

AMENDED IN SENATE SEPTEMBER 8, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 26, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 900**

**Introduced by Assembly Member Swanson Members Buchanan  
and Gordon**

*(Principal coauthor: Senator Steinberg)*

***(Coauthors: Assembly Members Block and Pan)***

*(Coauthors: Senators Calderon, Lieu, and Rubio)*

February 17, 2011

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~~An act to add Article 8.5 (commencing with Section 32377) to Chapter 3 of Part 19 of Division 1 of Title 1 of the Education Code, relating to public school campuses. An act to add and repeal Chapter 6.5 (commencing with Section 21178) of Division 13 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 900, as amended, ~~Swanson Buchanan. Public school campuses: recycling and composting bins. Jobs and Economic Improvement Through Environmental Leadership Act of 2011.~~

*(1) 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.*

*CEQA establishes procedures for creating the administrative record judicial review procedure for any action or proceeding brought to challenge the lead agency's decision to certify the EIR or to grant project approvals.*

*This bill would enact the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 and establish specified judicial review procedures for the judicial review of the EIR and approvals granted for a leadership project related to the development of a residential, retail, commercial, sports, cultural, entertainment, or recreational use project, or clean renewable energy or clean energy manufacturing project. The act would authorize the Governor to certify a leadership project for streamlining pursuant to the act if certain conditions are met. The bill would repeal the act as of January 1, 2015.*

*Because the lead agency would be required to use these alternative procedures for creating the administrative record if the project applicant so chooses and the project is certified by the Governor, this bill would impose a state-mandated local program. The bill would require, among other things, that the project create high-wage, highly skilled jobs and not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation.*

*(2) This bill would make legislative findings and declarations as to the act's unique and unprecedented streamlining benefits under the California Environmental Quality Act.*

*(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.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*(4) This bill would become operative only if SB 292 is enacted and takes effect on or before January 1, 2012.*

*(5) This bill would declare that it is to take effect immediately as an urgency statute.*

~~*(1) Existing law requires the Department of Resources Recycling and Recovery to develop and implement a source reduction and*~~

recycling program for school districts that is designed to assist school districts in establishing and implementing source reduction and recycling programs and to complement and further prescribed educational goals and the integrated waste management issues addressed within the science curriculum framework developed by the State Board of Education.

Existing law authorizes and encourages school districts to establish and maintain a paper recycling program in all classrooms, administrative offices, and other areas owned or leased by the school district where a significant quantity of wastepaper is generated or collected. The department, in conjunction with the State Department of Education, is required to coordinate the implementation of this program by providing materials, technical assistance, and other resources that it deems necessary to aid and encourage educational agencies to establish paper recycling programs.

This bill would allow a school district to provide recycling and composting bins on the campus of each public elementary and secondary school. The bill would allow a school district to determine the number of bins to be located on a campus on the basis of the size of both the pupil population and the surface area of that campus.

Vote: majority <sup>2</sup>/<sub>3</sub>. 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. Chapter 6.5 (commencing with Section 21178)
- 2     is added to Division 13 of the Public Resources Code, to read:
- 3
- 4     CHAPTER 6.5. JOBS AND ECONOMIC IMPROVEMENT THROUGH
- 5     ENVIRONMENTAL LEADERSHIP ACT OF 2011
- 6
- 7     21178. The Legislature finds and declares all of the following:
- 8     (a) The overall unemployment rate in California is 12 percent,
- 9     and in certain regions of the state that rate exceeds 13 percent.
- 10    (b) The California Environmental Quality Act (Division 13
- 11    (commencing with Section 21000) of the Public Resources Code)
- 12    requires that the environmental impacts of development projects
- 13    be identified and mitigated.
- 14    (c) The act also guarantees the public an opportunity to review
- 15    and comment on the environmental impacts of a project and to

1 *participate meaningfully in the development of mitigation measures*  
2 *for potentially significant environmental impacts.*

3 *(d) There are large projects under consideration in various*  
4 *regions of the state that would replace old and outmoded facilities*  
5 *with new job-creating facilities to meet those regions' needs while*  
6 *also establishing new, cutting-edge environmental benefits to those*  
7 *regions.*

8 *(e) These projects are privately financed or financed from*  
9 *revenues generated from the projects themselves and do not require*  
10 *taxpayer financing.*

11 *(f) These projects further will generate thousands of full-time*  
12 *jobs during construction and thousands of additional permanent*  
13 *jobs once they are constructed and operating.*

14 *(g) These projects also present an unprecedented opportunity*  
15 *to implement nation-leading innovative measures that will*  
16 *significantly reduce traffic, air quality, and other significant*  
17 *environmental impacts, and fully mitigate the greenhouse gas*  
18 *emissions resulting from passenger vehicle trips attributed to the*  
19 *project.*

20 *(h) These pollution reductions will be the best in the nation*  
21 *compared to other comparable projects in the United States.*

22 *(i) The purpose of this act is to provide unique and*  
23 *unprecedented streamlining benefits under the California*  
24 *Environmental Quality Act for projects that provide the benefits*  
25 *described above for a limited period of time to put people to work*  
26 *as soon as possible.*

27 *21180. For the purposes of this chapter, the following terms*  
28 *shall have the following meanings:*

29 *(a) "Applicant" means a public or private entity or its affiliates,*  
30 *or a person or entity that undertakes a public works project, that*  
31 *proposes a project and its successors, heirs, and assignees.*

32 *(b) "Environmental leadership development project,"*  
33 *"leadership project," or "project" means a project as described*  
34 *in Section 21065 that is one the following:*

35 *(1) A residential, retail, commercial, sports, cultural,*  
36 *entertainment, or recreational use project that is certified as LEED*  
37 *silver or better by the United States Green Building Council and,*  
38 *where applicable, that achieves a 10-percent greater standard for*  
39 *transportation efficiency than for comparable projects. These*  
40 *projects must be located on an infill site. For a project that is*

1 *within a metropolitan planning organization for which a*  
2 *sustainable communities strategy or alternative planning strategy*  
3 *is in effect, the infill project shall be consistent with the general*  
4 *use designation, density, building intensity, and applicable policies*  
5 *specified for the project area in either a sustainable communities*  
6 *strategy or an alternative planning strategy, for which the State*  
7 *Air Resources Board, pursuant to subparagraph (H) of paragraph*  
8 *(2) of subdivision (b) of Section 65080 of the Government Code,*  
9 *has accepted a metropolitan planning organization's determination*  
10 *that the sustainable communities strategy or the alternative*  
11 *planning strategy would, if implemented, achieve the greenhouse*  
12 *gas emission reduction targets.*

13 *(2) A clean renewable energy project that generates electricity*  
14 *exclusively through wind or solar, but not including waste*  
15 *incineration or conversion.*

16 *(3) A clean energy manufacturing project that manufactures*  
17 *products, equipment, or components used for renewable energy*  
18 *generation, energy efficiency, or for the production of clean*  
19 *alternative fuel vehicles.*

20 *(c) "Transportation efficiency" means the number of vehicle*  
21 *trips by employees, visitors, or customers of the residential, retail,*  
22 *commercial, sports, cultural, entertainment, or recreational use*  
23 *project divided by the total number of employees, visitors, and*  
24 *customers.*

25 *21181. This chapter does not apply to a project if the applicant*  
26 *fails to notify a lead agency prior to the release of the draft*  
27 *environmental impact report for public comment that the applicant*  
28 *is electing to proceed pursuant to this chapter. The lead agency*  
29 *shall notify the Secretary of the Natural Resources Agency if the*  
30 *applicant fails to provide notification pursuant to this section.*

31 *21182. A person proposing to construct a leadership project*  
32 *may apply to the Governor for certification that the leadership*  
33 *project is eligible for streamlining provided by this chapter. The*  
34 *person shall supply evidence and materials that the Governor*  
35 *deems necessary to make a decision on the application. Any*  
36 *evidence or materials shall be made available to the public at least*  
37 *15 days before the Governor certifies a project pursuant to this*  
38 *chapter.*

1     21183. *The Governor may certify a leadership project for*  
2 *streamlining pursuant to this chapter if all the following conditions*  
3 *are met:*

4     (a) *The project will result in a minimum investment of one*  
5 *hundred million dollars (\$100,000,000) in California upon*  
6 *completion of construction.*

7     (b) *The project creates high-wage, highly skilled jobs that pay*  
8 *prevailing wages and living wages and provide construction jobs*  
9 *and permanent jobs for Californians, and helps reduce*  
10 *unemployment.*

11     (c) *The project does not result in any net additional emission*  
12 *of greenhouse gases, including greenhouse gas emissions from*  
13 *employee transportation, as determined by the State Air Resources*  
14 *Board pursuant to Division 25.5 (commencing with Section 38500)*  
15 *of the Health and Safety Code.*

16     (d) *The project applicant has entered into a binding and*  
17 *enforceable agreement that all mitigation measures required*  
18 *pursuant to this division to certify the project under this chapter*  
19 *shall be conditions of approval of the project, and those conditions*  
20 *will be fully enforceable by the lead agency or another agency*  
21 *designated by the lead agency. In the case of environmental*  
22 *mitigation measures, the applicant agrees, as an ongoing*  
23 *obligation, that those measures will be monitored and enforced*  
24 *by the lead agency for the life of the obligation.*

25     (e) *The project applicant agrees to pay the costs of the Court*  
26 *of Appeal in hearing and deciding any case, including payment of*  
27 *the costs for the appointment of a special master if deemed*  
28 *appropriate by the court, in a form and manner specified by the*  
29 *Judicial Council, as provided in the Rules of Court adopted by the*  
30 *Judicial Council pursuant to subdivision (f) of Section 21185.*

31     (f) *The project applicant agrees to pay the costs of preparing*  
32 *the administrative record for the project concurrent with review*  
33 *and consideration of the project pursuant to this division, in a*  
34 *form and manner specified by the lead agency for the project.*

35     21184. (a) *The Governor may certify a project for streamlining*  
36 *pursuant to this chapter if it complies with the conditions specified*  
37 *in Section 21183.*

38     (b) (1) *Prior to certifying a project, the Governor shall make*  
39 *a determination that each of the conditions specified in Section*

1 21183 has been met. These findings are not subject to judicial  
2 review.

3 (2) (A) If the Governor determines that a leadership project is  
4 eligible for streamlining pursuant to this chapter, he or she shall  
5 submit that determination, and any supporting information, to the  
6 Joint Legislative Budget Committee for review and concurrence  
7 or nonconcurrence.

8 (B) Within 30 days of receiving the determination, the Joint  
9 Legislative Budget Committee shall concur or nonconcur in writing  
10 on the determination.

11 (C) If the Joint Legislative Budget Committee fails to concur  
12 or nonconcur on a determination by the Governor within 30 days  
13 of the submittal, the leadership project is deemed to be certified.

14 (c) The Governor may issue guidelines regarding application  
15 and certification of projects pursuant to this chapter. Any  
16 guidelines issued pursuant to this subdivision are not subject to  
17 the rulemaking provisions of the Administrative Procedure Act  
18 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
19 Division 3 of Title 2 of the Government Code).

20 21185. (a) Notwithstanding any other law, any action or  
21 proceeding alleging that a public agency or has approved or is  
22 undertaking a leadership project certified by the Governor in  
23 violation of this division shall be conducted in accordance with  
24 the following streamlining benefits:

25 (1) The action or proceeding shall be filed in the Court of Appeal  
26 with geographic jurisdiction over the project.

27 (2) Any party bringing such a claim shall also file concurrently  
28 any other claims alleging that a public agency has granted land  
29 use approvals for the leadership project in violation of the law.  
30 The Court of Appeal shall have original jurisdiction over all those  
31 claims.

32 (3) The Court of Appeal shall issue its decision in the case within  
33 175 days of the filing of the petition.

34 (4) The court may appoint a master to assist the court in  
35 managing and processing the case.

36 (5) The court may grant extensions of time only for good cause  
37 shown and in order to promote the interests of justice.

38 (b) On or before July 1, 2012, the Judicial Council shall adopt  
39 Rules of Court to implement this chapter.

1     21186. *Notwithstanding any other law, the preparation and*  
2 *certification of the administrative record for a leadership project*  
3 *certified by the Governor shall be performed in the following*  
4 *manner:*

5     (a) *The lead agency for the project shall prepare the*  
6 *administrative record pursuant to this division concurrently with*  
7 *the administrative process.*

8     (b) *All documents and other materials placed in the*  
9 *administrative record shall be posted on, and be downloadable*  
10 *from, an Internet Web site maintained by the lead agency*  
11 *commencing with the date of the release of the draft environmental*  
12 *impact report.*

13     (c) *The lead agency shall make available to the public in a*  
14 *readily accessible electronic format the draft environmental impact*  
15 *report and all other documents submitted to, or relied on by, the*  
16 *lead agency in the preparation of the draft environmental impact*  
17 *report.*

18     (d) *A document prepared by the lead agency or submitted by*  
19 *the applicant after the date of the release of the draft environmental*  
20 *impact report that is a part of the record of the proceedings shall*  
21 *be made available to the public in a readily accessible electronic*  
22 *format within five business days after the document is released or*  
23 *received by the lead agency.*

24     (e) *The lead agency shall encourage written comments on the*  
25 *project to be submitted in a readily accessible electronic format,*  
26 *and shall make any comment available to the public in a readily*  
27 *accessible electronic format within five days of its receipt.*

28     (f) *Within seven business days after the receipt of any comment*  
29 *that is not in an electronic format, the lead agency shall convert*  
30 *that comment into a readily accessible electronic format and make*  
31 *it available to the public in that format.*

32     (g) *The lead agency shall certify the final administrative record*  
33 *within five days of its approval of the project.*

34     (h) *Any dispute arising from the administrative record shall be*  
35 *resolved by the Court of Appeal pursuant to Section 21185.*

36     21187. *The draft and final environmental impact report shall*  
37 *include a notice in no less than 12-point type stating the following:*  
38

39     *“THIS EIR IS SUBJECT TO CHAPTER 6.5 (COMMENCING*  
40 *WITH SECTION 21178) OF THE PUBLIC RESOURCES CODE,*



1 WHICH PROVIDES, AMONG OTHER THINGS, THAT ANY  
2 JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF  
3 THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED  
4 IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH  
5 IN SECTION 21178.2 OF THE PUBLIC RESOURCES CODE  
6 AND MUST BE FILED WITH THE COURT OF APPEAL. A COPY  
7 OF CHAPTER 6.5 OF THE PUBLIC RESOURCES CODE IS  
8 INCLUDED IN THE APPENDIX TO THIS EIR.”  
9

10 21188. The provisions of this chapter are severable. If any  
11 provision of this chapter or its application is held to be invalid,  
12 that invalidity shall not affect any other provision or application  
13 that can be given effect without the invalid provision or application.

14 21189. Except as otherwise provided expressly in this chapter,  
15 nothing in this chapter affects the duty of any party to comply with  
16 this division.

17 21189.1. (a) If a lead agency fails to certify an environmental  
18 impact report for a leadership project subject to this chapter on  
19 or before June 1, 2014, this chapter shall not apply to that project.  
20 The lead agency shall notify the Secretary of the Natural Resources  
21 Agency by July 1, 2014, if an environmental impact report subject  
22 to this chapter has not been certified by that date.

23 (b) If, prior to June 1, 2014, a certification issued pursuant to  
24 this chapter has not been used or the time period during which an  
25 action or proceeding, for purposes of Section 21185, may be filed  
26 under this chapter has not elapsed, the certification expires and  
27 is no longer valid.

28 21189.2. The Judicial Council shall report to the Legislature  
29 on or before January 1, 2015, on the effects of this chapter, which  
30 shall include, but not be limited to, a description of the benefits,  
31 costs, and detriments of the certification of leadership projects  
32 pursuant to this chapter.

33 21189.3. This chapter shall remain in effect until January 1,  
34 2015, and as of that date is repealed unless a later enacted statute  
35 extends or repeals that date.

36 SEC. 2. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 a local agency or school district has the authority to levy service  
39 charges, fees, or assessments sufficient to pay for the program or

1 *level of service mandated by this act, within the meaning of Section*  
 2 *17556 of the Government Code.*

3 *SEC. 3. This act shall become operative only if Senate Bill 292*  
 4 *of the 2011–12 Regular Session is enacted and takes effect on or*  
 5 *before January 1, 2012.*

6 *SEC. 4. This act is an urgency statute necessary for the*  
 7 *immediate preservation of the public peace, health, or safety within*  
 8 *the meaning of Article IV of the Constitution and shall go into*  
 9 *immediate effect. The facts constituting the necessity are:*

10 *The continued economic crisis in the state requires immediate*  
 11 *attention, and the expedited processes provided by this legislation*  
 12 *for projects that provide important environmental and economic*  
 13 *benefits will serve as a basis for new and increased economic*  
 14 *development in the state.*

15 ~~SECTION 1. Article 8.5 (commencing with Section 32377) is~~  
 16 ~~added to Chapter 3 of Part 19 of Division 1 of Title 1 of the~~  
 17 ~~Education Code, to read:~~

18  
 19 ~~Article 8.5. Recycling and Composting Bins~~  
 20

21 ~~32377. (a) A school district may provide the following bins~~  
 22 ~~on each elementary and secondary school campus:~~

23 ~~(1) Recycling.~~

24 ~~(2) Composting, to the extent feasible, including, but not limited~~  
 25 ~~to, the extent to which a collection service is available in the~~  
 26 ~~geographical area of the school, or if a school is able to maintain~~  
 27 ~~a school garden or vermicompost.~~

28 ~~(b) A school district may determine the number of bins to be~~  
 29 ~~located on a campus on the basis of the size of both the pupil~~  
 30 ~~population and the surface area of that campus.~~

31

32

33 **CORRECTIONS:**

34 **Heading—Line 5.**

35 **Text—Page 10.**

36