copy of
35 the notice addressed to that person in the United States mail, first
36 class postage prepaid. The date upon which this notice is mailed
37 shall not affect the time periods specified in subdivisions (b), (c),
38 (d), and (e).

39 (g) The limitation period provided pursuant to this section may
40 be tolled for a period not to exceed four years if the agreement to

1 toll the limitation period is in writing and signed by the party
2 asserting noncompliance with this division, the public agency, and
3 the real party in interest, as specified in subdivision (a) of Section
4 21167.6.5, if any. The tolling agreement shall bar a defense to any
5 action filed pursuant to this division that the action was not
6 commenced within the time period specified in this section. Prior
7 to the expiration of the tolling agreement, the tolling agreement
8 may be renewed for a further period not to exceed four years from
9 the immediately preceding tolling agreement. The extension of
10 the tolling agreement may be made successively.

11 ~~SEC. 14.~~

12 *SEC. 15.* Section 21167.6 of the Public Resources Code is
13 amended to read:

14 21167.6. Notwithstanding any other provision of law, in all
15 actions or proceedings brought pursuant to Section 21167, except
16 as provided in Section 21167.6.2 or those involving the Public
17 Utilities Commission, all of the following shall apply:

18 (a) At the time that the action or proceeding is filed, the plaintiff
19 or petitioner shall file a request that the respondent public agency
20 prepare the record of proceedings relating to the subject of the
21 action or proceeding. The request, together with the complaint or
22 petition, shall be served personally upon the public agency not
23 later than 10 business days from the date that the action or
24 proceeding was filed.

25 (b) (1) The public agency shall prepare and certify the record
26 of proceedings not later than 60 days from the date that the request
27 specified in subdivision (a) was served upon the public agency.
28 Upon certification, the public agency shall lodge a copy of the
29 record of proceedings with the court and shall serve on the parties
30 notice that the record of proceedings has been certified and lodged
31 with the court. The parties shall pay any reasonable costs or fees
32 imposed for the preparation of the record of proceedings in
33 conformance with any law or rule of court.

34 (2) The plaintiff or petitioner may elect to prepare the record
35 of proceedings or the parties may agree to an alternative method
36 of preparation of the record of proceedings, subject to certification
37 of its accuracy by the public agency, within the time limit specified
38 in this subdivision.

39 (c) The time limit established by subdivision (b) may be
40 extended only upon the stipulation of all parties who have been

1 properly served in the action or proceeding or upon order of the
2 court. Extensions shall be liberally granted by the court when the
3 size of the record of proceedings renders infeasible compliance
4 with that time limit. There is no limit on the number of extensions
5 that may be granted by the court, but no single extension shall
6 exceed 60 days unless the court determines that a longer extension
7 is in the public interest.

8 (d) If the public agency fails to prepare and certify the record
9 within the time limit established in paragraph (1) of subdivision
10 (b), or any continuances of that time limit, the plaintiff or petitioner
11 may move for sanctions, and the court may, upon that motion,
12 grant appropriate sanctions.

13 (e) The record of proceedings shall include, but is not limited
14 to, all of the following items:

15 (1) All project application materials.

16 (2) All staff reports and related documents prepared by the
17 respondent public agency with respect to its compliance with the
18 substantive and procedural requirements of this division and with
19 respect to the action on the project.

20 (3) All staff reports and related documents prepared by the
21 respondent public agency and written testimony or documents
22 submitted by any person relevant to any findings or statement of
23 overriding considerations adopted by the respondent agency
24 pursuant to this division.

25 (4) Any transcript or minutes of the proceedings at which the
26 decisionmaking body of the respondent public agency heard
27 testimony on, or considered any environmental document on, the
28 project, and any transcript or minutes of proceedings before any
29 advisory body to the respondent public agency that were presented
30 to the decisionmaking body prior to action on the environmental
31 documents or on the project.

32 (5) All notices issued by the respondent public agency to comply
33 with this division or with any other law governing the processing
34 and approval of the project.

35 (6) All written comments received in response to, or in
36 connection with, environmental documents prepared for the project,
37 including responses to the notice of preparation.

38 (7) All written evidence or correspondence submitted to, or
39 transferred from, the respondent public agency with respect to
40 compliance with this division or with respect to the project.

1 (8) Any proposed decisions or findings submitted to the
2 decisionmaking body of the respondent public agency by its staff,
3 or the project proponent, project opponents, or other persons.

4 (9) The documentation of the final public agency decision,
5 including the final environmental impact report, mitigated negative
6 declaration, or negative declaration, and all documents, in addition
7 to those referenced in paragraph (3), cited or relied on in the
8 findings or in a statement of overriding considerations adopted
9 pursuant to this division.

10 (10) Any other written materials relevant to the respondent
11 public agency's compliance with this division or to its decision on
12 the merits of the project, including the initial study, any drafts of
13 any environmental document, or portions thereof, that have been
14 released for public review, and copies of studies or other documents
15 relied upon in any environmental document prepared for the project
16 and either made available to the public during the public review
17 period or included in the respondent public agency's files on the
18 project, and all internal agency communications, including staff
19 notes and memoranda related to the project or to compliance with
20 this division.

21 (11) The full written record before any inferior administrative
22 decisionmaking body whose decision was appealed to a superior
23 administrative decisionmaking body prior to the filing of litigation.

24 (f) In preparing the record of proceedings, the party preparing
25 the record shall strive to do so at reasonable cost in light of the
26 scope of the record.

27 (g) The clerk of the superior court shall prepare and certify the
28 clerk's transcript on appeal not later than 60 days from the date
29 that the notice designating the papers or records to be included in
30 the clerk's transcript was filed with the superior court, if the party
31 or parties pay any costs or fees for the preparation of the clerk's
32 transcript imposed in conformance with any law or rules of court.
33 Nothing in this subdivision precludes an election to proceed by
34 appendix, as provided in Rule 8.124 of the California Rules of
35 Court.

36 (h) Extensions of the period for the filing of any brief on appeal
37 may be allowed only by stipulation of the parties or by order of
38 the court for good cause shown. Extensions for the filing of a brief
39 on appeal shall be limited to one 30-day extension for the
40 preparation of an opening brief, and one 30-day extension for the

1 preparation of a responding brief, except that the court may grant
2 a longer extension or additional extensions if it determines that
3 there is a substantial likelihood of settlement that would avoid the
4 necessity of completing the appeal.

5 (i) At the completion of the filing of briefs on appeal, the
6 appellant shall notify the court of the completion of the filing of
7 briefs, whereupon the clerk of the reviewing court shall set the
8 appeal for hearing on the first available calendar date.

9 ~~SEC. 15.~~

10 *SEC. 16.* Section 21167.6.2 is added to the Public Resources
11 Code, to read:

12 21167.6.2. (a) (1) Notwithstanding Section 21167.6, for a
13 project described in Section 21167.6.3, the lead agency, upon the
14 written request of a project applicant received no later than 30 days
15 after the date that the lead agency makes a determination pursuant
16 to subdivision (a) of Section 21080.1, Section 21094.5, or Chapter
17 4.2 (commencing with Section 21155), shall prepare and certify
18 the record of proceedings in the following manner:

19 (A) The lead agency for the project shall prepare the record of
20 proceedings pursuant to this division concurrently with the
21 administrative process, in a standardized format, as determined by
22 the lead agency.

23 (B) All documents and other materials placed in the record of
24 proceedings shall be posted on, and be downloadable from, an
25 Internet Web site maintained by the lead agency commencing with
26 the date of the release of the draft environmental document for a
27 project specified in Section 21167.6.3. If the lead agency cannot
28 maintain an Internet Web site with the information required
29 pursuant to this section, the lead agency shall provide a link on
30 the agency’s Internet Web site to that information.

31 (C) The lead agency shall make available to the public in a
32 readily accessible electronic format the draft environmental
33 document for a project specified in Section 21167.6.3, and all other
34 documents submitted to, cited by, or relied on by the lead agency,
35 in the preparation of the draft environmental document for a project
36 specified in Section 21167.6.3.

37 (D) A document prepared by the lead agency or submitted by
38 the applicant after the date of the release of the draft environmental
39 document for a project specified in Section 21167.6.3 that is a part
40 of the record of the proceedings shall be made available to the

1 public in a readily accessible electronic format within five business
2 days after the document is released or received by the lead agency.

3 (E) The lead agency shall encourage written comments on the
4 project to be submitted in a readily accessible electronic format,
5 and shall make any comment available to the public in a readily
6 accessible electronic format within five business days of its receipt.

7 (F) Within seven business days after the receipt of any comment
8 that is not in an electronic format, the lead agency shall convert
9 that comment into a readily accessible electronic format and make
10 it available to the public in that format.

11 (G) The lead agency shall certify the record of proceedings
12 within 30 days after the filing of the notice required pursuant to
13 Section 21108 or 21152.

14 (2) This subdivision does not require the disclosure or posting
15 of any trade secret as defined in Section 6254.7 of the Government
16 Code, information about the location of archaeological sites or
17 sacred lands, or any other information that is subject to the
18 disclosure restrictions of Section 6254 of the Government Code.

19 (b) Any dispute regarding the record of proceedings shall be
20 resolved by the court in an action or proceeding brought pursuant
21 to subdivision (b) or (c) of Section 21167.

22 (c) The content of the record of proceedings shall be as specified
23 in subdivision (e) of Section 21167.6.

24 (d) Subdivisions (g) to (i), inclusive, of Section 21167.6 are
25 applicable to an appeal of a decision in an action or proceeding
26 brought pursuant to subdivision (b) or (c) of Section 21167.

27 (e) The negative declaration, mitigated negative declaration,
28 draft and final environmental impact report, or other environmental
29 document for a project specified in Section 21167.6.3 shall include
30 a notice in no less than 12-point type stating the following:

31
32 “THIS NEGATIVE DECLARATION, MITIGATED
33 NEGATIVE DECLARATION, EIR, OR ENVIRONMENTAL
34 DOCUMENT IS SUBJECT TO SECTIONS 21167.6.2 AND
35 21167.6.3 OF THE PUBLIC RESOURCES CODE, WHICH
36 REQUIRES THE RECORD OF PROCEEDINGS FOR THIS
37 PROJECT TO BE PREPARED CONCURRENTLY WITH THE
38 ADMINISTRATIVE PROCESS, DOCUMENTS PREPARED
39 BY, OR SUBMITTED TO, THE LEAD AGENCY TO BE
40 POSTED ON THE LEAD AGENCY’S INTERNET WEB SITE,

1 AND THE LEAD AGENCY TO ENCOURAGE WRITTEN
2 COMMENTS ON THE PROJECT TO BE SUBMITTED TO THE
3 LEAD AGENCY IN A READILY ACCESSIBLE ELECTRONIC
4 FORMAT.”

5

6 (f) For a lead agency that is a state agency, this section shall
7 apply if the state agency consents to the preparation of the record
8 of proceedings pursuant to this section.

9 ~~SEC. 16.~~

10 *SEC. 17.* Section 21167.6.3 is added to the Public Resources
11 Code, to read:

12 21167.6.3. (a) Section 21167.6.2 applies to the record of
13 proceedings for the preparation of a negative declaration, mitigated
14 negative declaration, environmental impact report, or other
15 environmental document prepared for any of the following:

16 (1) A project determined to be of statewide, regional, or
17 areawide environmental significance pursuant to subdivision (d)
18 of Section 21083.

19 (2) A project subject to *Section 21094.5* or Chapter 4.2
20 (commencing with Section 21155).

21 (3) (A) A project, other than those described in paragraph (1)
22 or (2), for which the project applicant has requested for, and the
23 lead agency consents to, the preparation for the record of
24 proceeding pursuant to this section and Section 21167.6.2.

25 (B) The lead agency shall respond to a request by the project
26 applicant within 10 business days from the date that the request
27 pursuant to subdivision (a) of Section 21167.6.2 is received by the
28 lead agency.

29 (C) A project applicant and the lead agency may mutually agree,
30 in writing, to extend the time period for the lead agency to respond
31 pursuant to subparagraph (B), but they shall not extend that period
32 beyond the commencement of the public review period for the
33 proposed negative declaration, mitigated negative declaration,
34 draft environmental impact report, or other environmental
35 document.

36 (D) The request to prepare a record of proceedings pursuant to
37 this paragraph shall be deemed denied if the lead agency fails to
38 respond within 10 business days of receiving the request or within
39 the time period agreed upon pursuant to subparagraph (C),
40 whichever ends later.

1 (b) The written request of the applicant submitted pursuant to
2 subdivision (a) of Section 21167.6.2 shall include an agreement
3 to pay all of the lead agency's costs of preparing and certifying
4 the record of proceedings pursuant to Section 21167.6.2 and
5 complying with the requirements of this section and Section
6 21167.6.2 in a manner specified by the lead agency.

7 (c) The cost of preparing the record of proceedings pursuant to
8 Section 21167.6.2 and complying with the requirements of this
9 section and Section 21167.6.2 are not recoverable costs pursuant
10 to Section 21167.6 or Sections 1032 to 1033.5, inclusive, of the
11 Code of Civil Procedure.

12 ~~SEC. 17.~~

13 *SEC. 18.* Section 21167.7 of the Public Resources Code is
14 amended to read:

15 21167.7. (a) Every person who brings an action pursuant to
16 Section 21167 shall comply with the requirements of Section 388
17 of the Code of Civil Procedure. Every such person shall also furnish
18 pursuant to Section 388 of the Code of Civil Procedure a copy of
19 any amended or supplemental pleading filed by such person in
20 such action to the Attorney General. No relief, temporary or
21 permanent, shall be granted until a copy of the pleading has been
22 furnished to the Attorney General in accordance with such
23 requirements.

24 (b) Notwithstanding Section 10231.5 of the Government Code,
25 the California Research Bureau, subject to the availability of funds
26 and of the information described in paragraphs (1) to (3), inclusive,
27 shall annually submit to the Legislature a report, in compliance
28 with Section 9795 of the Government Code, with information on
29 actions or proceedings brought pursuant to this division that
30 includes, but is not limited to, all of the following:

31 (1) The names of the plaintiffs or petitioners, the respondents
32 or defendants, and the real parties in interest.

33 (2) The type of action or proceeding filed and the alleged
34 violation.

35 (3) The disposition, if any, of the action or proceeding.

36 ~~SEC. 18.~~

37 *SEC. 19.* Section 21168.9 of the Public Resources Code is
38 amended to read:

39 21168.9. (a) If a court finds, as a result of a trial, hearing, or
40 remand from an appellate court, that any determination, finding,

1 or decision of a public agency has been made without compliance
2 with this division, the court shall enter an order that includes
3 issuing a peremptory writ of mandate specifying what action by
4 the public agency is necessary to comply with this division,
5 including one or more of the following:

6 (1) A mandate that the determination, finding, or decision be
7 voided by the public agency, in whole or in part.

8 (2) If the court finds that a specific project activity or activities
9 will prejudice the consideration or implementation of particular
10 mitigation measures or alternatives to the project, a mandate that
11 the public agency and any real parties in interest suspend any or
12 all specific project activity or activities, pursuant to the
13 determination, finding, or decision, that could result in an adverse
14 change or alteration to the physical environment, until the public
15 agency has taken any actions that may be necessary to bring the
16 determination, finding, or decision into compliance with this
17 division.

18 (3) A mandate that the public agency take specific action as
19 may be necessary to bring the determination, finding, or decision
20 into compliance with this division.

21 (b) (1) A writ pursuant to subdivision (a) shall include only
22 those mandates that are necessary to achieve compliance with this
23 division and only those specific project activities in noncompliance
24 with this division.

25 (2) The writ shall be limited to that portion of a determination,
26 finding, or decision, or the specific project activity or activities
27 found to be in noncompliance only if a court finds all of the
28 following:

29 (A) The portion or specific project activity or activities is
30 severable.

31 (B) Severance will not prejudice complete and full compliance
32 with this division.

33 (C) The court has not found the remainder of the project to be
34 in noncompliance with this division.

35 (3) A writ shall include a time by which the agency shall make
36 an initial return of the writ.

37 (4) The trial court shall retain jurisdiction over the public
38 agency's proceedings by way of a return to the peremptory writ
39 until the court has determined that the public agency has complied
40 with this division.

1 (c) An initial return to a writ shall describe all of the following:

2 (1) The actions the agency will take to come into compliance
3 with the writ and this division.

4 (2) A schedule for these actions.

5 (3) In the case of a negative declaration, mitigated negative
6 declaration, or environmental impact report found not to be in
7 compliance with this division, the public comment period
8 applicable to the agency’s revision of the document.

9 (d) This section does not authorize a court to direct a public
10 agency to exercise its discretion in any particular way. Except as
11 expressly provided in this section, this section is not intended to
12 limit the equitable powers of the court.

13 (e) This section does not affect the authority of a court to allow
14 those determinations, findings, or decisions of a public agency that
15 are not found to be in violation of this division to proceed, if
16 allowing the public agency to proceed does not, in any manner,
17 prejudice complete and full compliance with this division.

18 ~~SEC. 19.~~

19 *SEC. 20.* It is the intent of the Legislature to appropriate the
20 sum of thirty million dollars (\$30,000,000) in the annual Budget
21 Act to the Strategic Growth Council to provide competitive grants
22 to local agencies for planning activities pursuant to Chapter 4.2
23 (commencing with Section 21155) of Division 13 of the Public
24 Resources Code.

25 ~~SEC. 20.~~

26 *SEC. 21.* No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 a local agency or school district has the authority to levy service
29 charges, fees, or assessments sufficient to pay for the program or
30 level of service mandated by this act, within the meaning of Section
31 17556 of the Government Code.

32 However, if the Commission on State Mandates determines that
33 this act contains other costs mandated by the state, reimbursement
34 to local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.

O