

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 389**

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**Introduced by Senator Berryhill**

*(Coauthors: Senators Bates, Fuller, Gaines, Huff, Morrell, Nielsen, Runner, Stone, and Vidak)*

*(Coauthors: Assembly Members Bigelow and Wilk)*

February 25, 2015

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~~An act to amend Section 21190 of the Public Resources Code, relating to environmental protection.~~ *An act to add Division 13.6 (commencing with Section 21200) to the Public Resources Code, relating to environmental quality.*

LEGISLATIVE COUNSEL'S DIGEST

SB 389, as amended, Berryhill. ~~California Environmental Protection Program:—funding:—~~ *Environmental quality: the Sustainable Environmental Protection Act.*

*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.*

*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. For 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) relates any topical area or criteria for which compliance obligations are identified or (2) challenges the environmental document 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.*

~~Existing law establishes the California Environmental Protection Program which provides funding, from fees and other moneys in the California Environmental License Plate Fund, upon appropriation, for various environmental protection purposes including, among other things, projects and programs related to pollution control, land acquisitions for natural areas and ecological reserves, environmental education, the protection of wildlife and habitat, and climate change research.~~

~~This bill would make nonsubstantive changes to those provisions.~~

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

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

16     *(b) Guidelines implementing CEQA have evolved and expanded,*  
17 *and currently provide that project impacts be evaluated based on*  
18 *87 criteria covering the following 18 environmental topical areas:*

19         *(1) Air quality.*

20         *(2) Biological resources, including protected species and habitat*  
21 *types.*

22         *(3) Cultural resources, including archaeological resources.*

23         *(4) Geology and soils, including seismic and landslide risk.*

24         *(5) Greenhouse gas emissions.*

25         *(6) Hazards and hazardous materials, including toxic chemical*  
26 *exposures, brownfields or contaminated site issues, and accident*  
27 *risks.*

28         *(7) Hydrology and water quality, including flooding and sea*  
29 *level rise.*

30         *(8) Land use planning, including consistency with land use*  
31 *plans.*

32         *(9) Public services, including fire and police protection, schools,*  
33 *parks, and other public facilities.*

34         *(10) Traffic and transportation, including transit, vehicular,*  
35 *bicycle, and pedestrian transportation, emergency access, and*  
36 *roadway safety.*

37         *(11) Utilities and service systems, including wastewater, water*  
38 *supply, stormwater, landfill, and waste management systems.*

- 1 (12) *Aesthetics.*
- 2 (13) *Agriculture and forestry resources.*
- 3 (14) *Mineral resource availability.*
- 4 (15) *Noise.*
- 5 (16) *Population and housing growth.*
- 6 (17) *Recreational resources.*
- 7 (18) *Mandatory findings of significance.*

8 (c) *In the years before and the 45 years following the enactment*  
9 *of CEQA, Congress and the Legislature have each adopted more*  
10 *than 100 laws to protect environmental quality in those*  
11 *environmental topical areas required to be independently mitigated*  
12 *under CEQA described in subdivision (b). The Legislature has*  
13 *enacted environmental protection laws that are as or more*  
14 *stringent than federal law, and California environmental laws are*  
15 *often at the cutting edge of environmental protection nationally*  
16 *and even globally. These environmental protection laws, all*  
17 *enacted after 1970, include, but are not limited to, the following:*

18 (1) *Air quality, including air pollution and toxic air*  
19 *contaminants: the federal Clean Air Act (42 U.S.C. Sec. 7401 et*  
20 *seq.) and the federal Acid Precipitation Act of 1980 (42 U.S.C.*  
21 *Sec. 8901 et seq.), and California air quality laws, including*  
22 *Division 26 (commencing with Section 39000) of the Health and*  
23 *Safety Code, the Protect California Air Act of 2003 (Chapter 4.5*  
24 *(commencing with Section 42500) of Part 4 of Division 26 of the*  
25 *Health and Safety Code), the Carl Moyer Memorial Air Quality*  
26 *Standards Attainment Program (Chapter 9 (commencing with*  
27 *Section 44275) of Part 5 of Division 26 of the Health and Safety*  
28 *Code), the California Port Community Air Quality Program*  
29 *(Chapter 9.8 (commencing with Section 44299.80) of Part 5 of*  
30 *Division 26 of the Health and Safety Code), the California Clean*  
31 *Schoolbus Program (Chapter 10 (commencing with Section*  
32 *44299.90) of Part 5 of Division 26 of the Health and Safety Code),*  
33 *the Air Pollution Permit Streamlining Act of 1992 (Article 1.3*  
34 *(commencing with Section 42320) of Chapter 4 of Part 4 of*  
35 *Division 26 of the Health and Safety Code), and the California air*  
36 *pollution control laws, including the Air Toxics “Hot Spots”*  
37 *Information and Assessment Act of 1987 (Part 6 (commencing*  
38 *with Section 44300) of Division 26 of the Health and Safety Code),*  
39 *the Connelly-Areias-Chandler Rice Straw Burning Reduction Act*  
40 *of 1991 (Section 41865 of the Health and Safety Code), and the*

1 *Lewis-Presley Air Quality Management Act (Chapter 5.5*  
2 *(commencing with Section 40400) of Part 3 of Division 26 of the*  
3 *Health and Safety Code).*

4 (2) *Biological resources, including protected species and habitat*  
5 *types: the federal Endangered Species Act of 1973 (16 U.S.C. Sec.*  
6 *1531 et seq.), the federal Migratory Bird Treaty Act (16 U.S.C.*  
7 *Sec. 703 et seq.), the federal Bald and Golden Eagle Protection*  
8 *Act (16 U.S.C. Sec. 668), Section 404(b) of the federal Clean Water*  
9 *Act (33 U.S.C. Sec. 1344(b)), the federal Marine Mammal*  
10 *Protection Act of 1972 (16 U.S.C. Sec. 1361 et seq.), the federal*  
11 *Nonindigenous Aquatic Nuisance Prevention and Control Act of*  
12 *1990 (16 U.S.C. Sec. 4701 et seq.), the California Endangered*  
13 *Species Act (Chapter 1.5 (commencing with Section 2050) of*  
14 *Division 3 of the Fish and Game Code), Sections 1602, 3503.5,*  
15 *3511, 3513, and 4700 of the Fish and Game Code, the Oak*  
16 *Woodlands Conservation Act (Article 3.5 (commencing with*  
17 *Section 1360) of Chapter 3 of Division 2 of the Fish and Game*  
18 *Code), Article 3 (commencing with Section 355) of Chapter 3 of*  
19 *Division 1 of the Fish and Game Code, Division 5 (commencing*  
20 *with Section 5000) of the Fish and Game Code, Division 6*  
21 *(commencing with Section 5500) of the Fish and Game Code, and*  
22 *subdivision (e) of Section 65302 of the Government Code.*

23 (3) *Cultural resources, including archaeological resources:*  
24 *Section 106 of the federal National Historic Preservation Act (16*  
25 *U.S.C. Sec. 470(f)), the federal American Indian Religious Freedom*  
26 *Act (42 U.S.C. Sec. 1996), Section 7050.5 of the Health and Safety*  
27 *Code, and Section 5097.9.*

28 (4) *Climate change and greenhouse gas emissions: the federal*  
29 *Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the federal Energy*  
30 *Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et*  
31 *seq.), the California Global Warming Solutions Act of 2006*  
32 *(Division 25.5 (commencing with Section 38500) of the Health*  
33 *and Safety Code), Division 26 (commencing with Section 39000)*  
34 *of the Health and Safety Code, the California Alternative and*  
35 *Renewable Fuel, Vehicle Technology, Clean Air, and Carbon*  
36 *Reduction Act of 2007 (Chapter 8.9 (commencing with Section*  
37 *44270) of Part 5 of Division 26 of the Health and Safety Code),*  
38 *the California Energy-Efficient Vehicle Group Purchase Program*  
39 *(Article 1.5 (commencing with Section 43810) of Chapter 4 of Part*  
40 *5 of Division 26 of the Health and Safety Code), Section 43018.5*

1 *of the Health and Safety Code, and Chapter 728 of the Statutes of*  
2 *2008.*

3 (5) *Hazards and hazardous materials, including toxic chemical*  
4 *exposures, brownfields or contaminated site issues, and chemical*  
5 *accident risks: the federal Comprehensive Environmental*  
6 *Response, Compensation, and Liability Act of 1980 (42 U.S.C.*  
7 *Sec. 9601 et seq.), the federal Resource Conservation and Recovery*  
8 *Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the federal Emergency*  
9 *Planning and Community Right-to-Know Act of 1986 (42 U.S.C.*  
10 *Sec. 11001 et seq.), the federal Pollution Prevention Act of 1990*  
11 *(42 U.S.C. Sec. 13101 et seq.), the federal Oil Pollution Act of*  
12 *1990 (33 U.S.C. Sec. 2701 et seq.), the Federal Insecticide,*  
13 *Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.), the*  
14 *federal Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.),*  
15 *the federal Asbestos Hazard Emergency Response Act of 1986 (15*  
16 *U.S.C. Sec. 2641 et seq.), the federal Lead-Based Paint Exposure*  
17 *Reduction Act (15 U.S.C. Sec. 2681 et seq.), the federal Low-Level*  
18 *Radioactive Waste Policy Act (42 U.S.C. Sec. 2021b et seq.), the*  
19 *federal Lead Contamination Control Act of 1988 (42 U.S.C. Sec.*  
20 *300j-21 et seq.), the Hazardous Waste Control Law (Chapter 6.5*  
21 *(commencing with Section 25100) of Division 20 of the Health*  
22 *and Safety Code), Chapter 6.7 (commencing with Section 25280)*  
23 *of Division 20 of the Health and Safety Code, Sections 25356.1.5*  
24 *and 25395.94 of the Health and Safety Code, Chapter 6.95*  
25 *(commencing with Section 25500) of Division 20 of the Health*  
26 *and Safety Code, the Elder California Pipeline Safety Act of 1981*  
27 *(Chapter 5.5 (commencing with Section 51010) of Part 1 of*  
28 *Division 1 of Title 5 of the Government Code), and the Natural*  
29 *Gas Pipeline Safety Act of 2011 (Article 2 (commencing with*  
30 *Section 955) of Chapter 4.5 of Part 1 of Division 1 of the Public*  
31 *Utilities Code).*

32 (6) *Hydrology and water quality, including flooding and sea*  
33 *level rise: the federal Water Pollution Control Act (33 U.S.C. Sec.*  
34 *1251 et seq.), the National Contaminated Sediment Assessment*  
35 *and Management Act (33 U.S.C. Sec. 1271 et seq.), the federal*  
36 *Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.), Section*  
37 *1602 of the Fish and Game Code, the Integrated Regional Water*  
38 *Management Planning Act (Part 2.2 (commencing with Section*  
39 *10530) of Division 6 of the Water Code), the Stormwater Resource*  
40 *Planning Act (Part 2.3 (commencing with Section 10560) of*

1 *Division 6 of the Water Code), the Porter-Cologne Water Quality*  
2 *Control Act (Division 7 (commencing with Section 13000) of the*  
3 *Water Code), the Safe Drinking Water and Toxic Enforcement Act*  
4 *of 1986 (Chapter 6.6 (commencing with Section 25249.5) of*  
5 *Division 20 of the Health and Safety Code), the Urban Water*  
6 *Management Planning Act (Part 2.6 (commencing with Section*  
7 *10610) of Division 6 of the Water Code), Part 2.10 (commencing*  
8 *with Section 10910) of Division 6 of the Water Code, the Water*  
9 *Conservation in Landscaping Act (Article 10.8 (commencing with*  
10 *Section 65591) of Chapter 3 of Division 1 of Title 7 of the*  
11 *Government Code), the Storm Water Enforcement Act of 1998*  
12 *(Chapter 5.9 (commencing with Section 13399.25) of Division 7*  
13 *of the Water Code), the Water Recycling Law (Chapter 7*  
14 *(commencing with Section 13500) of Division 7 of the Water Code),*  
15 *Chapter 7.3 (commencing with Section 13560) of Division 7 of the*  
16 *Water Code, and Part 2.75 (commencing with Section 10750) of*  
17 *Division 6 of the Water Code.*

18 (7) *Land use planning including consistency with land use plans:*  
19 *the federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec.*  
20 *1451 et seq.), the Federal Land Policy and Management Act of*  
21 *1976 (43 U.S.C. Sec. 1701 et seq.), the federal Forest and*  
22 *Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C.*  
23 *Secs. 1600 to 1614, incl., and 1641 to 1649, incl.), the National*  
24 *Forest Management Act of 1976 (16 U.S.C. Secs. 1600 and 1611*  
25 *to 1614, incl.), the Planning and Zoning Law (Title 7 (commencing*  
26 *with Section 65000) of the Government Code), the Subdivision*  
27 *Map Act (Division 2 (commencing with Section 66410) of Title 7*  
28 *of the Government Code), the California Coastal Act of 1976*  
29 *(Division 20 (commencing with Section 30000)), the*  
30 *Cortese-Knox-Hertzberg Local Government Reorganization Act*  
31 *of 2000 (Division 3 (commencing with Section 56000) of Title 5*  
32 *of the Government Code), the California Green Building Standards*  
33 *Code (Part 11 of Title 24 of the California Code of Regulations),*  
34 *and the California Building Code (Part 2 of Title 24 of the*  
35 *California Code of Regulations).*

36 (8) *Public services, including fire and police protection, schools,*  
37 *parks, solid waste, recycling, and other public facilities: Chapter*  
38 *2 (commencing with Section 17920) of Part 1.5 of Division 13 of*  
39 *the Health and Safety Code, Sections 65996, 65997, and 66477 of*  
40 *the Government Code, Title 7.3 (commencing with Section 66799)*

1 of the Government Code, the Used Oil Recycling Act (Article 9  
2 (commencing with Section 3460) of Chapter 1 of Division 3), the  
3 California Beverage Container Recycling and Litter Reduction  
4 Act (Division 12.1 (commencing with Section 14500), Division  
5 12.3 (commencing with Section 16000), Division 12.4 (commencing  
6 with Section 16050), and Division 12.7 (commencing with Section  
7 18000)), the Fiberglass Recycled Content Act of 1991 (Division  
8 12.9 (commencing with Section 19500)), the California Integrated  
9 Waste Management Act of 1989 (Division 30 (commencing with  
10 Section 40000)), the California Fire Code (Part 9 of Title 24 of  
11 the California Code of Regulations), and Sections 1270 and 6773  
12 of Title 8 of the California Code of Regulations.

13 (9) Traffic and transportation, including transit, vehicular,  
14 bicycle, and pedestrian transportation, emergency access, and  
15 roadway safety: the federal Safe, Accountable, Flexible, Efficient  
16 Transportation Equity Act: A Legacy for Users (23 U.S.C. Sec.  
17 101 et seq.), Titles 23 and 49 of the United States Code, and  
18 Chapter 2.3 (commencing with Section 65070), Chapter 2.5  
19 (commencing with Section 65080), and Chapter 2.8 (commencing  
20 with Section 65088) of Division 1 of Title 7 of the Government  
21 Code.

22 (10) Utilities and service systems, including wastewater, water  
23 supply, stormwater, landfill and waste management systems: Part  
24 2.10 (commencing with Section 10910) of Division 6 of the Water  
25 Code, Part 2.55 (commencing with Section 10608) of Division 6  
26 of the Water Code, the Urban Water Management Planning Act  
27 (Part 2.6 (commencing with Section 10610) of Division 6 of the  
28 Water Code), and the Water Conservation in Landscaping Act  
29 (Article 10.8 (commencing with Section 65591) of Chapter 3 of  
30 Division 1 of Title 7 of the Government Code).

31 (11) Aesthetics: the federal Highway Beautification Act of 1965  
32 (23 U.S.C. Sec. 131), Article 2.5 (commencing with Section 260)  
33 of Chapter 1 of Division 1 of the Streets and Highways Code, the  
34 Outdoor Advertising Act (Chapter 2 (commencing with Section  
35 5200) of Division 3 of the Business and Professions Code), and  
36 subdivision (e) of Section 65302 of the Government Code.

37 (12) Agriculture: the federal Soil and Water Conservation Act  
38 of 1977 (16 U.S.C. Sec. 2001 et seq.) and the Williamson Act  
39 (Chapter 7 (commencing with Section 51200) of Part 1 of Division  
40 1 of Title 5 of the Government Code); and forestry resources: the

1 Z'Berg-Nejedly Forest Practice Act of 1973 (Chapter 8  
2 (commencing with Section 4511) of Part 2 of Division 4) and  
3 corresponding regulations (Chapter 4 (commencing with Section  
4 895), Chapter 4.5 (commencing with Section 1115), and Chapter  
5 10 (commencing with Section 1600) of Division 1.5 of Title 14 of  
6 the California Code of Regulations), Protection of Forest, Range  
7 and Forage Lands (Part 2 (commencing with Section 4101) of  
8 Division 4), and the Wild and Scenic Rivers Act (Chapter 1.4  
9 (commencing with Section 5093.50) of Division 5).

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

14 (14) Noise: the federal Noise Control Act of 1972 (42 U.S.C.  
15 Sec. 4901 et seq.), the federal Aviation Safety and Noise Abatement  
16 Act of 1979 (49 U.S.C. Sec. 47501 et seq.), Article 5 (commencing  
17 with Section 65300) of Chapter 3 of Division 1 of Title 7 of the  
18 Government Code, the California Noise Insulation Standards (Part  
19 2 of Title 24 of the California Code of Regulations), the California  
20 Employee Noise Exposure Limits (Article 105 (commencing with  
21 Section 5095) of Group 15 of Subchapter 7 of Chapter 4 of Division  
22 1 of Title 8 of the California Code of Regulations).

23 (d) Over the same 45-year period since the enactment of CEQA,  
24 the Legislature has also adopted environmental protection laws  
25 affecting three topical areas for which the United States Congress  
26 has not taken any action to adopt federal environmental law of  
27 general application in California, as follows:

28 (1) Geology and soils, including seismic and landslide risk: the  
29 Alquist-Priolo Earthquake Fault Zoning Act (Chapter 7.5  
30 (commencing with Section 2621) of Division 2), the Seismic  
31 Hazards Mapping Act (Chapter 7.8 (commencing with Section  
32 2690) of Division 2), the California Building Code (Title 24 of the  
33 California Code of Regulations), Chapter 12.2 (commencing with  
34 Section 8875) of Division 1 of Title 2 of the Government Code,  
35 subdivision (g) of Section 65302 of the Government Code, and the  
36 Surface Mining and Reclamation Act of 1975 (Chapter 9  
37 (commencing with Section 2710) of Division 2).

38 (2) Population and housing growth: Article 10.6 (commencing  
39 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the

1 *Government Code and Chapter 13 (commencing with Section*  
2 *75120) of Division 43.*

3 *(3) Recreational resources: Section 66477 of the Government*  
4 *Code and the Public Park Preservation Act of 1971 (Chapter 2.5*  
5 *(commencing with Section 5400) of Division 5).*

6 *(e) When enacting CEQA and subsequent amendments, the*  
7 *Legislature declared its intent to ensure that all public agencies*  
8 *give major consideration to preventing environmental damage,*  
9 *while providing a decent home and satisfying living environment*  
10 *for every Californian and to create and maintain conditions under*  
11 *which humankind and nature can exist in productive harmony to*  
12 *fulfill the social and economic requirements of present and future*  
13 *generations.*

14 *(f) Environmental laws, including implementing plans,*  
15 *programs, regulations, and permit requirements that have been*  
16 *adopted since the 1970 enactment of CEQA, are designed to ensure*  
17 *California continues as a national and international leader in*  
18 *protecting the environment, health, safety, and welfare of*  
19 *California and those within its borders.*

20 *(1) At the local level, the California Constitution and California*  
21 *law require cities, counties, and cities and counties to adopt land*  
22 *use plans in order to develop and implement an orderly planning*  
23 *process for protecting and enhancing the quality of the community*  
24 *and the environment while providing for jobs, revenues,*  
25 *recreational and other services, housing, and other community*  
26 *needs.*

27 *(2) Pursuant to Section 65080 of the Government Code,*  
28 *metropolitan planning organizations (MPOs) are directed to*  
29 *prepare sustainable communities strategies (SCSs) to reduce*  
30 *regional greenhouse gas emissions from the land use and*  
31 *transportation sector. Additionally, many cities and counties have*  
32 *adopted, or are in the process of adopting, land use plans such as*  
33 *general plan updates, zoning code revisions, specific plans,*  
34 *community plans, and area plans to encourage both renewable*  
35 *energy production and higher density, transit-oriented development*  
36 *patterns.*

37 *(3) In response to the challenges of climate change and in*  
38 *furtherance of energy independence and security, the Legislature*  
39 *has established significant new mandates for the development and*  
40 *use of renewable energy and higher density development patterns*

1 *that promote transit utilization and conserve water and energy*  
2 *resources.*

3 *(4) With recent mandates and policies encouraging denser*  
4 *development patterns to promote transit, energy, and water*  
5 *efficiency, job and housing growth is prioritized in areas that are*  
6 *already well populated and include urbanized conditions such as*  
7 *regional freeway congestion and local roadway congestion, and*  
8 *neighborhood-scale challenges such as parking and evolving*  
9 *aesthetic values. By directing growth into higher density,*  
10 *transit-oriented development patterns, SCS and local land use*  
11 *plan and zoning code adoption and implementation generally*  
12 *cause significant unavoidable density-related adverse*  
13 *environmental impacts under CEQA, such as traffic and parking*  
14 *and related air quality emissions. Additionally, infrastructure and*  
15 *services in many urbanized areas are challenged and require*  
16 *upgrades that are beyond the fiscal ability or jurisdictional*  
17 *authority, or both, of a city or county, resulting in findings of*  
18 *additional significant unavoidable impacts for CEQA purposes.*  
19 *Impacts from higher density development land use plans and zoning*  
20 *code revisions (urbanization impacts) are evaluated and in many*  
21 *instances approved by decisionmakers as an appropriate policy*  
22 *decision based on climate, energy security, agricultural or*  
23 *open-space preservation, or other inherent policy choices that are*  
24 *informed by the EIR's environmental analysis and public disclosure*  
25 *process.*

26 *(g) Environmental laws and regulations identify compliance*  
27 *obligations that apply uniformly to similarly situated projects and*  
28 *activities, and provide critical environmental protections that go*  
29 *well beyond the ad hoc review process created by CEQA.*  
30 *Environmental laws and regulations identify compliance*  
31 *obligations of general applicability and thereby provide greater*  
32 *clarity than the project-by-project ad hoc review process that was*  
33 *created for CEQA in 1970.*

34 *(h) CEQA requires a public and environmental review process*  
35 *for the review and adoption of land use plans and zoning code*  
36 *revisions, including requirements to avoid or minimize the*  
37 *significant environmental impacts of land use plan and zoning*  
38 *code implementation. For plan or zoning code changes for which*  
39 *an environmental impact report (EIR) was prepared and certified,*

1 CEQA mandates inclusion of mitigation measures and alternatives  
2 to avoid or minimize significant unavoidable impacts.

3 (i) Despite these stringent environmental laws and local  
4 planning requirements, public and private projects throughout the  
5 state are commonly challenged under CEQA even when a project  
6 meets all other environmental standards of existing laws.

7 (j) The court, in *Friends of Westwood v. City of Los Angeles*  
8 (1987) 191 Cal.App.3d 259, determined that the CEQA process is  
9 required even for projects that complied with the density, use type,  
10 and intensity restrictions in applicable land use plans and the  
11 zoning code.

12 (k) Applying CEQA's existing requirements at a project-specific  
13 level can often undermine the policy goals and objectives of  
14 applicable land use plans. A project that brings higher density to  
15 an area, with corresponding jobs, revenues, or housing, also brings  
16 traffic and parking demands, with associated air quality and other  
17 impacts, as well as a host of other urbanized effects as disclosed  
18 in the land use plan EIR. Where urbanized effects have been  
19 mitigated on the plan level to the extent feasible, the reanalysis of  
20 these impacts at the project level can be problematic.

21 (l) Duplicative CEQA review of projects that comply with the  
22 density, use type, and intensity requirements of land use plans that  
23 have already undergone an EIR process was not intended by the  
24 Legislature and creates unacceptable delays and uncertainties in  
25 the plan implementation process. Avoidance of duplicative review  
26 will reduce litigation and the considerable political uncertainty  
27 that has resulted for communities and project proponents who  
28 attempt to implement land use plans, notwithstanding previously  
29 disclosed significant unavoidable urbanized impacts.

30 (m) Development of projects consistent with the density, use  
31 type, and intensity requirements of land use plans should be  
32 encouraged by avoiding duplicative environmental review of those  
33 projects if project approval is conditioned on implementing  
34 applicable mitigation measures included in the EIR prepared for  
35 the applicable land use plans.

36 (n) Public agencies are subject to public notice and disclosure  
37 requirements when approving projects, including the Ralph M.  
38 Brown Act (Chapter 9 (commencing with Section 54950) of Part  
39 1 of Division 2 of Title 5 of the Government Code) and the  
40 Bagley-Keene Open Meeting Act (Article 9 (commencing with

1 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of  
2 the Government Code), and are also authorized to require  
3 comprehensive project applications and to condition project  
4 approvals under their police powers and other laws, not including  
5 CEQA.

6 (o) Public agencies are encouraged to create and maintain  
7 electronic records where feasible to reduce paperwork and  
8 increase efficiency. The prompt commencement and resolution of  
9 litigation filed under this division and CEQA is dependent upon  
10 the prompt availability of the respondent public agency's record  
11 of proceedings for the challenged agency action. There are no  
12 practical means by which records of proceedings that are  
13 predominantly maintained in electronic format can be readily  
14 accessed, organized, and produced by any party other than the  
15 respondent public agency. Where all or most of the respondent  
16 agency's record of proceeding is maintained by the respondent  
17 agency or its designee in an electronic format, timely production  
18 of the record of proceedings requires that the record be prepared  
19 by the respondent agency.

20 (p) In enacting this division, it is the intent of the Legislature  
21 to further the purposes of CEQA by integrating environmental and  
22 planning laws and regulations adopted over the last 45 years,  
23 while avoiding the sometimes conflicting and often duplicative ad  
24 hoc environmental review and mitigation requirements under  
25 CEQA.

26 (q) In enacting this division, it is also the intent of the  
27 Legislature to continue to foster public disclosure and informed  
28 public participation of the environmental consequences of projects.

29 (r) In enacting this division, it is the intent of the Legislature to  
30 preserve the authority of a lead agency, consistent with the  
31 jurisdiction and authority of that agency, to disapprove projects  
32 or to condition approvals of projects on terms that may require  
33 more stringent environmental protections or project approval  
34 conditions than those required by applicable environmental or  
35 planning laws.

36 (s) In enacting this division, it is the intent of the Legislature to  
37 modernize CEQA to conform to California's comprehensive  
38 environmental laws and regulations to produce thoughtful CEQA  
39 reforms that can preserve the law's original intent of environmental

1 *protection while eliminating duplicative environmental analysis*  
2 *and providing a higher level of certainty for project proponents.*

3 *21201. For the purposes of this division, the following*  
4 *definitions shall apply:*

5 *(a) “Applicable environmental law” is a law related to an*  
6 *environmental topical area listed in subdivision (b) of Section*  
7 *21200.5 that is relevant to a project and that does any of the*  
8 *following:*

9 *(1) Includes a policy determination, or directs or authorizes the*  
10 *adoption by an implementing agency of regulations or plans, or*  
11 *directs or authorizes an implementing agency to review and*  
12 *approve permits, licenses, or authorization applications and*  
13 *approval processing procedures and practices to implement that*  
14 *policy determination, regarding a standard applicable to a topical*  
15 *area requiring analysis and mitigation under CEQA.*

16 *(2) Identifies quantitative and qualitative analytical methods*  
17 *or approaches, or directs or authorizes the adoption by an*  
18 *implementing agency of regulations or plans, or directs or*  
19 *authorizes an implementing agency to review and approve permits,*  
20 *licenses, or authorization applications and approval processing*  
21 *procedures and practices that include those analytical methods*  
22 *or approaches, regarding a standard.*

23 *(3) Identifies required or permissible practices for mitigating*  
24 *or minimizing adverse impacts to a topical area requiring analysis*  
25 *and mitigation under CEQA, or directs or authorizes the adoption*  
26 *by an implementing agency of regulations or plans, or directs or*  
27 *authorizes an implementing agency to review and approve permits,*  
28 *licenses, or authorization applications that include avoidance,*  
29 *minimization, mitigation, conditions or other requirements to*  
30 *achieve a standard applicable to a topical area requiring analysis*  
31 *and mitigation under CEQA.*

32 *(b) “Applicable plan” means a planning document for which*  
33 *an environmental impact report, supplemental environmental*  
34 *impact report, or environmental impact report addendum was*  
35 *certified, including either of the following:*

36 *(1) A land use plan, such as a general plan, specific plan, or a*  
37 *sustainable communities strategy adopted by a city, county, city*  
38 *and county, metropolitan planning organization, or other local,*  
39 *regional, or state agency that establishes use designations,*  
40 *densities, and building intensities.*

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

4 (c) “Applicable mitigation requirements” means all mitigation  
5 measures included in an applicable plan with the exception of  
6 mitigation measures that the lead agency determines, based on  
7 substantial evidence, are not required to mitigate a potentially  
8 significant impact of a proposed project.

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

11 (e) “Implementing agency” means a state or federal agency,  
12 board, or commission, a city, county, city and county, regional  
13 agency, public district, or other political subdivision.

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

18 21202. (a) An environmental document prepared pursuant to  
19 CEQA shall disclose all applicable environmental laws.

20 (1) An environmental document prepared under CEQA and that  
21 discloses an applicable environmental law described in paragraph  
22 (1) of subdivision (a) of Section 21201 shall disclose the applicable  
23 compliance requirements of that law, and compliance with the  
24 applicable standards for impacts that occur or might occur as a  
25 result of approval of the project shall be the exclusive means of  
26 evaluating and mitigating environmental impacts under CEQA  
27 regarding the subject of that law, notwithstanding any other  
28 provision of law.

29 (2) An environmental document prepared under CEQA and that  
30 discloses an applicable environmental law described in paragraph  
31 (2) of subdivision (a) of Section 21201 shall disclose the applicable  
32 analytical methods or approaches, and the disclosure of those  
33 analytical methods or approaches shall be the exclusive means of  
34 evaluating potential project impacts under CEQA regarding the  
35 relevant law, notwithstanding any other provision of law.

36 (3) An environmental document prepared under CEQA and that  
37 discloses an applicable environmental law described in paragraph  
38 (3) of subdivision (a) of Section 21201 shall disclose the applicable  
39 mitigation and minimization methods or approaches typically used  
40 by implementing agencies as part of their review and approval of

1 *permits, licenses, or authorization applications, and compliance*  
2 *with mitigation and minimization practices shall be the exclusive*  
3 *means of mitigating environmental impacts under CEQA regarding*  
4 *the subject of the relevant law, notwithstanding any other provision*  
5 *of law.*

6 *(b) The disclosure obligations set forth in this section are*  
7 *intended to foster informed environmental review and public*  
8 *participation in the environmental and public review process*  
9 *required by CEQA or other applicable laws and regulations, such*  
10 *as the Ralph M. Brown Act (Chapter 9 (commencing with Section*  
11 *54950) of Part 1 of Division 2 of Title 5 of the Government Code)*  
12 *and the Bagley-Keene Open Meeting Act (Article 9 (commencing*  
13 *with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title*  
14 *2 of the Government Code).*

15 *21203. (a) A cause of action shall not be commenced under*  
16 *Section 21167 for noncompliance with CEQA under either of the*  
17 *following circumstances:*

18 *(1) If the cause of action relates to an environmental topical*  
19 *area listed in subdivision (b) of Section 21200.5 and the*  
20 *environmental document discloses compliance with an applicable*  
21 *environmental law pertaining to a topical area or a regulation,*  
22 *plan, permit, license, or authorization application and approval*  
23 *processing procedures adopted by an implementing agency as*  
24 *directed or authorized by that applicable environmental law.*

25 *(2) If the environmental document for the project discloses*  
26 *compliance with an applicable environmental law pertaining to a*  
27 *topical area or a regulation, plan, permit, license, or authorization*  
28 *application and approval processing procedures adopted by an*  
29 *implementing agency as directed or authorized by that applicable*  
30 *environmental law; the project conforms to the use designation,*  
31 *density, or building intensity in a land use plan or was included*  
32 *in any other applicable plan identified in subdivision (b) of Section*  
33 *21201; and the lead agency incorporates applicable mitigation*  
34 *requirements included in the certified environmental impact report,*  
35 *supplemental environmental impact report, or environmental*  
36 *impact report addendum prepared for the applicable plan into the*  
37 *environmental document prepared for the project.*

38 *(b) This section does not prohibit a cause of action otherwise*  
39 *authorized by law to enforce compliance with any other existing*  
40 *local, state, or federal law, regulation, or applicable plan.*

1 21204. (a) Except for projects with potentially significant  
2 aesthetic impacts on an official state scenic highway established  
3 pursuant to section 262 of the Streets and Highways Code, a lead  
4 agency shall not be required to evaluate aesthetics pursuant to  
5 CEQA or this division, and the lead agency shall not be required  
6 to make findings pursuant to subdivision (a) of Section 21081 on  
7 or relating to aesthetic impacts.

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

12 21204.5. This division does not modify the obligation of a lead  
13 agency to evaluate the potential for a project to effect Native  
14 American resources and to comply with Section 5097.98, including  
15 the obligation to discuss and confer with the appropriate Native  
16 Americans, as identified by the Native American Heritage  
17 Commission and the obligation to avoid, mitigate, and minimize  
18 adverse impacts to significant Native American resources.

19 21205. This division applies only to projects for which the lead  
20 agency or applicant has agreed to provide to the public in a readily  
21 accessible electronic format an annual compliance report prepared  
22 pursuant to the mitigation monitoring and reporting program  
23 required by paragraph (1) of subdivision (a) of Section 21081.6.

24 21206. This division does not preclude a state agency, board,  
25 or commission, or a city, county, city and county, regional agency,  
26 public district, redevelopment agency, or other political subdivision  
27 from requiring information or analysis of the project under  
28 consideration, or imposing conditions of approval for that project,  
29 under laws and regulations other than this division and CEQA.

30 21207. (a) An environmental document, prepared pursuant  
31 to CEQA, shall be required to consider only those environmental  
32 topical areas listed in subdivision (b) of Section 21200.5 and only  
33 to the extent that those environmental topical areas are relevant  
34 to the project.

35 (b) Subdivision (b) of Section 21200.5 is not intended to affirm,  
36 reject, or otherwise affect court decisions concerning the  
37 consistency of the guidelines provisions within the provisions of  
38 CEQA.

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

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

7     ~~SECTION 1. Section 21190 of the Public Resources Code is~~  
 8     ~~amended to read:~~

9     ~~21190. There is in this state the California Environmental~~  
 10    ~~Protection Program, which shall be concerned with the preservation~~  
 11    ~~and protection of California's environment. In this regard, the~~  
 12    ~~Legislature hereby finds and declares that, since the inception of~~  
 13    ~~the program pursuant to the Marks-Badham Environmental~~  
 14    ~~Protection and Research Act, the Department of Motor Vehicles~~  
 15    ~~has, in the course of issuing environmental license plates,~~  
 16    ~~consistently informed potential purchasers of those plates, by~~  
 17    ~~means of a detailed brochure, of the manner in which the program~~  
 18    ~~functions, the particular purposes for which revenues from the~~  
 19    ~~issuance of those plates can lawfully be expended, and examples~~  
 20    ~~of particular projects and programs that have been financed by~~  
 21    ~~those revenues. Therefore, because of this representation by the~~  
 22    ~~Department of Motor Vehicles, purchasers come to expect and~~  
 23    ~~rely that the moneys paid by them will be expended only for those~~  
 24    ~~specific purposes, which results in an obligation on the part of the~~  
 25    ~~state to expend the revenues only for those specific purposes.~~

26    ~~Accordingly, all funds expended pursuant to this division shall~~  
 27    ~~be used only to support identifiable projects and programs of state~~  
 28    ~~agencies, cities, cities and counties, counties, districts, the~~  
 29    ~~University of California, private nonprofit environmental and land~~  
 30    ~~acquisition organizations, and private research organizations that~~  
 31    ~~have a clearly defined benefit to the people of the State of~~  
 32    ~~California and that have one or more of the following purposes:~~

33    ~~(a) The control and abatement of air pollution, including all~~  
 34    ~~phases of research into the sources, dynamics, and effects of~~  
 35    ~~environmental pollutants.~~

36    ~~(b) The acquisition, preservation, restoration, or any combination~~  
 37    ~~thereof, of natural areas or ecological reserves.~~

38    ~~(c) Environmental education, including formal school programs~~  
 39    ~~and informal public education programs. The State Department of~~  
 40    ~~Education may administer moneys appropriated for these programs,~~

1 but shall distribute not less than 90 percent of moneys appropriated  
2 for the purposes of this subdivision to fund environmental  
3 education programs of school districts, other local schools, state  
4 agencies other than the State Department of Education, and  
5 community organizations. Not more than 10 percent of the moneys  
6 appropriated for environmental education may be used for State  
7 Department of Education programs or defraying administrative  
8 costs:

9 (d) Protection of nongame species and threatened and  
10 endangered plants and animals.

11 (e) Protection, enhancement, and restoration of fish and wildlife  
12 habitat and related water quality, including review of the potential  
13 impact of development activities and land use changes on that  
14 habitat.

15 (f) The purchase, on an opportunity basis, of real property  
16 consisting of sensitive natural areas for the state park system and  
17 for local and regional parks.

18 (g) Reduction or minimization of the effects of soil erosion and  
19 the discharge of sediment into the waters of the Lake Tahoe region,  
20 including the restoration of disturbed wetlands and stream  
21 environment zones, through projects by the California Tahoe  
22 Conservancy and grants to local public agencies, state agencies,  
23 federal agencies, and nonprofit organizations.

24 (h) Scientific research on the risks to California's natural  
25 resources and communities caused by the impacts of climate  
26 change.