

AMENDED IN SENATE AUGUST 9, 2004

AMENDED IN ASSEMBLY APRIL 26, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2814

Introduced by Assembly Member Simitian

February 20, 2004

An act to amend Section 21167.6.5 of the Public Resources Code, relating to natural resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2814, as amended, Simitian. Natural resources: California Environmental Quality Act.

The existing California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and to certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also generally 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 provides some exemptions from its requirements for specified projects.

Existing law requires a petitioner or plaintiff who brings specified actions or proceedings under CEQA to name, as a real party in interest, any recipient of an approval under CEQA that is the subject of the action

or proceeding, and to serve the petition or complaint on that real party in interest. Existing law provides that failure to name potential parties, other than those real parties in interest, or certain responsible agencies and other certain public agencies having jurisdiction over a natural resource affected by the project, is not grounds for dismissal of the action or proceeding, as specified.

This bill would, instead, ~~require the petitioner or plaintiff to name, as a real party in interest, and serve the petition or complaint on, each person that has applied for and received an approval under CEQA that is the subject of the action or proceeding.~~ The bill, instead, would provide that failure to name potential parties, other than those real parties in interest, is not grounds for dismissal, 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 21167.6.5 of the Public Resources Code
- 2 is amended to read:
- 3 21167.6.5. (a) The petitioner or plaintiff shall name, as a real
- 4 party in interest, ~~each person that has applied for and received any~~
- 5 *recipient of* an approval that is the subject of an action or
- 6 proceeding brought pursuant to Section 21167, 21168, or 21168.5,
- 7 and shall serve the petition or complaint on that real party in
- 8 interest, by personal service, mail facsimile, or any other method
- 9 permitted by law, not later than 20 business days following service
- 10 of the petition or complaint on the public agency.
- 11 (b) The public agency shall provide the petitioner or plaintiff,
- 12 not later than 10 business days following service of the petition or
- 13 complaint on the public agency, with a list of responsible agencies
- 14 and any public agency having jurisdiction over a natural resource
- 15 affected by the project.
- 16 (c) The petitioner or plaintiff shall provide the responsible
- 17 agencies, and any public agency having jurisdiction over a natural
- 18 resource affected by the project, with notice of the action or
- 19 proceeding within 15 days of receipt of the list described in
- 20 subdivision (b).
- 21 (d) Failure to name potential parties, other than those real
- 22 parties in interest described in subdivision (a), is not grounds for
- 23 dismissal pursuant to Section 389 of the Code of Civil Procedure.



- 1 (e) Nothing in this section is intended to affect an existing right
- 2 of a party to intervene in the action.

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