

AMENDED IN SENATE APRIL 21, 2014

**SENATE BILL**

**No. 1451**

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**Introduced by Senator *Senators Hill and Roth***  
**(Principal coauthors: *Senators Correa and Galgiani*)**  
**(Principal coauthor: *Assembly Member Mullin*)**  
**(Coauthors: *Senators Hueso and Steinberg*)**

February 21, 2014

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An act to ~~add Section 21081.8 to~~ *amend and repeal Section 21177* of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 1451, as amended, Hill. Environmental quality: ~~mitigation measures: judicial review: standing.~~

*(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report 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 also requires, in an action or proceeding alleging noncompliance with its requirements, that the grounds for noncompliance shall have been presented by any person to the public agency during the public comment period or prior to the close of the public hearing on the project before the filing of the notice of*

determination. CEQA requires a person bringing an action or proceeding alleging noncompliance with its requirements to have objected to the project during the public comment period or prior to the close of the public hearing on the project before the filing of the notice of determination.

This bill would require that the alleged grounds for noncompliance shall have been presented to a public agency prior to the close of the public hearing on the project if the grounds for noncompliance were not known and could not have been known with the exercise of reasonable diligence during the public comment period or if no public comment period was provided by CEQA. The bill would limit the standing of a person objecting to the project prior to the close of the public hearing on the project before the filing of notice of determination to an action or proceeding challenging a project for which no public comment period was provided by CEQA.

(2) CEQA, until January 1, 2016, precludes an organization formed after the approval of a project from maintaining an action unless a member of the organization has objected to the approval of the project orally or in writing and presented the grounds of noncompliance to the public agency. Existing law, on and after January 1, 2016, precludes an organization formed after the approval of a project from maintaining an action unless a member of the organization has objected to the approval of the project orally or in writing.

This bill would extend the preclusion in effect until January 1, 2016, indefinitely.

~~The California Environmental Quality Act declares it to be the policy of the state that a public agency should not approve a project if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of the project.~~

~~This bill would require the Secretary of the Natural Resources Agency, on or before January 1, 2016, and on or before January 1 of each year thereafter, to submit to the Legislature a report on the types and effectiveness of a representative sample of mitigation measures adopted by state and local agencies.~~

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

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

1     *SECTION 1. Section 21177 of the Public Resources Code, as*  
2 *amended by Section 11 of Chapter 496 of the Statutes of 2010, is*  
3 *amended to read:*

4     21177. (a) (1) An action or proceeding shall not be brought  
5 pursuant to Section 21167 unless (A) the alleged grounds for  
6 noncompliance with this division were presented to the public  
7 agency orally or in writing by any person during the public  
8 comment period provided by this division or (B) *if the alleged*  
9 *grounds for noncompliance were not known and could not have*  
10 *been known with the exercise of reasonable diligence during the*  
11 *public comment period or if no public comment period was*  
12 *provided by this division, the alleged grounds for noncompliance*  
13 *were presented to the public agency orally or in writing by any*  
14 *person prior to the close of the public hearing on the project before*  
15 *the issuance of the notice of determination.*

16     (2) *Paragraph (1) does not apply to an action or proceeding*  
17 *challenging a project for which a public comment period has*  
18 *expired but the project approval has not been granted on or before*  
19 *January 1, 2015. Former subdivision (a) of this section in effect*  
20 *on December 31, 2014, shall apply to that action or proceeding.*

21     (b) A person shall not maintain an action or proceeding unless  
22 (1) that person objected to the approval of the project orally or in  
23 writing during the public comment period provided by this division  
24 or (2) *if no public comment period was provided by this division,*  
25 *that person objected to the approval of the project orally or in*  
26 *writing prior to the close of the public hearing on the project before*  
27 *the filing of the notice of determination pursuant to Sections 21108*  
28 *and 21152. determination.*

29     (c) This section does not preclude any organization formed after  
30 the approval of a project from maintaining an action pursuant to  
31 Section 21167 if a member of that organization has complied with  
32 subdivisions (a) and (b). The grounds for noncompliance may have  
33 been presented directly by a member or by a member agreeing  
34 with or supporting the comments of another person.

35     (d) This section does not apply to the Attorney General.

36     (e) This section does not apply to any alleged grounds for  
37 noncompliance with this division for which there was no public  
38 hearing or other opportunity for members of the public to raise

1 those objections orally or in writing prior to the approval of the  
2 project, or if the public agency failed to give the notice required  
3 by law.

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

7 *SEC. 2. Section 21177 of the Public Resources Code, as added*  
8 *by Section 12 of Chapter 496 of the Statutes of 2010, is repealed.*

9 ~~21177. (a) An action or proceeding shall not be brought~~  
10 ~~pursuant to Section 21167 unless the alleged grounds for~~  
11 ~~noncompliance with this division were presented to the public~~  
12 ~~agency orally or in writing by any person during the public~~  
13 ~~comment period provided by this division or prior to the close of~~  
14 ~~the public hearing on the project before the issuance of the notice~~  
15 ~~of determination.~~

16 ~~(b) A person shall not maintain an action or proceeding unless~~  
17 ~~that person objected to the approval of the project orally or in~~  
18 ~~writing during the public comment period provided by this division~~  
19 ~~or prior to the close of the public hearing on the project before the~~  
20 ~~filing of notice of determination pursuant to Sections 21108 and~~  
21 ~~21152.~~

22 ~~(c) This section does not preclude any organization formed after~~  
23 ~~the approval of a project from maintaining an action pursuant to~~  
24 ~~Section 21167 if a member of that organization has complied with~~  
25 ~~subdivision (b).~~

26 ~~(d) This section does not apply to the Attorney General.~~

27 ~~(e) This section does not apply to any alleged grounds for~~  
28 ~~noncompliance with this division for which there was no public~~  
29 ~~hearing or other opportunity for members of the public to raise~~  
30 ~~those objections orally or in writing prior to the approval of the~~  
31 ~~project, or if the public agency failed to give the notice required~~  
32 ~~by law.~~

33 ~~(f) This section shall become operative on January 1, 2016.~~

34 ~~SECTION 1. Section 21081.8 is added to the Public Resources~~  
35 ~~Code, to read:~~

36 ~~21081.8. (a) On or before January 1, 2016, and on or before~~  
37 ~~January 1 of each year thereafter, the Secretary of the Natural~~  
38 ~~Resources Agency shall submit to the Legislature a report on the~~  
39 ~~types and effectiveness of a representative sample of mitigation~~  
40 ~~measures adopted by state and local agencies. The secretary may~~

1 ~~consider information from mitigation reporting and monitoring~~  
2 ~~programs adopted pursuant to Section 21081.6.~~  
3 ~~(b) A report submitted pursuant to subdivision (a) shall be~~  
4 ~~submitted in compliance with Section 9795 of the Government~~  
5 ~~Code.~~

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