

**ASSEMBLY BILL**

**No. 1398**

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**Introduced by Assembly Member Wilk**  
(Principal coauthor: Senator Berryhill)  
(Coauthors: Assembly Members Bigelow, Gallagher, and Lackey)

February 27, 2015

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An act to add Division 13.6 (commencing with Section 21200) to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1398, as introduced, Wilk. Environmental quality: the Sustainable Environmental Protection Act.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

Existing law establishes regulations related to numerous environmental issues.

This bill would enact the Sustainable Environmental Protection Act and would specify the environmental review required pursuant to CEQA for projects related to specified environmental topical areas. In a judicial action or proceeding filed challenging an action taken by a lead agency

on the ground of noncompliance with CEQA, the bill would prohibit a cause of action that (1) alleges noncompliance with CEQA based on any topical area or criteria for which compliance obligations are identified or (2) challenges the environmental document based on noncompliance with CEQA if: (A) the environmental document discloses compliance with applicable environmental law, (B) the project conforms with the use designation, density, or building intensity in an applicable plan, as defined, and (C) the project approval incorporates applicable mitigation requirements into the environmental document. The bill would provide that the Sustainable Environmental Protection Act only applies if the lead agency or project applicant has agreed to provide to the public in a readily accessible electronic format an annual compliance report prepared pursuant to the mitigation monitoring and reporting program.

Because this bill would impose additional duties on local agencies, it would impose a state-mandated local program.

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.

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. Division 13.6 (commencing with Section 21200)  
2 is added to the Public Resources Code, to read:

3  
4 DIVISION 13.6. SUSTAINABLE ENVIRONMENTAL  
5 PROTECTION ACT

6  
7 21200. This division shall be known and may be cited as the  
8 Sustainable Environmental Protection Act.

9 21200.5. The Legislature finds and declares all of the following:

10 (a) The Legislature adopted the California Environmental  
11 Quality Act (Division 13 (commencing with Section 21000))  
12 (CEQA) in 1970 in recognition that the maintenance of a quality  
13 environment for the people of this state is a matter of statewide  
14 concern.

- 1 (b) Guidelines implementing CEQA have evolved and expanded,  
2 and currently provide that project impacts be evaluated based on  
3 84 criteria covering the following 17 environmental topical areas:  
4 (1) Air quality.  
5 (2) Biological resources, including protected species and habitat  
6 types.  
7 (3) Cultural resources, including archaeological resources.  
8 (4) Geology and soils, including seismic and landslide risk.  
9 (5) Greenhouse gas emissions.  
10 (6) Hazards and hazardous materials, including toxic chemical  
11 exposures, brownfields or contaminated site issues, and accident  
12 risks.  
13 (7) Hydrology and water quality, including flooding and sea  
14 level rise.  
15 (8) Land use planning, including consistency with land use  
16 plans.  
17 (9) Public services, including fire and police protection, schools,  
18 parks, and other public facilities.  
19 (10) Traffic and transportation, including transit, vehicular,  
20 bicycle, and pedestrian transportation, emergency access, and  
21 roadway safety.  
22 (11) Utilities and service systems, including wastewater, water  
23 supply, stormwater, landfill, and waste management systems.  
24 (12) Aesthetics.  
25 (13) Agriculture and forestry resources.  
26 (14) Mineral resource availability.  
27 (15) Noise.  
28 (16) Population and housing growth.  
29 (17) Recreational resources.  
30 (c) In the years before and the 40 years following the enactment  
31 of CEQA, Congress and the Legislature have each adopted more  
32 than 100 laws to protect environmental quality in those  
33 environmental topical areas required to be independently mitigated  
34 under CEQA described in subdivision (b). The Legislature has  
35 enacted environmental protection laws that are as or more stringent  
36 than federal law, and California environmental laws are often at  
37 the cutting edge of environmental protection nationally and even  
38 globally. These environmental protection laws, all enacted after  
39 1970, include, but are not limited to, the following:

1 (1) Air quality, including air pollution and toxic air  
2 contaminants: the federal Clean Air Act (42 U.S.C. Sec. 7401 et  
3 seq.) and the federal Acid Precipitation Act of 1980 (42 U.S.C.  
4 Sec. 8901 et seq.), and California air quality laws, including  
5 Division 26 (commencing with Section 39000) of the Health and  
6 Safety Code, the Protect California Air Act of 2003 (Chapter 4.5  
7 (commencing with Section 42500) of Part 4 of Division 26 of the  
8 Health and Safety Code), the Carl Moyer Memorial Air Quality  
9 Standards Attainment Program (Chapter 9 (commencing with  
10 Section 44275) of Part 5 of Division 26 of the Health and Safety  
11 Code), the California Port Community Air Quality Program  
12 (Chapter 9.8 (commencing with Section 44299.80) of Part 5 of  
13 Division 26 of the Health and Safety Code), the California Clean  
14 Schoolbus Program (Chapter 10 (commencing with Section  
15 44299.90) of Part 5 of Division 26 of the Health and Safety Code),  
16 the Air Pollution Permit Streamlining Act of 1992 (Article 1.3  
17 (commencing with Section 42320) of Chapter 4 of Part 4 of  
18 Division 26 of the Health and Safety Code), and the California air  
19 pollution control laws, including the Air Toxics “Hot Spots”  
20 Information and Assessment Act of 1987 (Part 6 (commencing  
21 with Section 44300) of Division 26 of the Health and Safety Code),  
22 the Atmospheric Acidity Protection Act of 1988 (Chapter 6  
23 (commencing with Section 39900) of Part 2 of Division 26 of the  
24 Health and Safety Code), the Connelly-Areias-Chandler Rice Straw  
25 Burning Reduction Act of 1991 (Section 41865 of the Health and  
26 Safety Code), and the Lewis-Presley Air Quality Management Act  
27 (Chapter 5.5 (commencing with Section 40400) of Part 3 of  
28 Division 26 of the Health and Safety Code).

29 (2) Biological resources, including protected species and habitat  
30 types: the federal Endangered Species Act of 1973 (16 U.S.C. Sec.  
31 1531 et seq.), the federal Migratory Bird Treaty Act (16 U.S.C.  
32 Sec. 703 et seq.), the federal Bald and Golden Eagle Protection  
33 Act (16 U.S.C. Sec. 668), Section 404(b) of the federal Clean  
34 Water Act (33 U.S.C. Sec. 1344(b)), the federal Marine Mammal  
35 Protection Act of 1972 (16 U.S.C. Sec. 1361 et seq.), the federal  
36 Nonindigenous Aquatic Nuisance Prevention and Control Act of  
37 1990 (16 U.S.C. Sec. 4701 et seq.), the California Endangered  
38 Species Act (Chapter 1.5 (commencing with Section 2050) of  
39 Division 3 of the Fish and Game Code), Sections 1602, 3503.5,  
40 3511, 3513, and 4700 of the Fish and Game Code, the Oak

1 Woodlands Conservation Act (Article 3.5 (commencing with  
2 Section 1360) of Chapter 3 of Division 2 of the Fish and Game  
3 Code), Article 3 (commencing with Section 355) of Chapter 3 of  
4 Division 1 of the Fish and Game Code, Division 5 (commencing  
5 with Section 5000) of the Fish and Game Code, Division 6  
6 (commencing with Section 5500) of the Fish and Game Code, and  
7 subdivision (e) of Section 65302 of the Government Code.

8 (3) Cultural resources, including archaeological resources:  
9 Section 106 of the federal National Historic Preservation Act (16  
10 U.S.C. Sec. 470(f)), the federal American Indian Religious  
11 Freedom Act (42 U.S.C. Sec. 1996), Section 7050.5 of the Health  
12 and Safety Code, and Section 5097.9.

13 (4) Climate change and greenhouse gas emissions: the federal  
14 Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the federal Energy  
15 Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et  
16 seq.), the California Global Warming Solutions Act of 2006  
17 (Division 25.5 (commencing with Section 38500) of the Health  
18 and Safety Code), Division 26 (commencing with Section 39000)  
19 of the Health and Safety Code, the California Alternative and  
20 Renewable Fuel, Vehicle Technology, Clean Air, and Carbon  
21 Reduction Act of 2007 (Chapter 8.9 (commencing with Section  
22 44270) of Part 5 of Division 26 of the Health and Safety Code),  
23 the California Energy-Efficient Vehicle Group Purchase Program  
24 (Article 1.5 (commencing with Section 43810) of Chapter 4 of  
25 Part 5 of Division 26 of the Health and Safety Code), Section  
26 43018.5 of the Health and Safety Code, and Chapter 728 of the  
27 Statutes of 2008.

28 (5) Hazards and hazardous materials, including toxic chemical  
29 exposures, brownfields or contaminated site issues, and chemical  
30 accident risks: the federal Comprehensive Environmental  
31 Response, Compensation, and Liability Act of 1980 (42 U.S.C.  
32 Sec. 9601 et seq.), the federal Resource Conservation and Recovery  
33 Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the federal Emergency  
34 Planning and Community Right-to-Know Act of 1986 (42 U.S.C.  
35 Sec. 11001 et seq.), the federal Pollution Prevention Act of 1990  
36 (42 U.S.C. Sec. 13101 et seq.), the federal Oil Pollution Act of  
37 1990 (33 U.S.C. Sec. 2701 et seq.), the Federal Insecticide,  
38 Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.), the  
39 federal Toxic Substances Control Act (15 U.S.C. Sec. 2601 et  
40 seq.), the federal Asbestos Hazard Emergency Response Act of

1 1986 (15 U.S.C. Sec. 2641 et seq.), the federal Lead-Based Paint  
2 Exposure Reduction Act (15 U.S.C. Sec. 2681 et seq.), the federal  
3 Low-Level Radioactive Waste Policy Act (42 U.S.C. Sec. 2121b  
4 et seq.), the federal Lead Contamination Control Act of 1988 (42  
5 U.S.C. Sec. 300j-21 et seq.), the Hazardous Waste Control Law  
6 (Chapter 6.5 (commencing with Section 25100) of Division 20 of  
7 the Health and Safety Code), Chapter 6.7 (commencing with  
8 Section 25280) of Division 20 of the Health and Safety Code,  
9 Sections 25356.1.5 and 25395.94 of the Health and Safety Code,  
10 Chapter 6.95 (commencing with Section 25500) of Division 20 of  
11 the Health and Safety Code, the Elder California Pipeline Safety  
12 Act of 1981 (Chapter 5.5 (commencing with Section 51010) of  
13 Part 1 of Division 1 of Title 5 of the Government Code), and the  
14 Natural Gas Pipeline Safety Act of 2011 (Article 2 (commencing  
15 with Section 955) of Chapter 4.5 of Part 1 of Division 1 of the  
16 Public Utilities Code).

17 (6) Hydrology and water quality, including flooding and sea  
18 level rise: the federal Water Pollution Control Act (33 U.S.C. Sec.  
19 1251 et seq.), the National Contaminated Sediment Assessment  
20 and Management Act (33 U.S.C. Sec. 1271 et seq.), the federal  
21 Safe Drinking Water Act (33 U.S.C. Sec. 300f et seq.), Section  
22 1602 of the Fish and Game Code, the Integrated Regional Water  
23 Management Planning Act (Part 2.2 (commencing with Section  
24 10530) of Division 6 of the Water Code), the Stormwater Resource  
25 Planning Act (Part 2.3 (commencing with Section 10560) of  
26 Division 6 of the Water Code), the Porter-Cologne Water Quality  
27 Control Act (Division 7 (commencing with Section 13000) of the  
28 Water Code), the Safe Drinking Water and Toxic Enforcement  
29 Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of  
30 Division 20 of the Health and Safety Code), the Urban Water  
31 Management Planning Act (Part 2.6 (commencing with Section  
32 10610) of Division 6 of the Water Code), Part 2.10 (commencing  
33 with Section 10910) of Division 6 of the Water Code, the Water  
34 Conservation in Landscaping Act (Article 10.8 (commencing with  
35 Section 65591) of Chapter 3 of Division 1 of Title 7 of the  
36 Government Code), the Storm Water Enforcement Act of 1998  
37 (Chapter 5.9 (commencing with Section 13399.25) of Division 7  
38 of the Water Code), the Water Recycling Law (Chapter 7  
39 (commencing with Section 13500) of Division 7 of the Water  
40 Code), Chapter 7.3 (commencing with Section 13560) of Division

1 7 of the Water Code, and Part 2.75 (commencing with Section  
2 10750) of Division 6 of the Water Code.

3 (7) Land use planning including consistency with land use plans:  
4 the federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec.  
5 1451 et seq.), the Federal Land Policy and Management Act of  
6 1976 (43 U.S.C. Sec. 1701 et seq.), the federal Forest and  
7 Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C.  
8 Secs. 1600 to 1614, incl., and 1641 to 1649, incl.), the National  
9 Forest Management Act of 1976 (16 U.S.C. Secs. 1600 and 1611  
10 to 1614, incl.), the Planning and Zoning Law (Title 7 (commencing  
11 with Section 65000) of the Government Code), the Subdivision  
12 Map Act (Division 2 (commencing with Section 66410) of Title  
13 7 of the Government Code), the California Coastal Act of 1976  
14 (Division 20 (commencing with Section 30000) of this code), the  
15 Cortese-Knox-Hertzberg Local Government Reorganization Act  
16 of 2000 (Part 1 (commencing with Section 56000) of Division 3  
17 of Title 5 of the Government Code), the California Green Building  
18 Standards Code (Part 11 of Title 24 of the California Code of  
19 Regulations), and the California Building Code (Part 2 of Title 24  
20 of the California Code of Regulations).

21 (8) Public services, including fire and police protection, schools,  
22 parks, solid waste, recycling, and other public facilities: Chapter  
23 2 (commencing with Section 17921) of Part 1.5 of Division 13 of  
24 the Health and Safety Code, Sections 65996, 65997, and 66477 of  
25 the Government Code, Title 7.3 (commencing with Section 66799)  
26 of the Government Code, the Used Oil Recycling Act (Article 9  
27 (commencing with Section 3460) of Chapter 1 of Division 3 of  
28 this code), the California Beverage Container Recycling and Litter  
29 Reduction Act (Division 12.1 (commencing with Section 14500),  
30 Division 12.3 (commencing with Section 16000), Division 12.4  
31 (commencing with Section 16050), and Division 12.7 (commencing  
32 with Section 18000) of this code), the Fiberglass Recycled Content  
33 Act of 1991 (Division 12.9 (commencing with Section 19500) of  
34 this code), the California Integrated Waste Management Act of  
35 1989 (Division 30 (commencing with Section 40000) of this code),  
36 the California Fire Code (Part 9 of Title 24 of the California Code  
37 of Regulations), and Sections 1270 and 6773 of Title 8 of the  
38 California Code of Regulations

39 (9) Traffic and transportation, including transit, vehicular,  
40 bicycle, and pedestrian transportation, emergency access, and

1 roadway safety: the federal Safe, Accountable, Flexible, Efficient  
2 Transportation Equity Act: A Legacy for Users (23 U.S.C. Sec.  
3 101 et seq.), Titles 23 and 49 of the United States Code, and  
4 Chapter 2.3 (commencing with Section 65070), Chapter 2.5  
5 (commencing with Section 65080), and Chapter 2.8 (commencing  
6 with Section 65088) of Division 1 of Title 7 of the Government  
7 Code.

8 (10) Utilities and service systems, including wastewater, water  
9 supply, stormwater, landfill and waste management systems: Part  
10 2.10 (commencing with Section 10910) of Division 6 of the Water  
11 Code, Part 2.55 (commencing with Section 10608) of Division 6  
12 of the Water Code, the Urban Water Management Planning Act  
13 (Part 2.6 (commencing with Section 10610) of Division 6 of the  
14 Water Code), and the Water Conservation in Landscaping Act  
15 (Article 10.8 (commencing with Section 65591) of Chapter 3 of  
16 Division 1 of Title 7 of the Government Code).

17 (11) Aesthetics: the federal Highway Beautification Act of 1965  
18 (23 U.S.C. Sec. 131), Article 2.5 (commencing with Section 260)  
19 of Chapter 1 of Division 1 of the Streets and Highways Code, the  
20 Outdoor Advertising Act (Chapter 2 (commencing with Section  
21 5200) of Division 3 of the Business and Professions Code), and  
22 subdivision (e) of Section 656302 of the Government Code.

23 (12) Agriculture: the federal Soil and Water Conservation Act  
24 of 1977 (16 U.S.C. Sec. 2001 et seq.) and the Williamson Act  
25 (Chapter 7 (commencing with Section 51200) of Part 1 of Division  
26 1 of Title 5 of the Government Code); and forestry resources: the  
27 Z'Berg-Nejedly Forest Practice Act of 1973 (Chapter 8  
28 (commencing with Section 4511) of Part 2 of Division 4) and  
29 corresponding regulations (Chapter 4 (commencing with Section  
30 895), Chapter 4.5 (commencing with Section 1115), and Chapter  
31 10 (commencing with Section 1600) of Division 1.5 of Title 14  
32 of the California Code of Regulations), Protection of Forest, Range  
33 and Forage Lands (Part 2 (commencing with Section 4101) of  
34 Division 4), and the Wild and Scenic Rivers Act (Chapter 1.4  
35 (commencing with Section 5093.50) of Division 5).

36 (13) Mineral resources: the federal Surface Mining Control and  
37 Reclamation Act of 1977 (30 U.S.C. Sec. 1201 et seq.) and the  
38 Surface Mining and Reclamation Act of 1975 (Chapter 9  
39 (commencing with Section 2710) of Division 2).

1 (14) Noise: the federal Noise Control Act of 1972 (43 U.S.C.  
2 Sec. 4901 et seq.), the federal Aviation Safety and Noise  
3 Abatement Act of 1979 (49 U.S.C. Sec. 47501 et seq.), Article 5  
4 (commencing with Section 65300) of Chapter 3 of Division 1 of  
5 Title 7 of the Government Code, the California Noise Insulation  
6 Standards (Part 2 of Title 24 of the California Code of Regulations),  
7 the California Employee Noise Exposure Limits (Article 105  
8 (commencing with Section 5095) of Group 15 of Subchapter 7 of  
9 Chapter 4 of Division 1 of Title 8 of the California Code of  
10 Regulations).

11 (d) Over the same 40-year period since the enactment of CEQA,  
12 the Legislature has also adopted environmental protection laws  
13 affecting three topical areas for which the United States Congress  
14 has not taken any action to adopt federal environmental law of  
15 general application in California, as follows:

16 (1) Geology and soils, including seismic and landslide risk: the  
17 Alquist-Priolo Earthquake Fault Zoning Act (Chapter 7.5  
18 (commencing with Section 2621) of Division 2 of this code), the  
19 Seismic Hazards Mapping Act (Chapter 7.8 (commencing with  
20 Section 2690) of Division 2 of this code), the California Building  
21 Code (Title 24 of the California Code of Regulations), Chapter  
22 12.2 (commencing with Section 8875) of Division 1 of Title 2 of  
23 the Government Code, subdivision (g) of Section 65302 of the  
24 Government Code, and the Surface Mining and Reclamation Act  
25 of 1975 (Chapter 9 (commencing with Section 2710) of Division  
26 2 of this code).

27 (2) Population and housing growth: Article 10.6 (commencing  
28 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the  
29 Government Code and Chapter 13 (commencing with Section  
30 75120) of Division 43.

31 (3) Recreational resources: Section 66477 of the Government  
32 Code and the Public Park Preservation Act of 1971 (Chapter 2.5  
33 (commencing with Section 5400) of Division 5 of this code).

34 (e) When enacting CEQA and subsequent amendments, the  
35 Legislature declared its intent to ensure that all public agencies  
36 give major consideration to preventing environmental damage,  
37 while providing a decent home and satisfying living environment  
38 for every Californian and to create and maintain conditions under  
39 which humankind and nature can exist in productive harmony to

1 fulfill the social and economic requirements of present and future  
2 generations.

3 (f) Environmental laws, including implementing plans,  
4 programs, regulations, and permit requirements that have been  
5 adopted since the 1970 enactment of CEQA, are designed to ensure  
6 California continues as a national and international leader in  
7 protecting the environment, health, safety, and welfare of California  
8 and those within its borders.

9 (1) At the local level, the California Constitution and California  
10 law require cities, counties, and cities and counties to adopt land  
11 use plans in order to develop and implement an orderly planning  
12 process for protecting and enhancing the quality of the community  
13 and the environment while providing for jobs, revenues,  
14 recreational and other services, housing, and other community  
15 needs.

16 (2) Pursuant to Chapter 728 of the Statutes of 2008, metropolitan  
17 planning organizations (MPOs) are directed to prepare sustainable  
18 communities strategies (SCSs) to reduce regional greenhouse gas  
19 emissions from the land use and transportation sector. Additionally,  
20 many cities and counties have adopted, or are in the process of  
21 adopting, land use plans such as general plan updates, zoning code  
22 revisions, specific plans, community plans, and area plans to  
23 encourage both renewable energy production and higher density,  
24 transit-oriented development patterns.

25 (3) In response to the challenges of climate change and in  
26 furtherance of energy independence and security, the Legislature  
27 has established significant new mandates for the development and  
28 use of renewable energy and higher density development patterns  
29 that promote transit utilization and conserve water and energy  
30 resources.

31 (4) With recent mandates and policies encouraging denser  
32 development patterns to promote transit, energy and water  
33 efficiency, job and housing growth is prioritized in areas that are  
34 already well populated and include urbanized conditions such as  
35 regional freeway congestion and local roadway congestion, and  
36 neighborhood-scale challenges such as parking and evolving  
37 aesthetic values. By directing growth into higher density,  
38 transit-oriented development patterns, SCS and local land use plan  
39 and zoning code adoption and implementation generally cause  
40 significant unavoidable density-related adverse environmental

1 impacts under CEQA, such as traffic and parking and related air  
2 quality emissions. Additionally, infrastructure and services in many  
3 urbanized areas are challenged and require upgrades that are  
4 beyond the fiscal ability or jurisdictional authority, or both, of a  
5 city or county, resulting in findings of additional significant  
6 unavoidable impacts for CEQA purposes. Impacts from higher  
7 density development land use plans and zoning code revisions  
8 (urbanization impacts) are evaluated and in many instances  
9 approved by decisionmakers as an appropriate policy decision  
10 based on climate, energy security, agricultural or open-space  
11 preservation, or other inherent policy choices that are informed by  
12 the EIR's environmental analysis and public disclosure process.

13 (g) Environmental laws and regulations identify compliance  
14 obligations that apply uniformly to similarly situated projects and  
15 activities, and provide critical environmental protections that go  
16 well beyond the ad hoc review process created by CEQA.  
17 Environmental laws and regulations identify compliance  
18 obligations of general applicability and thereby provide greater  
19 clarity than the project-by-project ad hoc review process that was  
20 created for CEQA in 1970.

21 (h) CEQA requires a public and environmental review process  
22 for the review and adoption of land use plans and zoning code  
23 revisions, including requirements to avoid or minimize the  
24 significant environmental impacts of land use plan and zoning  
25 code implementation. For plan or zoning code changes for which  
26 an environmental impact report (EIR) was prepared and certified,  
27 CEQA mandates inclusion of mitigation measures and alternatives  
28 to avoid or minimize significant unavoidable impacts.

29 (i) The court, in *Friends of Westwood v. City of Los Angeles*  
30 (1987) 191 Cal.App.3d 259, determined that the CEQA process  
31 is required even for projects that complied with the density, use  
32 type, and intensity restrictions in applicable land use plans and the  
33 zoning code.

34 (j) Applying CEQA's existing requirements at a project-specific  
35 level can often undermine the policy goals and objectives of  
36 applicable land use plans. A project that brings higher density to  
37 an area, with corresponding jobs, revenues, or housing, also brings  
38 traffic and parking demands, with associated air quality and other  
39 impacts, as well as a host of other urbanized effects as disclosed  
40 in the land use plan EIR. Where urbanized effects have been

1 mitigated on the plan level to the extent feasible, the reanalysis of  
2 these impacts at the project level can be problematic.

3 (k) Duplicative CEQA review of projects that comply with the  
4 density, use type, and intensity requirements of land use plans that  
5 have already undergone an EIR process was not intended by the  
6 Legislature and creates unacceptable delays and uncertainties in  
7 the plan implementation process. Avoidance of duplicative review  
8 will reduce litigation and the considerable political uncertainty  
9 that has resulted for communities and project proponents who  
10 attempt to implement land use plans, notwithstanding previously  
11 disclosed significant unavoidable urbanized impacts.

12 (l) Development of projects consistent with the density, use  
13 type, and intensity requirements of land use plans should be  
14 encouraged by avoiding duplicative environmental review of those  
15 projects if project approval is conditioned on implementing  
16 applicable mitigation measures included in the EIR prepared for  
17 the applicable land use plans.

18 (m) Public agencies are subject to public notice and disclosure  
19 requirements when approving projects, including the Ralph M.  
20 Brown Act (Chapter 9 (commencing with Section 54950) of Part  
21 1 of Division 2 of Title 5 of the Government Code) and the  
22 Bagley-Keene Open Meeting Act (Article 9 (commencing with  
23 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of  
24 the Government Code), and are also authorized to require  
25 comprehensive project applications and to condition project  
26 approvals under their police powers and other laws, not including  
27 CEQA.

28 (n) Public agencies are encouraged to create and maintain  
29 electronic records where feasible to reduce paperwork and increase  
30 efficiency. The prompt commencement and resolution of litigation  
31 filed under this division and CEQA is dependent upon the prompt  
32 availability of the respondent public agency's record of proceedings  
33 for the challenged agency action. There are no practical means by  
34 which records of proceedings which are predominantly maintained  
35 in electronic format can be readily accessed, organized, and  
36 produced by any party other than the respondent public agency.  
37 Where all or most of the respondent agency's record of proceeding  
38 is maintained by the respondent agency or its designee in an  
39 electronic format, timely production of the record of proceedings  
40 requires that the record be prepared by the respondent agency.

1 (o) In enacting this division, it is the intent of the Legislature  
2 to further the purposes of CEQA by integrating environmental and  
3 planning laws and regulations adopted over the last 40 years, while  
4 avoiding the sometimes conflicting and often duplicative ad hoc  
5 environmental review and mitigation requirements under CEQA.

6 (p) In enacting this division, it is also the intent of the  
7 Legislature to continue to foster public disclosure and informed  
8 public participation of the environmental consequences of projects.

9 (q) In enacting this division, it is the intent of the Legislature  
10 to preserve the authority of a lead agency, consistent with the  
11 jurisdiction and authority of that agency, to disapprove projects  
12 or to condition approvals of projects on terms that may require  
13 more stringent environmental protections or project approval  
14 conditions than those required by applicable environmental or  
15 planning laws.

16 21201. For the purposes of this division, the following  
17 definitions shall apply:

18 (a) “Applicable environmental law” is a law related to an  
19 environmental topical area listed in subdivision (b) of Section  
20 21200.5 that is relevant to a project and that does any of the  
21 following:

22 (1) Includes a policy determination, or directs or authorizes the  
23 adoption by an implementing agency of regulations, plans, or  
24 permits, licenses, or authorization applications and approval  
25 processing procedures and practices to implement that policy  
26 determination, regarding a standard applicable to a topical area  
27 requiring analysis and mitigation under CEQA.

28 (2) Identifies quantitative and qualitative analytical methods or  
29 approaches, or directs or authorizes the adoption by an  
30 implementing agency of regulations, plans, or permits, licenses,  
31 or authorization applications and approval processing procedures  
32 and practices that include those analytical methods or approaches,  
33 regarding a standard.

34 (3) Identifies required or permissible practices for mitigating  
35 or minimizing adverse impacts to a topical area requiring analysis  
36 and mitigation under CEQA, or directs or authorizes the adoption  
37 by an implementing agency of regulations or plans, or directs or  
38 authorizes an implementing agency to review and approve permits,  
39 licenses, or authorization applications that include avoidance,  
40 minimization, mitigation, conditions or other requirements to

1 achieve a standard applicable to a topical area requiring analysis  
2 and mitigation under CEQA.

3 (b) “Applicable plan” means a planning document for which  
4 an environmental impact report, supplemental environmental  
5 impact report, or environmental impact report addendum was  
6 certified, including either of the following:

7 (1) A land use plan, such as a general plan, specific plan, or  
8 sustainable communities strategies adopted by a city, county, city  
9 and county, metropolitan planning organization, or other local,  
10 regional, or state agency that establishes use designations, densities,  
11 and building intensities.

12 (2) A plan to improve or maintain public facilities or  
13 infrastructure to be funded in whole or in part by public funds and  
14 which has been adopted by a local, regional, or state agency.

15 (c) “Applicable mitigation requirements” means all mitigation  
16 measures included in an applicable plan with the exception of  
17 mitigation measures the lead agency determines, based on  
18 substantial evidence, are not required to mitigate a potentially  
19 significant impact of a proposed project.

20 (d) “CEQA” means the California Environmental Quality Act  
21 (Division 13 (commencing with Section 21000)).

22 (e) “Implementing agency” means any state or federal agency,  
23 board, or commission, any county, city and county, city, regional  
24 agency, public district, or other political subdivision.

25 (f) “Standard” means a quantitative or qualitative level of  
26 protection, preservation, enhancement, pollution, reduction,  
27 avoidance, or other measure for a topical area requiring analysis  
28 and mitigation under CEQA.

29 21202. (a) An environmental document prepared pursuant to  
30 CEQA shall disclose all applicable environmental laws.

31 (1) An environmental document prepared pursuant to CEQA  
32 and that discloses an applicable environmental law described in  
33 paragraph (1) of subdivision (a) of Section 21201 shall disclose  
34 the applicable compliance requirements of that law, and compliance  
35 with the applicable standards for impacts that occur or might occur  
36 as a result of approval of the project shall be the exclusive means  
37 of evaluating and mitigating environmental impacts under CEQA  
38 regarding the subject of that law, notwithstanding any other  
39 provision of law.

1 (2) An environmental document prepared pursuant to CEQA  
2 and that discloses an applicable environmental law described in  
3 paragraph (2) of subdivision (a) of Section 21201 shall disclose  
4 the applicable analytical methods or approaches, and the disclosure  
5 of those analytical methods or approaches shall be the exclusive  
6 means of evaluating potential project impacts under CEQA  
7 regarding the relevant law, notwithstanding any other provision  
8 of law.

9 (3) An environmental document prepared pursuant to CEQA  
10 and that discloses an applicable environmental law described in  
11 paragraph (3) of subdivision (a) of Section 21201 shall disclose  
12 the applicable mitigation and minimization methods or approaches  
13 typically used by implementing agencies as part of their review  
14 and approval or permits, licenses, or authorization applications,  
15 and compliance with mitigation and minimization practices shall  
16 be the exclusive means of mitigating environmental impacts under  
17 CEQA regarding the subject of the relevant law, notwithstanding  
18 any other provision of law.

19 (b) The disclosure obligations set forth in this section are  
20 intended to foster informed environmental review and public  
21 participation in the environmental and public review process  
22 required by CEQA or other applicable laws and regulations, such  
23 as the Ralph M. Brown Act (Chapter 9 (commencing with Section  
24 54950) of Part 1 of Division 2 of Title 5 of the Government Code)  
25 and the Bagley-Keene Open Meeting Act (Article 9 (commencing  
26 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title  
27 2 of the Government Code).

28 21203. (a) A cause of action shall not be alleged in an action  
29 or proceeding brought and maintained pursuant to Section 21167  
30 for noncompliance with CEQA under either of the following  
31 circumstances:

32 (1) If the cause of action relates to an environmental topical  
33 area listed in subdivision (b) of Section 21200.5 and the  
34 environmental document discloses compliance with any applicable  
35 environmental law pertaining to a topical area or any regulation,  
36 plan, permit, license, or authorization application and approval  
37 processing procedures adopted by an implementing agency as  
38 directed or authorized by that applicable environmental law.

39 (2) If the environmental document for the project discloses  
40 compliance with applicable environmental law pertaining to a

1 topical area or any regulation, plan, permit, license, or authorization  
2 application and approval processing procedures adopted by an  
3 implementing agency as directed or authorized by that applicable  
4 environmental law; the project conforms to the use designation,  
5 density, or building intensity in a land use plan or was included in  
6 any other applicable plan identified in subdivision (b) of Section  
7 21201; and the lead agency incorporates applicable mitigation  
8 requirements included in the certified environmental impact report,  
9 supplemental environmental impact report, or environmental  
10 impact report addendum prepared for the applicable plan into the  
11 environmental document prepared for the project.

12 (b) This section does not prohibit the allegation of a cause of  
13 action that is otherwise authorized by law to enforce compliance  
14 with any other existing local, state, and federal law, regulation, or  
15 applicable plan.

16 21204. (a) Except for projects with potentially significant  
17 aesthetic impacts on an official state scenic highway established  
18 pursuant to section 262 of the Streets and Highways Code, a lead  
19 agency shall not be required to evaluate aesthetics pursuant to  
20 CEQA or this division, and the lead agency shall not be required  
21 to make findings pursuant to subdivision (a) of Section 21081 on  
22 or relating to aesthetic impacts.

23 (b) This section does not change the authority of a lead agency  
24 to consider aesthetic issues and to require mitigation or avoidance  
25 of adverse aesthetic impacts pursuant to discretionary powers  
26 provided by laws other than CEQA or this division.

27 21204.5. This division does not modify any of the following  
28 obligations:

29 (a) Evaluation of the potential for a project to effect tribal  
30 cultural resources, as defined in Section 21074.

31 (b) Compliance with Sections 5097.98, 21080.3.1, and  
32 21080.3.2, including the obligation to discuss and confer with the  
33 appropriate California Native American tribes, as defined in  
34 Section 21073.

35 (c) Avoidance, mitigation, and minimization of adverse impacts  
36 to tribal cultural resources pursuant to Section 21084.3.

37 21205. This division applies only to projects for which the lead  
38 agency or applicant has agreed to provide to the public in a readily  
39 accessible electronic format an annual compliance report prepared

1 pursuant to the mitigation monitoring and reporting program  
2 required by paragraph (1) of subdivision (a) of Section 21081.6.

3 21206. This division does not preclude any state agency, board,  
4 or commission, or any city, county, city and county, regional  
5 agency, public district, redevelopment agency, or other political  
6 subdivision from requiring information or analysis of the project  
7 under consideration, or imposing conditions of approval for that  
8 project, under laws and regulations other than this division and  
9 CEQA.

10 21207. (a) An environmental document, prepared pursuant to  
11 CEQA, shall be required to consider only those environmental  
12 topical areas listed in subdivision (b) of Section 21200.5 and only  
13 to the extent those environmental topical areas are relevant to the  
14 project.

15 (b) Subdivision (b) of Section 21200.5 is not intended to affirm,  
16 reject, or otherwise affect court decisions concerning the  
17 consistency of the guidelines provisions within the provisions of  
18 CEQA.

19 (c) This section does not preclude a lead agency from modifying  
20 or updating its analytical methodologies for those topical areas.

21 SEC. 2. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 a local agency or school district has the authority to levy service  
24 charges, fees, or assessments sufficient to pay for the program or  
25 level of service mandated by this act, within the meaning of Section  
26 17556 of the Government Code.