

AMENDED IN SENATE MAY 6, 2013  
AMENDED IN SENATE APRIL 15, 2013

**SENATE BILL**

**No. 754**

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**Introduced by Senator Evans**

February 22, 2013

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An act to amend Sections 21082.1, 21083.2, 21094, and 21094.5 of, and to add Section 21168.10 to, the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 754, as amended, Evans. California Environmental Quality Act.

(1) The California Environmental Quality Act, referred to ~~as~~ *as* CEQA, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report, referred to as an 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. If a project is required to undertake mitigation measures pursuant to an EIR or a mitigated negative declaration, CEQA requires the lead agency to adopt a reporting or monitoring program for the project.

This bill would authorize a person meeting specified requirements to bring an action or proceeding to enforce the implementation of the mitigation measures specified in a reporting and monitoring program

adopted pursuant to CEQA if a project applicant fails to implement those measures.

This bill would prohibit a project proponent or environmental consultant retained by the project proponent to contract for, direct, or prepare the initial study, EIR, draft EIR, negative declaration, or mitigated negative declaration.

(2) Where a prior EIR has been certified for a project, CEQA authorizes the lead agency to rely on the prior EIR by authorizing the preparation of a tiered EIR for a later project if the lead agency makes a specified determination. If a prior EIR has been certified for a planning level decision, CEQA limits the environmental review of an infill project to those effects that are specific to the project that were not addressed in the prior EIR or, if substantial new information shows that the effects will be more significant, those effects that were considered in the prior EIR.

This bill would prohibit the use of a prior EIR for the above-described purposes if the EIR was certified more than 7 years prior to the issuance of a notice of preparation of an EIR for the later project or infill project or the commencement of the environmental review of the later project or infill project, whichever is earlier. By prohibiting the use of those prior EIRs, this bill would increase the level of service provided by the lead agency, thereby imposing a state-mandated local program.

(3) CEQA caps the amount a project applicant is required to pay for mitigation measures to avoid or mitigate the project's impact on archaeological resources to a specified amount.

This bill would repeal the cap on that amount.

(4) 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 no reimbursement is required by this act for a specified reason.

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

3 (1) For more than 40 years, the California Environmental Quality  
4 Act (CEQA) has served to protect California’s environment and  
5 provide a more transparent and informed decisionmaking process  
6 on construction and other projects that can impact public health,  
7 the environment, and cultural resources.

8 (2) CEQA has been modified through legislative and judicial  
9 action throughout the act’s existence, ensuring that it has remained  
10 useful.

11 (3) Additional modifications would ensure CEQA continues to  
12 fulfill its critical functions and meet its purpose of ensuring that  
13 projects are properly analyzed for environmental and cultural  
14 impacts; that those impacts are fully disclosed to the public; that  
15 significant impacts are reduced and mitigated to the extent feasible;  
16 and that the public’s ability to enforce CEQA is maintained.

17 (b) It is the intent of the Legislature to provide limited  
18 modifications to improve CEQA function by requiring translation  
19 of initial notices and executive summaries in certain circumstances,  
20 providing clear procedures for enforcement of mitigation measures,  
21 clarifying that the baseline from which to assess environmental  
22 impacts cannot be based on unpermitted activity, prohibiting a  
23 project applicant from overseeing or directing preparation of its  
24 environmental review documents, limiting an agency’s ability to  
25 charge for administrative record costs where a petitioner elects to  
26 prepare the administrative record, and removing outdated  
27 restrictions on mitigation fees for certain archaeological resource  
28 impacts.

29 SEC. 2. Section 21082.1 of the Public Resources Code is  
30 amended to read:

31 21082.1. (a) Any draft environmental impact report,  
32 environmental impact report, negative declaration, or mitigated  
33 negative declaration prepared pursuant to the requirements of this  
34 division shall be prepared directly by a public agency or by  
35 environmental consultants under direct contract with and  
36 supervision of the lead agency.

37 (b) A project applicant or a consultant retained by the project  
38 applicant shall not contract for, direct, or prepare the lead agency’s

1 initial study, environmental impact report, draft environmental  
2 impact report, negative declaration, or mitigated negative  
3 declaration.

4 (c) This section is not intended to prohibit, and shall not be  
5 construed as prohibiting, any person from submitting information  
6 or other comments to the public agency responsible for preparing  
7 an initial study, environmental impact report, draft environmental  
8 impact report, negative declaration, or mitigated negative  
9 declaration. The information or other comments may be submitted  
10 in any format, shall be considered by the public agency, and may  
11 be included, in whole or in part, in any report or declaration.

12 (d) The lead agency shall do all of the following:

13 (1) Independently review and analyze any report or declaration  
14 required by this division.

15 (2) Circulate draft documents that reflect its independent  
16 judgment.

17 (3) As part of the adoption of a negative declaration or a  
18 mitigated negative declaration, or certification of an environmental  
19 impact report, find that the report or declaration reflects the  
20 independent judgment of the lead agency.

21 (4) Submit a sufficient number of copies of the draft  
22 environmental impact report, proposed negative declaration, or  
23 proposed mitigated negative declaration, and a copy of the report  
24 or declaration in an electronic form as required by the guidelines  
25 adopted pursuant to Section 21083, to the State Clearinghouse for  
26 review and comment by state agencies, if any of the following  
27 apply:

28 (A) A state agency is any of the following:

29 (i) The lead agency.

30 (ii) A responsible agency.

31 (iii) A trustee agency.

32 (B) A state agency otherwise has jurisdiction by law with respect  
33 to the project.

34 (C) The proposed project is of sufficient statewide, regional, or  
35 areawide environmental significance as determined pursuant to  
36 the guidelines certified and adopted pursuant to Section 21083.

37 SEC. 3. Section 21083.2 of the Public Resources Code is  
38 amended to read:

39 21083.2. (a) As part of the determination made pursuant to  
40 Section 21080.1, the lead agency shall determine whether the

1 project may have a significant effect on archaeological resources.  
2 If the lead agency determines that the project may have a significant  
3 effect on unique archaeological resources, the environmental  
4 impact report shall address the issue of those resources. An  
5 environmental impact report, if otherwise necessary, shall not  
6 address the issue of nonunique archaeological resources. A negative  
7 declaration shall be issued with respect to a project if, but for the  
8 issue of nonunique archaeological resources, the negative  
9 declaration would be otherwise issued.

10 (b) If it can be demonstrated that a project will cause damage  
11 to a unique archaeological resource, the lead agency may require  
12 reasonable efforts to be made to permit any or all of these resources  
13 to be preserved in place or left in an undisturbed state. Examples  
14 of that treatment, in no order of preference, may include, but are  
15 not limited to, any of the following:

- 16 (1) Planning construction to avoid archaeological sites.
- 17 (2) Deeding archaeological sites into permanent conservation  
18 easements.
- 19 (3) Capping or covering archaeological sites with a layer of soil  
20 before building on the sites.
- 21 (4) Planning parks, greenspace, or other open space to  
22 incorporate archaeological sites.

23 (c) To the extent that unique archaeological resources are not  
24 preserved in place or not left in an undisturbed state, mitigation  
25 measures shall be required as provided in this subdivision. The  
26 project applicant shall provide a guarantee to the lead agency to  
27 pay one-half the estimated cost of mitigating the significant effects  
28 of the project on unique archaeological resources. In determining  
29 payment, the lead agency shall give due consideration to the in-kind  
30 value of project design or expenditures that are intended to permit  
31 any or all archaeological resources or California Native American  
32 culturally significant sites to be preserved in place or left in an  
33 undisturbed state. When a final decision is made to carry out or  
34 approve the project, the lead agency shall, if necessary, reduce the  
35 specified mitigation measures to those which can be funded with  
36 the money guaranteed by the project applicant plus the money  
37 voluntarily guaranteed by any other person or persons for those  
38 mitigation purposes. In order to allow time for interested persons  
39 to provide the funding guarantee referred to in this subdivision, a  
40 final decision to carry out or approve a project shall not occur

1 sooner than 60 days after completion of the recommended special  
2 environmental impact report required by this section.

3 (d) Excavation as mitigation shall be restricted to those parts of  
4 the unique archaeological resource that would be damaged or  
5 destroyed by the project. Excavation as mitigation shall not be  
6 required for a unique archaeological resource if the lead agency  
7 determines that testing or studies already completed have  
8 adequately recovered the scientifically consequential information  
9 from and about the resource, if this determination is documented  
10 in the environmental impact report.

11 (e) Unless special or unusual circumstances warrant an  
12 exception, the field excavation phase of an approved mitigation  
13 plan shall be completed within 90 days after final approval  
14 necessary to implement the physical development of the project  
15 or, if a phased project, in connection with the phased portion to  
16 which the specific mitigation measures are applicable. However,  
17 the project applicant may extend that period if he or she so elects.  
18 ~~Nothing in this~~ This section shall *not* nullify protections for Indian  
19 cemeteries under any other provision of law.

20 (f) As used in this section, “unique archaeological resource”  
21 means an archaeological artifact, object, or site about which it can  
22 be clearly demonstrated that, without merely adding to the current  
23 body of knowledge, there is a high probability that it meets any of  
24 the following criteria:

25 (1) Contains information needed to answer important scientific  
26 research questions and that there is a demonstrable public interest  
27 in that information.

28 (2) Has a special and particular quality such as being the oldest  
29 of its type or the best available example of its type.

30 (3) Is directly associated with a scientifically recognized  
31 important prehistoric or historic event or person.

32 (g) As used in this section, “nonunique archaeological resource”  
33 means an archaeological artifact, object, or site which does not  
34 meet the criteria in subdivision (f). A nonunique archaeological  
35 resource need be given no further consideration, other than the  
36 simple recording of its existence by the lead agency if it so elects.

37 (h) As part of the objectives, criteria, and procedures required  
38 by Section 21082 or as part of conditions imposed for mitigation,  
39 a lead agency may make provisions for archaeological sites  
40 accidentally discovered during construction. These provisions may

1 include an immediate evaluation of the find. If the find is  
2 determined to be a unique archaeological resource, contingency  
3 funding and a time allotment sufficient to allow recovering an  
4 archaeological sample or to employ one of the avoidance measures  
5 may be required under the provisions set forth in this section.  
6 Construction work may continue on other parts of the building site  
7 while archaeological mitigation takes place.

8 (i) This section does not apply to any project described in  
9 subdivision (a) or (b) of Section 21065 if the lead agency elects  
10 to comply with all other applicable provisions of this division.  
11 This section does not apply to any project described in subdivision  
12 (c) of Section 21065 if the applicant and the lead agency jointly  
13 elect to comply with all other applicable provisions of this division.

14 (j) Any additional costs to any local agency as a result of  
15 complying with this section with respect to a project of other than  
16 a public agency shall be borne by the project applicant.

17 (k) This section is not intended to affect or modify the  
18 requirements of Section 21084 or 21084.1.

19 SEC. 4. Section 21094 of the Public Resources Code, as  
20 amended by Section 9 of Chapter 548 of the Statutes of 2012, is  
21 amended to read:

22 21094. (a) (1) If a prior environmental impact report has been  
23 prepared and certified for a program, plan, policy, or ordinance,  
24 the lead agency for a later project that meets the requirements of  
25 this section shall examine significant effects of the later project  
26 upon the environment by using a tiered environmental impact  
27 report, except that the report on the later project is not required to  
28 examine those effects that the lead agency determines were either  
29 of the following:

30 (A) Mitigated or avoided pursuant to paragraph (1) of  
31 subdivision (a) of Section 21081 as a result of the prior  
32 environmental impact report.

33 (B) Examined at a sufficient level of detail in the prior  
34 environmental impact report to enable those effects to be mitigated  
35 or avoided by site-specific revisions, the imposition of conditions,  
36 or by other means in connection with the approval of the later  
37 project.

38 (2) If a prior environmental impact report has been prepared  
39 and certified for a program, plan, policy, or ordinance, and the  
40 lead agency makes a finding of overriding consideration pursuant

1 to subdivision (b) of Section 21081, the lead agency for a later  
2 project that uses a tiered environmental impact report from that  
3 program, plan, policy, or ordinance may incorporate by reference  
4 that finding of overriding consideration if all of the following  
5 conditions are met:

6 (A) The lead agency determines that the project’s significant  
7 impacts on the environment are not greater than or different from  
8 those identified in the prior environmental impact report.

9 (B) The lead agency incorporates into the later project all the  
10 applicable mitigation measures identified by the prior  
11 environmental impact report.

12 (C) The prior finding of overriding considerations was not based  
13 on a determination that mitigation measures should be identified  
14 and approved in a subsequent environmental review.

15 (D) The prior environmental impact report was certified not  
16 more than three years before the date findings are made pursuant  
17 to Section 21081 for the later project.

18 (E) The lead agency has determined that the mitigation measures  
19 or alternatives found to be infeasible in the prior environmental  
20 impact report pursuant to paragraph (3) of subdivision (a) of  
21 Section 21081 remain infeasible based on the criteria set forth in  
22 that section.

23 (b) This section applies only to a later project that the lead  
24 agency determines is all of the following:

25 (1) Consistent with the program, plan, policy, or ordinance for  
26 which an environmental impact report has been prepared and  
27 certified.

28 (2) Consistent with applicable local land use plans and zoning  
29 of the city, county, or city and county in which the later project  
30 would be located.

31 (3) Not subject to Section 21166.

32 (c) For purposes of compliance with this section, an initial study  
33 shall be prepared to assist the lead agency in making the  
34 determinations required by this section. The initial study shall  
35 analyze whether the later project may cause significant effects on  
36 the environment that were not examined in the prior environmental  
37 impact report.

38 (d) All public agencies that propose to carry out or approve the  
39 later project may utilize the prior environmental impact report and

1 the environmental impact report on the later project to fulfill the  
2 requirements of Section 21081.

3 (e) (1) If a lead agency determines pursuant to this subdivision  
4 that a cumulative effect has been adequately addressed in a prior  
5 environmental impact report, that cumulative effect is not required  
6 to be examined in a later environmental impact report, mitigated  
7 negative declaration, or negative declaration for purposes of  
8 subparagraph (B) of paragraph (1) of subdivision (a).

9 (2) When assessing whether there is new significant cumulative  
10 effect, the lead agency shall consider whether the incremental  
11 effects of the project are cumulatively considerable.

12 (3) (A) For purposes of paragraph (2), if the lead agency  
13 determines the incremental effects of the project are significant  
14 when viewed in connection with the effects of past, present, and  
15 probable future projects, the incremental effects of a project are  
16 cumulatively considerable.

17 (B) If the lead agency determines incremental effects of a project  
18 are cumulatively considerable, the later environmental impact  
19 report, mitigated negative declaration, or negative declaration shall  
20 examine those effects.

21 (4) If the lead agency makes one of the following  
22 determinations, the cumulative effects of a project are adequately  
23 addressed for purposes of paragraph (1):

24 (A) The cumulative effect has been mitigated or avoided as a  
25 result of the prior environmental impact report and findings adopted  
26 pursuant to paragraph (1) of subdivision (a) of Section 21081 as  
27 a result of the prior environmental impact report.

28 (B) The cumulative effect has been examined at a sufficient  
29 level of detail in the prior environmental impact report to enable  
30 the effect to be mitigated or avoided by site-specific revisions, the  
31 imposition of conditions, or by other means in connection with  
32 the approval of the later project.

33 (f) If tiering is used pursuant to this section, an environmental  
34 impact report prepared for a later project shall refer to the prior  
35 environmental impact report and state where a copy of the prior  
36 environmental impact report may be examined.

37 (g) A prior environmental impact report shall not be used for  
38 tiering under this section if it was certified more than seven years  
39 prior to the issuance of a notice of preparation of an environmental

1 impact report for the later project or the commencement of the  
2 environmental review of the later project, whichever is earlier.

3 (h) This section shall remain in effect only until January 1, 2016,  
4 and as of that date is repealed, unless a later enacted statute, that  
5 is enacted before January 1, 2016, deletes or extends that date.

6 SEC. 5. Section 21094 of the Public Resources Code, as added  
7 by Section 4 of Chapter 496 of the Statutes of 2010, is amended  
8 to read:

9 21094. (a) Where a prior environmental impact report has  
10 been prepared and certified for a program, plan, policy, or  
11 ordinance, the lead agency for a later project that meets the  
12 requirements of this section shall examine significant effects of  
13 the later project upon the environment by using a tiered  
14 environmental impact report, except that the report on the later  
15 project is not required to examine those effects that the lead agency  
16 determines were either of the following:

17 (1) Mitigated or avoided pursuant to paragraph (1) of subdivision  
18 (a) of Section 21081 as a result of the prior environmental impact  
19 report.

20 (2) Examined at a sufficient level of detail in the prior  
21 environmental impact report to enable those effects to be mitigated  
22 or avoided by site-specific revisions, the imposition of conditions,  
23 or by other means in connection with the approval of the later  
24 project.

25 (b) This section applies only to a later project that the lead  
26 agency determines is all of the following:

27 (1) Consistent with the program, plan, policy, or ordinance for  
28 which an environmental impact report has been prepared and  
29 certified.

30 (2) Consistent with applicable local land use plans and zoning  
31 of the city, county, or city and county in which the later project  
32 would be located.

33 (3) Not subject to Section 21166.

34 (c) For purposes of compliance with this section, an initial study  
35 shall be prepared to assist the lead agency in making the  
36 determinations required by this section. The initial study shall  
37 analyze whether the later project may cause significant effects on  
38 the environment that were not examined in the prior environmental  
39 impact report.

1 (d) All public agencies that propose to carry out or approve the  
2 later project may utilize the prior environmental impact report and  
3 the environmental impact report on the later project to fulfill the  
4 requirements of Section 21081.

5 (e) When tiering is used pursuant to this section, an  
6 environmental impact report prepared for a later project shall refer  
7 to the prior environmental impact report and state where a copy  
8 of the prior environmental impact report may be examined.

9 (f) A prior environmental impact report shall not be used for  
10 tiering under this section if it was certified more than seven years  
11 prior to the issuance of a notice of preparation of an environmental  
12 impact report for the later project or the commencement of the  
13 environmental review of the later project, whichever is earlier.

14 (g) This section shall become operative on January 1, 2016.

15 SEC. 6. Section 21094.5 of the Public Resources Code is  
16 amended to read:

17 21094.5. (a) (1) If an environmental impact report was  
18 certified for a planning level decision of a city or county, the  
19 application of this division to the approval of an infill project shall  
20 be limited to the effects on the environment that (A) are specific  
21 to the project or to the project site and were not addressed as  
22 significant effects in the prior environmental impact report or (B)  
23 substantial new information shows the effects will be more  
24 significant than described in the prior environmental impact report.  
25 A lead agency's determination pursuant to this section shall be  
26 supported by substantial evidence.

27 (2) An effect of a project upon the environment shall not be  
28 considered a specific effect of the project or a significant effect  
29 that was not considered significant in a prior environmental impact  
30 report, or an effect that is more significant than was described in  
31 the prior environmental impact report if uniformly applicable  
32 development policies or standards adopted by the city, county, or  
33 the lead agency, would apply to the project and the lead agency  
34 makes a finding, based upon substantial evidence, that the  
35 development policies or standards will substantially mitigate that  
36 effect.

37 (3) The environmental impact report for a planning level  
38 decision of a city or county may not be used under this section if  
39 it was certified more than seven years prior to the issuance of a  
40 notice of preparation of an environmental impact report for the

1 infill project or the commencement of environmental review of  
2 the infill project, whichever is earlier.

3 (b) If an infill project would result in significant effects that are  
4 specific to the project or the project site, or if the significant effects  
5 of the infill project were not addressed in the prior environmental  
6 impact report, or are more significant than the effects addressed  
7 in the prior environmental impact report, and if a mitigated negative  
8 declaration or a sustainable communities environmental assessment  
9 could not be otherwise adopted, an environmental impact report  
10 prepared for the project analyzing those effects shall be limited as  
11 follows:

12 (1) Alternative locations, densities, and building intensities to  
13 the project need not be considered.

14 (2) Growth inducing impacts of the project need not be  
15 considered.

16 (c) This section applies to an infill project that satisfies both of  
17 the following:

18 (1) The project satisfies any of the following:

19 (A) Is consistent with the general use designation, density,  
20 building intensity, and applicable policies specified for the project  
21 area in either a sustainable communities strategy or an alternative  
22 planning strategy for which the State Air Resources Board,  
23 pursuant to subparagraph (H) of paragraph (2) of subdivision (b)  
24 of Section 65080 of the Government Code, has accepted a  
25 metropolitan planning organization's determination that the  
26 sustainable communities strategy or the alternative planning  
27 strategy would, if implemented, achieve the greenhouse gas  
28 emission reduction targets.

29 (B) Consists of a small walkable community project located in  
30 an area designated by a city for that purpose.

31 (C) Is located within the boundaries of a metropolitan planning  
32 organization that has not yet adopted a sustainable communities  
33 strategy or alternative planning strategy, and the project has a  
34 residential density of at least 20 units per acre or a floor area ratio  
35 of at least 0.75.

36 (2) Satisfies all applicable statewide performance standards  
37 contained in the guidelines adopted pursuant to Section 21094.5.5.

38 (d) This section applies after the Secretary of the Natural  
39 Resources Agency adopts and certifies the guidelines establishing  
40 statewide standards pursuant to Section 21094.5.5.

- 1 (e) For the purposes of this section, the following terms mean  
2 the following:
- 3 (1) “Infill project” means a project that meets the following  
4 conditions:
- 5 (A) Consists of any one, or combination, of the following uses:  
6 (i) Residential.  
7 (ii) Retail or commercial, where no more than one-half of the  
8 project area is used for parking.  
9 (iii) A transit station.  
10 (iv) A school.  
11 (v) A public office building.
- 12 (B) Is located within an urban area on a site that has been  
13 previously developed, or on a vacant site where at least 75 percent  
14 of the perimeter of the site adjoins, or is separated only by an  
15 improved public right-of-way from, parcels that are developed  
16 with qualified urban uses.
- 17 (2) “Planning level decision” means the enactment or  
18 amendment of a general plan, community plan, specific plan, or  
19 zoning code.
- 20 (3) “Prior environmental impact report” means the  
21 environmental impact report certified for a planning level decision,  
22 as supplemented by any subsequent or supplemental environmental  
23 impact reports, negative declarations, or addenda to those  
24 documents.
- 25 (4) “Small walkable community project” means a project that  
26 is in an incorporated city, which is not within the boundary of a  
27 metropolitan planning organization and that satisfies the following  
28 requirements:
- 29 (A) Has a project area of approximately one-quarter mile  
30 diameter of contiguous land completely within the existing  
31 incorporated boundaries of the city.
- 32 (B) Has a project area that includes a residential area adjacent  
33 to a retail downtown area.
- 34 (C) The project has a density of at least eight dwelling units per  
35 acre or a floor area ratio for retail or commercial use of not less  
36 than 0.50.
- 37 (5) “Urban area” includes either an incorporated city or an  
38 unincorporated area that is completely surrounded by one or more  
39 incorporated cities that meets both of the following criteria:

1 (A) The population of the unincorporated area and the  
2 population of the surrounding incorporated cities equal a population  
3 of 100,000 or more.

4 (B) The population density of the unincorporated area is equal  
5 to, or greater than, the population density of the surrounding cities.

6 SEC. 7. Section 21168.10 is added to the Public Resources  
7 Code, to read:

8 21168.10. (a) If a project applicant or other responsible person  
9 or entity identified in a reporting or monitoring program adopted  
10 pursuant to Section 21081.6 fails to implement any mitigation  
11 measure specified in that reporting or monitoring program, a person  
12 may bring an action or proceeding to require the implementation  
13 of the mitigation measure, if the ~~private action is commenced more~~  
14 ~~than 60 days after the date that the person has given notice of the~~  
15 ~~alleged failure to the project applicant or other responsible person~~  
16 ~~or entity, the public agency that adopted the mitigation measure~~  
17 ~~for the project project, and the Attorney-General General. The~~  
18 ~~private action may be filed concurrently with the notice required~~  
19 ~~in subdivision (b).~~

20 ~~(b) The action described in subdivision (a) may be filed~~  
21 ~~concurrently with the required notice to the public agency and the~~  
22 ~~Attorney General, if the person filing the action includes detailed~~  
23 ~~allegations in the petition demonstrating that the environmental~~  
24 ~~harm the mitigation measure or measures are intended to reduce~~  
25 ~~or avoid is reasonably likely to be incurred before the 60-day~~  
26 ~~waiting period has lapsed, and seeks a restraining order, a~~  
27 ~~preliminary injunction, or other interim relief to prevent the damage~~  
28 ~~when filing the action.~~

29 (e)

30 (b) A person bringing an action or proceeding pursuant to this  
31 section shall notify the public agency and the Attorney General  
32 that the action or proceeding has been filed.

33 SEC. 8. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 a local agency or school district has the authority to levy service  
36 charges, fees, or assessments sufficient to pay for the program or  
37 level of service mandated by this act, within the meaning of Section  
38 17556 of the Government Code.

O