

Introduced by Senator RomeroFebruary 20, 2003

An act to amend Section 21083 and 21100 of, and to add Sections 21001.5 and 21060.2 to, the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 532, as introduced, Romero. Environmental quality: cumulative effects.

(1) The existing California Environmental Quality Act (CEQA) generally requires a lead agency 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, as defined. CEQA requires an EIR to include a detailed statement setting forth all significant effects on the environment of the proposed project. CEQA requires a lead agency to find that a project may have a significant effect on the environment if the possible effects of a project are individually limited, but cumulatively considerable.

This bill would eliminate the requirement that a lead agency find that a project may have a significant effect on the environment if the possible effects of a project are individually limited, but cumulatively considerable. The bill would define "cumulative effects" and would require an EIR to include a detailed statement on significant cumulative effects. The bill would also require an EIR in a separate section to determine whether or not there is a reasonable possibility that the project, or the cumulative effects of the project, would result in, or contribute to, a significant risk to public health from exposure to one or more hazardous or toxic substances or materials. If a reasonable



possibility does exist, the bill would require a risk assessment to be performed to ascertain the risk to human health. By imposing additional duties on lead agencies, the bill would impose a state-mandated local program.

(2) CEQA makes Legislative findings related to environmental quality and the application of CEQA.

This bill would further declare that promoting environmental justice shall be a guiding criterion in public decisions made pursuant to this CEQA.

(3) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. Section 21000.5 is added to the Public
2 Resources Code, to read:

3 21000.5. The Legislature further finds and declares that
4 promoting environmental justice, as defined in subdivision (e) of
5 Section 65040.12 of the Government Code, shall be a guiding
6 criterion in public decisions made pursuant to this division.

7 SEC. 2. Section 21060.2 is added to the Public Resources
8 Code, to read:

9 21060.2. “Cumulative effects” means two or more individual
10 effects that, when considered together, are considerable, or that
11 compound or increase other environmental effects.

12 (a) The individual effects may be changes resulting from a
13 single project or a number of separate projects.

14 (b) The cumulative effect from several projects is the change
15 in the environment that results from the incremental impact of the



1 project when added to other related past, present, and reasonably
2 foreseeable future projects. Cumulative effects can result from
3 individually minor but collectively significant projects taking
4 place over a period of time.

5 SEC. 3. Section 21083 of the Public Resources Code is
6 amended to read:

7 21083. (a) The Office of Planning and Research shall prepare
8 and develop proposed guidelines for the implementation of this
9 division by public agencies. The guidelines shall include
10 objectives and criteria for the orderly evaluation of projects and the
11 preparation of environmental impact reports and negative
12 declarations in a manner consistent with this division.

13 (b) The guidelines shall specifically include criteria for public
14 agencies to follow in determining whether or not a proposed
15 project may have a “significant effect on the environment.” The
16 criteria shall require a finding that a project may have a
17 “significant effect on the environment” if ~~any~~ *either* of the
18 following conditions exist:

19 (1) A proposed project has the potential to degrade the quality
20 of the environment, curtail the range of the environment, or to
21 achieve short-term, to the disadvantage of long-term,
22 environmental goals.

23 ~~(2) The possible effects of a project are individually limited but~~
24 ~~cumulatively considerable. As used in this paragraph,~~
25 ~~“cumulatively considerable” means that the incremental effects~~
26 ~~of an individual project are considerable when viewed in~~
27 ~~connection with the effects of past projects, the effects of other~~
28 ~~current projects, and the effects of probable future projects.~~

29 ~~(3) The environmental effects of a project will cause~~
30 ~~substantial adverse effects on human beings, either directly or~~
31 ~~indirectly.~~

32 (c) The guidelines shall include procedures for determining the
33 lead agency pursuant to Section 21165.

34 (d) The guidelines shall include criteria for public agencies to
35 use in determining when a proposed project is of sufficient
36 statewide, regional, or areawide environmental significance that
37 a draft environmental impact report, a proposed negative
38 declaration, or a proposed mitigated negative declaration shall be
39 submitted to appropriate state agencies, through the State
40 Clearinghouse, for review and comment prior to completion of the



1 environmental impact report, negative declaration, or mitigated
2 negative declaration.

3 (e) The Office of Planning and Research shall develop and
4 prepare the proposed guidelines as soon as possible and shall
5 transmit them immediately to the Secretary of the Resources
6 Agency. The Secretary of the Resources Agency shall certify and
7 adopt the guidelines pursuant to Chapter 3.5 (commencing with
8 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
9 Code, which shall become effective upon the filing thereof.
10 However, the guidelines—~~shall~~ *may* not be adopted without
11 compliance with Sections 11346.4, 11346.5, and 11346.8 of the
12 Government Code.

13 SEC. 4. Section 21100 of the Public Resources Code is
14 amended to read:

15 21100. (a) ~~A~~ ~~A~~ ~~lead agencies~~ *agency* shall prepare, or cause
16 to be prepared by contract, and certify the completion of, an
17 environmental impact report on ~~any a~~ *a* project ~~which they propose~~
18 *that it proposes* to carry out or approve that may have a significant
19 effect on the environment. Whenever feasible, a standard format
20 shall be used for environmental impact reports.

21 (b) The environmental impact report shall include a detailed
22 statement setting forth all of the following:

23 (1) ~~A~~ *The significant effects on the environment of the*
24 *proposed project, including significant cumulative effects.*

25 (2) In a separate section:

26 (A) ~~Any~~ *The significant effect effects on the environment that*
27 *cannot be avoided if the project is implemented.*

28 (B) ~~Any~~ *The significant effect effects on the environment that*
29 *would be irreversible if the project is implemented.*

30 (3) Mitigation measures proposed to minimize significant
31 effects on the environment, including, but not limited to, measures
32 to reduce the wasteful, inefficient, and unnecessary consumption
33 of energy.

34 (4) Alternatives to the proposed project.

35 (5) The growth-inducing impact of the proposed project.

36 (6) *A statement briefly indicating the reasons for determining*
37 *that various effects on the environment of a project are not*
38 *significant and consequently have not been discussed in detail in*
39 *the environmental impact report.*



1 (7) A determination whether or not there is a reasonable
2 possibility that the project, or the cumulative effects of the project,
3 would result in, or contribute to, a significant risk to public health
4 from exposure to one or more hazardous or toxic substances or
5 materials. If a reasonable possibility does exist, a risk assessment
6 shall be performed to ascertain the risk to human health. The risk
7 assessment shall be consistent with the provisions of subdivisions
8 (b) and (c) of Section 25356.1.5 of the Health and Safety Code.

9 ~~(c) The report shall also contain a statement briefly indicating~~
10 ~~the reasons for determining that various effects on the environment~~
11 ~~of a project are not significant and consequently have not been~~
12 ~~discussed in detail in the environmental impact report.~~

13 ~~(d) For purposes of this section, any a significant effect on the~~
14 ~~environment shall be limited to substantial, or potentially~~
15 ~~substantial, adverse changes in physical conditions which that~~
16 ~~exist within the area as defined in Section 21060.5.~~

17 ~~(e)~~

18 (d) Previously approved land use documents, including, but
19 not limited to, general plans, specific plans, and local coastal plans,
20 may be used in cumulative impact analysis.

21 SEC. 5. Notwithstanding Section 17610 of the Government
22 Code, if the Commission on State Mandates determines that this
23 act contains costs mandated by the state, reimbursement to local
24 agencies and school districts for those costs shall be made pursuant
25 to Part 7 (commencing with Section 17500) of Division 4 of Title
26 2 of the Government Code. If the statewide cost of the claim for
27 reimbursement does not exceed one million dollars (\$1,000,000),
28 reimbursement shall be made from the State Mandates Claims
29 Fund.

