

**Introduced by Senator Cannella**February 9, 2011

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An act to add and repeal Section 21099 of the Public Resources Code.

## LEGISLATIVE COUNSEL'S DIGEST

SB 241, as introduced, Cannella. Environment: California Environmental Quality Act (CEQA).

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 provides for the judicial review of a lead agency's decision to certify an EIR.

The bill would enact the CEQA Litigation Protection Pilot Program of 2011 and would require the Business, Transportation and Housing Agency to select projects that meet specified requirements from specified regions for each calendar year between 2012 and 2016. The bill would exempt from judicial review, pursuant to CEQA, a lead agency's decision to certify the EIR of, or to adopt a mitigated negative declaration based on an initial study for, the selected projects, a lead agency's and responsible agency's approval of the selected project, and the Business, Transportation and Housing Agency's selection of the projects. The bill would require the Business, Transportation and

Housing Agency, by December 31 of each year, to submit an annual report to the Governor and to the Legislature summarizing the designation of projects, and the job creation and investment attributable to the designated projects.

The bill would repeal the pilot program as of January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 21099 is added to the Public Resources  
2 Code, to read:

3 21099. (a) This section shall be known as the CEQA Litigation  
4 Protection Pilot Program of 2011.

5 (b) (1) Notwithstanding other law, a lead agency's decision to  
6 certify an environmental impact report or to adopt a mitigated  
7 negative declaration based on an initial study for a project selected  
8 by the Business, Transportation and Housing Agency pursuant to  
9 this section is not subject to review by a court pursuant to this  
10 division.

11 (2) A lead or responsible agency's decision to approve a project  
12 selected by the Business, Transportation and Housing Agency  
13 pursuant to this section is not subject to review by a court pursuant  
14 to this division.

15 (3) The selection or designation of a project by the Business,  
16 Transportation and Housing Agency pursuant to this section is not  
17 subject to review by a court pursuant to this division.

18 (c) On or before March 1, 2012, the Business, Transportation  
19 and Housing Agency shall solicit applications for an exemption  
20 provided pursuant to this section.

21 (d) On or before June 1, 2012, the Business, Transportation and  
22 Housing Agency shall select 25 projects for the purposes of  
23 subdivision (b) as follows:

24 (1) Ten projects located in the Counties of Imperial, Los  
25 Angeles, Orange, Riverside, San Bernardino, and San Diego.

26 (2) Five projects located in the Counties of Alameda, Contra  
27 Costa, Marin, Napa, San Francisco, Santa Clara, Solano, and  
28 Sonoma.

1 (3) Five projects located in the Counties of Fresno, Kern, Kings,  
2 Madera, Merced, Monterey, Sacramento, San Benito, San Joaquin,  
3 Stanislaus, and Tulare.

4 (4) Five projects located in the rest of the state.

5 (e) On or before June 1, 2012, the Business, Transportation and  
6 Housing Agency shall identify five alternative projects in a region  
7 identified in subdivision (d) for the purposes of subdivision (i).

8 (f) On or before June 1, 2012, the Business, Transportation and  
9 Housing Agency shall provide to the Legislature and the public a  
10 list of the projects selected pursuant to subdivisions (d) and (e) for  
11 public comments.

12 (g) (1) On or before July 1, 2012, the Business, Transportation  
13 and Housing Agency shall hold at least one public hearing in each  
14 region specified in subdivision (d) to consider public comments  
15 on the selected projects in each region specified in subdivisions  
16 (d) and (e).

17 (2) The Legislature may provide formal comments to the  
18 Business, Transportation and Housing Agency through legislative  
19 committees designated by the Speaker of the Assembly and the  
20 Senate Committee on Rules for their respective houses.

21 (h) On or before October 1, 2012, the Business, Transportation  
22 and Housing Agency shall finalize the selection of the projects  
23 pursuant to subdivisions (d) and (e).

24 (i) (1) For a project to qualify for the exemption pursuant to  
25 subdivision (b), the lead agency for the project shall certify to the  
26 Business, Transportation and Housing Agency that it is the lead  
27 agency's expectation that the environmental impact report for the  
28 project will be certified on or before January 1, 2013.

29 (2) If an environmental impact report of a project selected  
30 pursuant to subdivision (d) is not certified by January 1, 2013, the  
31 exemption provided in subdivision (b) does not apply to that  
32 project.

33 (3) If an environmental impact report of a project selected  
34 pursuant to subdivision (d) is not certified by January 1, 2013, the  
35 Business, Transportation and Housing Agency shall select an  
36 alternative project identified pursuant to subdivision (e) with an  
37 environmental impact report that has been certified by January 1,  
38 2013, from that respective region for the purposes of subdivision  
39 (b).

1 (j) In selecting a project for the purpose of this section, the  
2 Business, Transportation and Housing Agency shall consider the  
3 following:  
4 (1) The number and quality of jobs that will be created by the  
5 project.  
6 (2) The amount of capital investment made by the project.  
7 (3) A balance between projects sponsored by public and private  
8 entities.  
9 (k) In each of the four calendar years following the effective  
10 date of this act, from 2012 to 2016, inclusive, the Business,  
11 Transportation and Housing Agency shall select 25 projects for  
12 the purposes of subdivision (b), subject to the same regional  
13 limitations as specified in subdivision (d), and subject to the same  
14 time deadlines as set forth in subdivisions (c) to (i), inclusive,  
15 except that the times shall be calculated from January 1 of each  
16 calendar year. In each calendar year, projects or groups of projects  
17 may be designated on a periodic basis in advance of those  
18 deadlines, if notice and hearing are provided as set forth in  
19 subdivisions (f) and (g).  
20 (l) By December 31 of each year, the Business, Transportation  
21 and Housing Agency shall submit an annual report on this pilot  
22 program to the Governor and to the Legislature, pursuant to Section  
23 9795 of the Government Code, summarizing the designation of  
24 projects pursuant to this section. This annual report shall also  
25 summarize the job creation and investment attributable to the  
26 designated projects, and may provide additional information  
27 regarding the implementation of the designated projects.  
28 (m) This section shall remain in effect only until January 1, 2017,  
29 and as of that date is repealed, unless a later enacted statute, that  
30 is enacted before January 1, 2017, deletes or extends that date.

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