

Introduced by Senator Moorlach

February 18, 2016

An act to add Section 21175 to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 1248, as introduced, Moorlach. Environmental quality: judicial challenge: identification of contributors.

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 authorizes specified entities to file and maintain with a court an action or proceeding to attack, review, set aside, void, or annul an act of a public agency on grounds of noncompliance with the requirements of CEQA.

Existing law authorizes a court, upon motion, to award attorneys' fees to a successful party in an action that resulted in the enforcement of an important right affecting the public interest under specified conditions.

This bill would require a plaintiff or petitioner, in an action brought pursuant to the provisions of CEQA, to disclose specified information

regarding the plaintiff or petitioner in the complaint or petition or in a subsequent notice. The bill would require disclosure of the identity of a person or entity that contributes in excess of \$100 dollars, as specified, toward the plaintiff's or petitioner's costs of an action. The bill would provide that a failure to provide this disclosure shall be grounds for dismissal of the action by the court or, if the failure occurs during a postjudgment proceeding, the denial of attorneys' fees for a successful plaintiff or petitioner. The bill also would require the plaintiff or petitioner to identify any pecuniary or business interest related to the project or issues involved in the action of any person or entity named as a plaintiff or petitioner or that contributes in excess of \$100 to the costs of the action, as specified.

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

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

1 SECTION 1. Section 21175 is added to the Public Resources
2 Code, to read:
3 21175. (a) In any action or proceeding to attack, review, set
4 aside, void, or annul any act or decision of a public agency on the
5 grounds of noncompliance with this division, the following
6 information shall be disclosed in the complaint or petition:
7 (1) If an individual or group of individuals is the named plaintiff
8 or petitioner, the name and city of legal residence, or county of
9 legal residence if legal residence is in an unincorporated area, of
10 each individual.
11 (2) If a business entity, labor organization, environmental entity,
12 trade association entity, or other entity that has a registered tax
13 identification number with the federal government as either a
14 for-profit or nonprofit entity is the named plaintiff or petitioner,
15 the legal name of each entity and, if applicable, the name under
16 which each entity is operating in California.
17 (3) If an ad hoc group, or a collection of those groups, is the
18 named plaintiff or petitioner, the identity and the amount of the
19 contribution of each member of the group who has contributed or
20 committed to contribute, including any contingent contribution
21 agreement, an amount in excess of one hundred dollars (\$100)
22 toward the cost of the action or proceeding in either a cash
23 contribution or services in lieu of a cash contribution.

1 (b) (1) If at any time during the course of an action or
2 proceeding under this division any person or entity contributes in
3 excess of one hundred dollars (\$100) toward a plaintiff's or
4 petitioner's costs of the action or proceeding in a cash contribution,
5 services in lieu of a cash contribution, or contingent contribution
6 agreement, a notice of contribution shall be filed with the court
7 and disclosed to the respondent public agency and real party in
8 interest.

9 (2) The plaintiff or petitioner may request the court to prohibit
10 the disclosure of one or more financial contributors in a public
11 pleading. The court may grant the request after weighing all
12 relevant factors, including the inherent public interest and private
13 attorney general principles, which serve as the policy and legal
14 rationale for allowing private enforcement of this division.

15 (c) Failure to comply with this section shall be grounds for
16 dismissal of the action or proceeding on the court's own motion
17 or on the motion of any party to the action or proceeding. Failure
18 to comply with this section during a postjudgment proceeding shall
19 result in any motion of the noncompliant party for attorneys' fees
20 being denied on the court's own motion or on the motion of any
21 party to the action or proceeding.

22 (d) To enable a court to assess whether the financial burden of
23 private enforcement supports the award of attorneys' fees pursuant
24 to Section 1021.5 of the Code of Civil Procedure in actions or
25 proceedings brought pursuant to Section 21167, the complaint or
26 petition shall identify any pecuniary or business interest related to
27 the project or issues involved in the action or proceeding of any
28 party identified pursuant to subdivision (a).

29 (e) Enforcement of this division by private, nongovernmental
30 parties is intended to further the goals of this division, and, in
31 furtherance of the public disclosure goals of this division, the
32 Legislature declares that it is in the public's interest to know the
33 identity and any financial or pecuniary interest of any private,
34 nongovernmental party seeking to enforce this division.