

ASSEMBLY BILL

No. 1916

Introduced by Assembly Member Buchanan

February 22, 2012

An act to amend Section 21091 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1916, as introduced, Buchanan. CEQA: environmental impact reports.

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. The 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. The CEQA prescribes certain requirements for the review of draft EIRs, as specified.

This bill would make various technical, nonsubstantive changes in those provisions relating to the requirements for the review of draft EIRs.

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 21091 of the Public Resources Code is
2 amended to read:

3 21091. (a) The public review period for a draft environmental
4 impact report ~~may~~ shall not be less than 30 days. If the draft
5 environmental impact report is submitted to the State Clearinghouse
6 for review, the review period shall be at least 45 days, and the lead
7 agency shall provide a sufficient number of copies of the document
8 to the State Clearinghouse for review and comment by state
9 agencies.

10 (b) The public review period for a proposed negative declaration
11 or proposed mitigated negative declaration ~~may~~ shall not be less
12 than 20 days. If the proposed negative declaration or proposed
13 mitigated negative declaration is submitted to the State
14 Clearinghouse for review, the review period shall be at least 30
15 days, and the lead agency shall provide a sufficient number of
16 copies of the document to the State Clearinghouse for review and
17 comment by state agencies.

18 (c) (1) Notwithstanding subdivisions (a) and (b), if a draft
19 environmental impact report, proposed negative declaration, or
20 proposed mitigated negative declaration is submitted to the State
21 Clearinghouse for review and the period of review by the State
22 Clearinghouse is longer than the public review period established
23 pursuant to subdivision (a) or (b), whichever is applicable, the
24 public review period shall be at least as long as the period of review
25 and comment by state agencies as established by the State
26 Clearinghouse.

27 (2) The public review period and the state agency review period
28 may, but are not required to, begin and end at the same time. Day
29 one of the state agency review period shall be the date that the
30 State Clearinghouse distributes the document to state agencies.

31 (3) If the submittal of a CEQA document is determined by the
32 State Clearinghouse to be complete, the State Clearinghouse shall
33 distribute the document within three working days from the date
34 of receipt. The State Clearinghouse shall specify the information
35 that will be required in order to determine the completeness of the
36 submittal of a CEQA document.

37 (d) (1) The lead agency shall consider comments it receives on
38 a draft environmental impact report, proposed negative declaration,

1 or proposed mitigated negative declaration if those comments are
2 received within the public review period.

3 (2) (A) ~~With respect~~ *regard* to the consideration of comments
4 received on a draft environmental impact report, the lead agency
5 shall evaluate comments on environmental issues that are received
6 from persons who have reviewed the draft and shall prepare a
7 written response pursuant to subparagraph (B). The lead agency
8 may also respond to comments that are received after the close of
9 the public review period.

10 (B) The written response shall describe the disposition of each
11 significant environmental issue that is raised by commenters. The
12 responses shall be prepared consistent with Section 15088 of Title
13 14 of the California Code of Regulations, as those regulations
14 existed on June 1, 1993.

15 (3) (A) ~~With respect~~ *regard* to the consideration of comments
16 received on a draft environmental impact report, proposed negative
17 declaration, proposed mitigated negative declaration, or notice
18 pursuant to Section 21080.4, the lead agency shall accept comments
19 via e-mail and shall treat e-mail comments as equivalent to written
20 comments.

21 (B) Any law or regulation relating to written comments received
22 on a draft environmental impact report, proposed negative
23 declaration, proposed mitigated negative declaration, or notice
24 received pursuant to Section 21080.4, shall also apply to e-mail
25 comments received for those reasons.

26 (e) (1) Criteria for shorter review periods by the State
27 Clearinghouse for documents that ~~must~~ *are required to* be
28 submitted to the State Clearinghouse shall be set forth in the written
29 guidelines issued by the Office of Planning and Research and made
30 available to the public.

31 (2) Those shortened review periods ~~may~~ *shall* not be less than
32 30 days for a draft environmental impact report and 20 days for a
33 negative declaration.

34 (3) A request for a shortened review period shall only be made
35 in writing by the decisionmaking body of the lead agency to the
36 Office of Planning and Research. The decisionmaking body may
37 designate by resolution or ordinance a person authorized to request
38 a shortened review period. A designated person shall notify the
39 decisionmaking body of this request.

1 (4) A request approved by the State Clearinghouse shall be
2 consistent with the criteria set forth in the written guidelines of
3 the Office of Planning and Research.

4 (5) A shortened review period ~~may~~ *shall* not be approved by
5 the Office of Planning and Research for a proposed project of
6 statewide, regional, or areawide environmental significance as
7 determined pursuant to Section 21083.

8 (6) An approval of a shortened review period shall be given
9 prior to, and reflected in, the public notice required pursuant to
10 Section 21092.

11 (f) Prior to carrying out or approving a project for which a
12 negative declaration has been adopted, the lead agency shall
13 consider the negative declaration together with comments that
14 were received and considered pursuant to paragraph (1) of
15 subdivision (d).