Introduced by Assembly Member Grove

February 16, 2011

An act to amend Section 21082.2 of the Public Resources Code, An act to add Section 21167.05 to the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL’S DIGEST


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.

This bill would make technical, nonsubstantive changes to these provisions.

CEQA confers standing on a person satisfying specified requirements to file and maintain an action or proceeding alleging that an EIR, a negative declaration, or a mitigated negative declaration was not prepared and certified in compliance with CEQA.
This bill would limit the standing to file and maintain the above action or proceeding to the Attorney General.


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

SECTION 1. Section 21167.05 is added to the Public Resources Code, to read:

21167.05. Notwithstanding any other law, a person, other than the Attorney General, shall not commence or maintain an action or proceeding alleging that an environmental impact report, a negative declaration, or a mitigated negative declaration does not comply with this division.

SECTION 1. Section 21082.2 of the Public Resources Code is amended to read:

21082.2. (a) The lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record.

(b) The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.

(c) Argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

(d) If there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e) Statements in an environmental impact report and comments with respect to an environmental impact report shall not be deemed
determinative of whether the project may have a significant effect on the environment.