

Introduced by Senator CorreaFebruary 18, 2011

An act to amend Section 21177 of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

SB 683, as introduced, Correa. Environment: California Environmental Quality Act: noncompliance allegations: public comment.

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 a public review period for the public to review a draft EIR, proposed negative declaration, or proposed mitigated negative declaration. CEQA requires a lead agency to evaluate and respond to comments on a draft EIR, proposed negative declaration, or proposed mitigated negative declaration made during the public review period and authorizes a lead agency to evaluate and respond to comments made on a draft EIR when the comments are submitted after the public review period. CEQA requires an action or proceeding alleging noncompliance with its requirements to be based on grounds that were presented to the public agency orally or in writing by any person unless the person objected to the approval of the project orally

or in writing, during the public comment period provided under CEQA or prior to the close of the public hearing on the project before the issuance of the notice of determination.

This bill instead would prohibit these actions or proceedings unless the oral or written presentation or objection occurs during the public comment period provided under CEQA or prior to the close of the public hearing on the project before the filing, rather than issuance, of the notice of determination.

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 21177 of the Public Resources Code, as
2 amended by Section 11 of Chapter 496 of the Statutes of 2010, is
3 amended to read:

4 21177. (a) An action or proceeding shall not be brought
5 pursuant to Section 21167 unless the alleged grounds for
6 noncompliance with this division were presented to the public
7 agency orally or in writing by any person during the public
8 comment period provided by this division or prior to the close of
9 the public hearing on the project before the ~~issuance~~ *filing* of the
10 notice of determination *pursuant to Sections 21108 and 21152.*

11 (b) A person shall not maintain an action or proceeding unless
12 that person objected to the approval of the project orally or in
13 writing during the public comment period provided by this division
14 or prior to the close of the public hearing on the project before the
15 filing of the notice of determination pursuant to Sections 21108
16 and 21152.

17 (c) This section does not preclude any organization formed after
18 the approval of a project from maintaining an action pursuant to
19 Section 21167 if a member of that organization has complied with
20 subdivisions (a) and (b). The grounds for noncompliance may have
21 been presented directly by a member or by a member agreeing
22 with or supporting the comments of another person.

23 (d) This section does not apply to the Attorney General.

24 (e) This section does not apply to any alleged grounds for
25 noncompliance with this division for which there was no public
26 hearing or other opportunity for members of the public to raise
27 those objections orally or in writing prior to the approval of the

1 project, or if the public agency failed to give the notice required
2 by law.

3 (f) This section shall remain in effect only until January 1, 2016,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2016, deletes or extends that date.

6 SEC. 2. Section 21177 of the Public Resources Code, as added
7 by Section 12 of Chapter 496 of the Statutes of 2010, is amended
8 to read:

9 21177. (a) An action or proceeding shall not be brought
10 pursuant to Section 21167 unless the alleged grounds for
11 noncompliance with this division were presented to the public
12 agency orally or in writing by any person during the public
13 comment period provided by this division or prior to the close of
14 the public hearing on the project before the ~~issuance~~ *filing* of the
15 notice of determination *pursuant to Sections 21108 and 21152*.

16 (b) A person shall not maintain an action or proceeding unless
17 that person objected to the approval of the project orally or in
18 writing during the public comment period provided by this division
19 or prior to the close of the public hearing on the project before the
20 filing of notice of determination pursuant to Sections 21108 and
21 21152.

22 (c) This section does not preclude any organization formed after
23 the approval of a project from maintaining an action pursuant to
24 Section 21167 if a member of that organization has complied with
25 subdivision (b).

26 (d) This section does not apply to the Attorney General.

27 (e) This section does not apply to any alleged grounds for
28 noncompliance with this division for which there was no public
29 hearing or other opportunity for members of the public to raise
30 those objections orally or in writing prior to the approval of the
31 project, or if the public agency failed to give the notice required
32 by law.

33 (f) This section shall become operative on January 1, 2016.

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