An act to amend Sections 21178, 21180, 21181, 21183, 21185, 21187, and 21189.2 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

SB 52, as amended, Steinberg. Environmental quality: jobs and economic improvement.

(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 and 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.

The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 establishes alternative procedures for creating the administrative record and 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 authorizes the Governor, upon application, to certify a leadership project for streamlining pursuant to the act if certain conditions are met.

The act requires that the project result in a minimum investment of $100,000,000 in California upon completion of construction and not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation.

This bill would require instead that a project result in a minimum investment of $100,000,000 spent on planning, design, and construction of the project. The bill, in order to maximize public health, environmental, and employment benefits, would require a lead agency to place the highest priority on feasible measures that will reduce greenhouse gas emissions on the project site and in the neighboring communities of the project site.

(2) The act requires a party seeking judicial review of the EIR to bring concurrently other claims alleging a public agency has granted land use approvals or a leadership project in violation of relevant laws.

This bill would repeal this provision.

(3) The act requires the Judicial Council to report to the Legislature on or before January 1, 2015, on the effects of the act, including specific information on benefits, costs, and detriments.

The bill would require instead that the Judicial Council report to the Legislature on the effects of the act on the administration of justice. The bill also would make technical and clarifying changes.

Because a lead agency would be required to perform additional actions, this bill would impose a state-mandated local program.

(4) 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.
(5) This bill would declare that it is to take effect immediately as an urgency statute.


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

SECTION 1. Section 21178 of the Public Resources Code is amended to read:

21178. The Legislature finds and declares all of the following:

(a) The overall unemployment rate in California is 12 percent, and in certain regions of the state that rate exceeds 13 percent.

(b) The California Environmental Quality Act (Division 13 (commencing with Section 21000)) requires that the environmental impacts of development projects be identified and mitigated.

(c) The act also guarantees the public an opportunity to review and comment on the environmental impacts of a project and to participate meaningfully in the development of mitigation measures for potentially significant environmental impacts.

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

(e) These projects are publicly financed, privately financed, or financed from revenues generated from the projects themselves that do not require taxpayer financing.

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

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

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

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

SEC. 2. Section 21180 of the Public Resources Code is amended to read:

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

(a) “Applicant” means a public or private entity or its affiliates, or a person or entity that undertakes a public works project or proposes a project, and its successors, heirs, and assignees.

(b) “Environmental leadership development project,” “leadership project,” or “project” means a project as described in Section 21065 that is one of the following:

1. A residential, retail, commercial, sports, cultural, entertainment, or recreational use project that is designed to be certified as LEED silver or better by the United States Green Building Council and that achieves and maintains a 10-percent greater standard for transportation efficiency than for comparable projects. These projects shall be located on an infill site. For a project that is within a metropolitan planning organization for which a sustainable communities strategy or alternative planning strategy is in effect, the infill project shall be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization’s determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

2. A clean renewable energy project that generates electricity exclusively through wind or solar, but not including waste incineration or conversion.

3. A clean energy manufacturing project that manufactures products, equipment, or components used for renewable energy generation, energy efficiency, or for the production of clean alternative fuel vehicles.

(c) “Transportation efficiency” means the number of private automobile trips by employees, visitors, or customers of the
residential, retail, commercial, sports, cultural, entertainment, or
recreational use project divided by the total number of employees,
visitors, and customers.
SEC. 3. Section 21181 of the Public Resources Code is
amended to read:
21181. This chapter does not apply to a project if the applicant
fails to notify a lead agency prior to the release of the draft
environmental impact report for public comment that the applicant
is electing to proceed pursuant to this chapter. The lead agency
shall notify the Secretary of the Natural Resources Agency if the
applicant provides notification pursuant to this chapter.
SEC. 4. Section 21183 of the Public Resources Code is
amended to read:
21183. The Governor shall not certify a leadership project for
streamlining pursuant to this chapter unless all the following
conditions are met:
(a) The project will result in a minimum investment of one
hundred million dollars ($100,000,000) spent on planning, design,
and construction of the project.
(b) The project creates high-wage, highly skilled jobs that pay
prevailing wages and living wages and provide construction jobs
and permanent jobs for Californians, and helps reduce
unemployment.
(c) The project does not result in any net additional emission
of greenhouse gases, including greenhouse gas emissions from
employee transportation, as determined by the State Air Resources
Board pursuant to Division 25.5 (commencing with Section 38500)
of the Health and Safety Code. To maximize public health,
environmental, and employment benefits, the lead agency shall
place the highest priority on feasible measures that will reduce
greenhouse gas emissions on the project site and in the neighboring
communities of the project site. Offset credits shall be employed
by the applicant only after feasible local emission reduction
measures have been implemented. The applicant shall, to the extent
feasible, place the highest priority on the purchase of offset credits
that produce emission reductions within the boundaries of an
applicable air pollution control district or air quality management
district.
(d) The project applicant has entered into a binding and
enforceable agreement that all mitigation measures required
pursuant to this division to certify the project under this chapter shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency. In the case of environmental mitigation measures, the applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the life of the obligation.

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

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

SEC. 5. Section 21185 of the Public Resources Code is amended to read:

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

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

(2) The Court of Appeal shall issue its decision on all petitions for writ of mandate filed pursuant to this subdivision within 175 days of the filing of the last petition.

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

(4) The court may order extensions of time only for good cause and in order to promote the interests of justice.

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

SEC. 6. Section 21187 of the Public Resources Code is amended to read:

21187. The draft and final environmental impact report shall include a notice in no less than 12-point type stating the following:
THIS EIR IS SUBJECT TO CHAPTER 6.5 (COMMENCING WITH SECTION 21178) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN CHAPTER 6.5 AND MUST BE FILED WITH THE COURT OF APPEAL. A COPY OF CHAPTER 6.5 IS INCLUDED IN THE APPENDIX TO THIS EIR.

SEC. 7. Section 21189.2 of the Public Resources Code is amended to read:

21189.2. The Judicial Council shall report to the Legislature on or before January 1, 2015, on the effects of this chapter on the administration of justice.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:
The continued economic crisis in the state requires immediate attention and the expedited processes provided by this legislation for projects that provide important environmental and economic benefits will serve as a basis for new and increased economic development in the state.