

AMENDED IN ASSEMBLY MARCH 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 515

Introduced by Assembly Member Dickinson

February 20, 2013

An act to amend Section 38 of, and to add Chapter 5.2 (commencing with Section 101) to Title 1 of Part 1 of, the Code of Civil Procedure, and to amend Sections 21167.1, 21167.8, 21167.9, and 21168.9, and 21177 of, and to add Sections 21060.2 21166.5 and 21167.15 to, the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 515, as amended, Dickinson. Environmental quality: California Environmental Quality Act: judicial review.

The California Constitution vests the judicial power of the state in the Supreme Court, the courts of appeal, and the superior courts. Existing law establishes a superior court of one or more judges in each county and provides that the superior courts have original jurisdiction, except as provided in the Constitution. Existing law requires the presiding judge of each superior court to distribute the business of the court among the judges, and to prescribe the order of business, subject to the rules of the Judicial Council.

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 a judicial review of determinations made by a public agency pursuant to CEQA and requires actions or proceedings brought pursuant to CEQA to be given preference over all other civil actions by a trial court. Existing law requires the superior courts in all counties with a population of more than 200,000 to designate one or more judges to develop expertise in CEQA and related land use and environmental laws, so that those judges will be available to hear, and quickly resolve, actions or proceedings brought pursuant to CEQA. If the court finds that a determination made by a public agency pursuant to CEQA violates the requirements of CEQA, CEQA requires the court to issue an order, in the form of a peremptory writ of mandate, specifying what action by the public agency is necessary to comply with CEQA.

~~This bill would provide for at least 2 establish a CEQA compliance court districts within the state, with the appropriate boundaries for the districts and locations for seating CEQA compliance courts to be determined by rule of court. The bill would establish a CEQA compliance court in every district, consisting of at least 3 judges. The bill would require the Governor to appoint judges to the CEQA compliance court based upon their expertise in CEQA and related land use and environmental laws division of the superior court in a county in which the Attorney General maintains an office and would vest the division with original jurisdiction over actions of proceedings brought pursuant to CEQA and joined matters related to land use and environmental laws. The bill would require the Judicial Council to adopt rules for establishing, among other things, protocol to govern the administration and efficient operation of the division, so that those judges assigned to the division will be able to hear and quickly resolve those actions or proceedings. The bill would require the Chief Justice of California to designate one of the judges of each CEQA compliance court district as the presiding judge of that district. The bill would give the CEQA compliance court jurisdiction over actions or proceedings involving CEQA, as well as joined matters involving related land use and environmental laws. The bill would provide that decisions of the CEQA compliance division of the superior court may be appealed only to the Supreme Court reviewed by way of a petition for an extraordinary writ. The bill would require the CEQA compliance court division to~~

issue a preliminary decision before the opportunity for oral argument is granted. If the CEQA compliance *division of the superior court* finds that a determination of a public agency violated CEQA, the bill would require ~~that the court~~ *court's order to specify what action taken by the public agency was in error and what specific action by the public agency is necessary to comply with CEQA. The bill would prohibit an action or proceeding pursuant to CEQA from being brought unless the alleged grounds of noncompliance were presented to the public agency with enough specificity that the public agency could reasonably respond to the alleged violation. The bill would prohibit a person from maintaining an action or proceeding pursuant to CEQA unless that person objected during the administrative process with specificity as to how the public agency's response to the alleged violation is inadequate.*

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 21166.5 is added to the Public Resources
- 2 Code, to read:
- 3 21166.5. (a) There shall be a CEQA compliance division of
- 4 the superior court in a county in which the Attorney General
- 5 maintains an office.
- 6 (b) The CEQA compliance division shall have original
- 7 jurisdiction over actions or proceedings brought pursuant to this
- 8 division, as well as other matters related to land use and
- 9 environmental laws that may be joined with those actions or
- 10 proceedings.
- 11 (c) The judicial council shall adopt rules that do all of the
- 12 following:
- 13 (1) Establish standards for determining the appropriate superior
- 14 court with a CEQA compliance division in which an action or
- 15 proceeding brought pursuant to Section 21167, 21168, or 21168.5
- 16 may be filed.
- 17 (2) Establish protocol to govern the administration and efficient
- 18 operation of the CEQA compliance division to accomplish the
- 19 goals of Section 21167.1.
- 20 (3) Establish appropriate qualifications for the assignment of
- 21 judges to the CEQA compliance division based on the knowledge
- 22 and education of a judge in this division.

1 *SEC. 2. Section 21167.1 of the Public Resources Code is*
2 *amended to read:*

3 21167.1. (a) In all actions or proceedings brought pursuant to
4 Sections 21167, 21168, and 21168.5, including the hearing of an
5 action or proceeding on appeal from a decision of a lower court,
6 all courts in which the action or proceeding is pending shall give
7 the action or proceeding preference over all other civil actions, in
8 the matter of setting the action or proceeding for hearing or trial,
9 and in hearing or trying the action or proceeding, so that the action
10 or proceeding shall be quickly heard and determined. The court
11 shall regulate the briefing schedule so that, to the extent feasible,
12 the court shall commence hearings on an appeal within one year
13 of the date of the filing of the appeal.

14 (b) To ensure that actions or proceedings brought pursuant to
15 Sections 21167, 21168, and 21168.5 may be quickly heard and
16 determined ~~in the lower courts, the superior courts in all counties~~
17 ~~with a population of more than 200,000 shall designate one or~~
18 ~~more by judges to develop~~ with expertise in this division and related
19 land use and environmental laws, ~~so that those judges will be~~
20 ~~available to hear, and quickly resolve,~~ actions or proceedings
21 brought pursuant to Sections 21167, 21168, and 21168.5 *shall be*
22 *heard by the CEQA compliance division of an appropriate superior*
23 *court, as determined by rules developed pursuant to subdivision*
24 *(c) of Section 21166.5.*

25 (c) In an action or proceeding filed pursuant to this chapter that
26 is joined with any other cause of action, the court, upon a motion
27 by any party, may grant severance of the actions. In determining
28 whether to grant severance, the court shall consider such matters
29 as judicial economy, administrative economy, and prejudice to
30 any party.

31 (d) *Notwithstanding any other law, review of the decision of*
32 *the CEQA compliance division of the superior court shall be*
33 *pursuant to a petition for an extraordinary writ.*

34 *SEC. 3. Section 21167.8 of the Public Resources Code, as*
35 *amended by Section 7 of Chapter 496 of the Statutes of 2010, is*
36 *amended to read:*

37 21167.8. (a) Not later than 20 days from the date of service
38 upon a public agency of a petition or complaint brought pursuant
39 to Section 21167, the public agency shall file with the court a
40 notice setting forth the time and place at which all parties shall

1 meet and attempt to settle the litigation. The meeting shall be
2 scheduled and held not later than 45 days from the date of service
3 of the petition or complaint upon the public agency. The notice of
4 the settlement meeting shall be served by mail upon the counsel
5 for each party. If the public agency does not know the identity of
6 counsel for a party, the notice shall be served by mail upon the
7 party for whom counsel is not known.

8 (b) At the time and place specified in the notice filed with the
9 court, the parties shall meet and confer regarding anticipated issues
10 to be raised in the litigation and shall attempt in good faith to settle
11 the litigation and the dispute that forms the basis of the litigation.
12 The settlement meeting discussions shall be comprehensive in
13 nature and shall focus on the legal issues raised by the parties
14 concerning the project that is the subject of the litigation.

15 (c) The settlement meeting may be continued from time to time
16 without postponing or otherwise delaying other applicable time
17 limits in the litigation. The settlement meeting, or a mediation
18 proceeding that is conducted pursuant to Chapter 9.3 (commencing
19 with Section 66030) of Division 1 of Title 7 of the Government
20 Code, is intended to be conducted concurrently with any judicial
21 proceedings.

22 (d) If the litigation is not settled, the court, in its discretion, may,
23 or at the request of a party, shall, schedule a further settlement
24 conference before a judge of the superior court. ~~If the petition or~~
25 ~~complaint is later heard on its merits, the judge hearing the matter~~
26 ~~shall not be the same judge conducting the settlement conference,~~
27 ~~except in counties that have only one judge of the superior court~~
28 *CEQA compliance division.*

29 (e) The failure of a party, who was notified pursuant to
30 subdivision (a), to participate in the litigation settlement process,
31 without good cause, may result in an imposition of sanctions by
32 the court.

33 (f) Not later than 30 days from the date that notice of
34 certification of the record of proceedings was filed and served in
35 accordance with Section 21167.6, the petitioner or plaintiff shall
36 file and serve on all other parties a statement of issues that the
37 petitioner or plaintiff intends to raise in a brief or at a hearing or
38 trial. Not later than 10 days from the date on which the respondent
39 or real party in interest has been served with the statement of issues
40 from the petitioner or plaintiff, each respondent and real party in

1 interest shall file and serve on all other parties a statement of issues
2 which that party intends to raise in a brief or at a hearing or trial.

3 (g) 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. 4. Section 21167.8 of the Public Resources Code, as*
7 *added by Section 8 of Chapter 496 of the Statutes of 2010, is*
8 *amended to read:*

9 21167.8. (a) Not later than 20 days from the date of service
10 upon a public agency of a petition or complaint brought pursuant
11 to Section 21167, the public agency shall file with the court a
12 notice setting forth the time and place at which all parties shall
13 meet and attempt to settle the litigation. The meeting shall be
14 scheduled and held not later than 45 days from the date of service
15 of the petition or complaint upon the public agency. The notice of
16 the settlement meeting shall be served by mail upon the counsel
17 for each party. If the public agency does not know the identity of
18 counsel for any party, the notice shall be served by mail upon the
19 party for whom counsel is not known.

20 (b) At the time and place specified in the notice filed with the
21 court, the parties shall meet and confer regarding anticipated issues
22 to be raised in the litigation and shall attempt in good faith to settle
23 the litigation and the dispute which forms the basis of the litigation.
24 The settlement meeting discussions shall be comprehensive in
25 nature and shall focus on the legal issues raised by the parties
26 concerning the project that is the subject of the litigation.

27 (c) The settlement meeting may be continued from time to time
28 without postponing or otherwise delaying other applicable time
29 limits in the litigation. The settlement meeting is intended to be
30 conducted concurrently with any judicial proceedings.

31 (d) If the litigation is not settled, the court, in its discretion, may,
32 or at the request of any party, shall, schedule a further settlement
33 conference before a judge of the superior court. ~~If the petition or~~
34 ~~complaint is later heard on its merits, the judge hearing the matter~~
35 ~~shall not be the same judge conducting the settlement conference,~~
36 ~~except in counties that have only one judge of the superior court~~
37 *CEQA compliance division.*

38 (e) The failure of any party, who was notified pursuant to
39 subdivision (a), to participate in the litigation settlement process,

1 without good cause, may result in an imposition of sanctions by
2 the court.

3 (f) Not later than 30 days from the date that notice of
4 certification of the record of proceedings was filed and served in
5 accordance with Section 21167.6, the petitioner or plaintiff shall
6 file and serve on all other parties a statement of issues which the
7 petitioner or plaintiff intends to raise in any brief or at any hearing
8 or trial. Not later than 10 days from the date on which the
9 respondent or real party in interest has been served with the
10 statement of issues from the petitioner or plaintiff, each respondent
11 and real party in interest shall file and serve on all other parties a
12 statement of issues which that party intends to raise in any brief
13 or at any hearing or trial.

14 (g) This section shall become operative on January 1, 2016.

15 *SEC. 5. Section 21167.15 is added to the Public Resources*
16 *Code, immediately following Section 24167.10, to read:*

17 *21167.15. To ensure the efficient use of the court's time and*
18 *a focused discussion of the issues at oral arguments, the CEQA*
19 *compliance division of the superior court shall first issue a*
20 *preliminary decision before the opportunity for oral argument is*
21 *granted.*

22 *SEC. 6. Section 21168.9 of the Public Resources Code is*
23 *amended to read:*

24 21168.9. (a) If a court finds, as a result of a trial, hearing, or
25 remand from an appellate court, that any determination, finding,
26 or decision of a public agency has been made without compliance
27 with this division, the court shall enter an order that includes one
28 or more of the following:

29 (1) A mandate that the determination, finding, or decision be
30 voided by the public agency, in whole or in part.

31 (2) If the court finds that a specific project activity or activities
32 will prejudice the consideration or implementation of particular
33 mitigation measures or alternatives to the project, a mandate that
34 the public agency and any real parties in interest suspend any or
35 all specific project activity or activities, pursuant to the
36 determination, finding, or decision, that could result in an adverse
37 change or alteration to the physical environment, until the public
38 agency has taken any actions that may be necessary to bring the
39 determination, finding, or decision into compliance with this
40 division.

1 (3) A mandate that the public agency take specific action as
2 may be necessary to bring the determination, finding, or decision
3 into compliance with this division.

4 (b) ~~Any~~ An order pursuant to subdivision (a) shall include only
5 those mandates ~~which~~ *that* are necessary to achieve compliance
6 with this division and only those specific project activities in
7 noncompliance with this division. The order shall be made by the
8 issuance of a peremptory writ of mandate specifying *what actions*
9 *were in error and what specific* action by the public agency is
10 necessary to comply with this division. However, the order shall
11 be limited to that portion of a determination, finding, or decision
12 or the specific project activity or activities found to be in
13 noncompliance only if a court finds that (1) the portion or specific
14 project activity or activities are severable, (2) severance will not
15 prejudice complete and full compliance with this division, and (3)
16 the court has not found the remainder of the project to be in
17 noncompliance with this division. ~~The trial~~ *CEQA compliance*
18 *division of the superior* court shall retain jurisdiction over the
19 public agency's proceedings by way of a return to the peremptory
20 writ until the court has determined that the public agency has
21 complied with this division.

22 (c) Nothing in this section authorizes a court to direct any public
23 agency to exercise its discretion in any particular way. Except as
24 expressly provided in this section, nothing in this section is
25 intended to limit the equitable powers of the court.

26 *SEC. 7. Section 21177 of the Public Resources Code, as*
27 *amended by Section 11 of Chapter 496 of the Statutes of 2010, is*
28 *amended to read:*

29 21177. (a) An action or proceeding shall not be brought
30 pursuant to Section 21167 unless the alleged grounds for
31 noncompliance with this division were presented to the public
32 agency orally or in writing by any person during the public
33 comment period provided by this division or prior to the close of
34 the public hearing on the project before the issuance of the notice
35 of determination *with enough specificity that the public agency*
36 *could reasonably respond to the alleged violation.*

37 (b) A person shall not maintain an action or proceeding unless
38 that person objected to the approval of the project orally or in
39 writing during the public comment period provided by this division
40 or prior to the close of the public hearing on the project before the

1 filing of the notice of determination pursuant to Sections 21108
2 and 21152.

3 (c) *A person shall not maintain an action or proceeding unless*
4 *the person objected during the administrative process with*
5 *specificity as to how the public agency's response to the alleged*
6 *violation is inadequate under this division.*

7 ~~(e)~~

8 (d) This section does not preclude any organization formed after
9 the approval of a project from maintaining an action pursuant to
10 Section 21167 if a member of that organization has complied with
11 subdivisions (a) and (b). The grounds for noncompliance may have
12 been presented directly by a member or by a member agreeing
13 with or supporting the comments of another person.

14 ~~(d)~~

15 (e) This section does not apply to the Attorney General.

16 ~~(e)~~

17 (f) This section does not apply to any alleged grounds for
18 noncompliance with this division for which there was no public
19 hearing or other opportunity for members of the public to raise
20 those objections orally or in writing prior to the approval of the
21 project, or if the public agency failed to give the notice required
22 by law.

23 ~~(f)~~

24 (g) This section shall remain in effect only until January 1, 2016,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2016, deletes or extends that date.

27 *SEC. 8. Section 21177 of the Public Resources Code, as added*
28 *by Section 12 of Chapter 496 of the Statutes of 2010, is amended*
29 *to read:*

30 21177. (a) An action or proceeding shall not be brought
31 pursuant to Section 21167 unless the alleged grounds for
32 noncompliance with this division were presented to the public
33 agency orally or in writing by any person during the public
34 comment period provided by this division or prior to the close of
35 the public hearing on the project before the issuance of the notice
36 of determination *with enough specificity that the public agency*
37 *could reasonably respond to the alleged violation.*

38 (b) A person shall not maintain an action or proceeding unless
39 that person objected to the approval of the project orally or in
40 writing during the public comment period provided by this division

1 or prior to the close of the public hearing on the project before the
2 filing of notice of determination pursuant to Sections 21108 and
3 21152.

4 (c) *A person shall not maintain an action or proceeding unless*
5 *the person objected during the administrative process with*
6 *specificity as to how the public agency’s response to the alleged*
7 *violation is inadequate under this division.*

8 (e)

9 (d) This section does not preclude any organization formed after
10 the approval of a project from maintaining an action pursuant to
11 Section 21167 if a member of that organization has complied with
12 subdivision (b).

13 (d)

14 (e) This section does not apply to the Attorney General.

15 (e)

16 (f) This section does not apply to any alleged grounds for
17 noncompliance with this division for which there was no public
18 hearing or other opportunity for members of the public to raise
19 those objections orally or in writing prior to the approval of the
20 project, or if the public agency failed to give the notice required
21 by law.

22 (f)

23 (g) This section shall become operative on January 1, 2016.

24 ~~SECTION 1. Section 38 of the Code of Civil Procedure is~~
25 ~~amended to read:~~

26 ~~38. Unless the provision or context otherwise requires, a~~
27 ~~reference in a statute to a judicial district means:~~

28 ~~(a) As it relates to a court of appeal, the court of appeal district.~~

29 ~~(b) As it relates to a superior court, the county.~~

30 ~~(c) As it relates to a CEQA compliance court, the CEQA court~~
31 ~~district.~~

32 ~~SEC. 2. Chapter 5.2 (commencing with Section 101) is added~~
33 ~~to Title 1 of Part 1 of the Code of Civil Procedure, to read:~~

34

35 ~~CHAPTER 5.2. ENVIRONMENTAL COURT~~

36

37 ~~101. For the purposes of this chapter, “CEQA” means the~~
38 ~~California Environmental Quality Act (Division 13 (commencing~~
39 ~~with Section 21000) of the Public Resources Code).~~

1 102. ~~(a) There shall be at least two CEQA compliance court~~
2 ~~districts within the state. The appropriate boundaries for the~~
3 ~~districts and locations for seating CEQA compliance courts shall~~
4 ~~be determined by rule of court.~~

5 ~~(b) In every district there is a CEQA compliance court, which~~
6 ~~shall consist of at least three judges. The Governor shall appoint~~
7 ~~judges to the CEQA compliance court based upon their expertise~~
8 ~~in CEQA and related land use and environmental laws, so that~~
9 ~~those judges will be able to hear and quickly resolve those actions~~
10 ~~or proceedings. The Chief Justice of California shall designate one~~
11 ~~of the judges of each CEQA compliance court district as the~~
12 ~~presiding judge of that district.~~

13 103. ~~(a) In each district, no more than three judges shall~~
14 ~~participate in a hearing or decision. The presiding judge of the~~
15 ~~district shall designate the three judges who shall participate.~~

16 ~~(b) The concurrence of two judges of the CEQA court is~~
17 ~~necessary to render the decision in every case, and to transact any~~
18 ~~other business except business that may be done at chambers by~~
19 ~~the presiding judge of the district. The presiding judge shall also~~
20 ~~supervise its business and transact any business that may be done~~
21 ~~at chambers.~~

22 ~~(c) The CEQA compliance court shall have jurisdiction over~~
23 ~~actions or proceedings involving CEQA, as well as joined matters~~
24 ~~involving related land use and environmental laws.~~

25 ~~(d) Notwithstanding any other law, the decisions of the CEQA~~
26 ~~compliance court may be appealed only to the Supreme Court.~~

27 ~~(e) Except as otherwise provided in this article, the law generally~~
28 ~~applicable to civil actions shall apply to actions subject to this~~
29 ~~article.~~

30 104. ~~(a) The presiding judge shall convene the CEQA court~~
31 ~~when necessary.~~

32 ~~(b) The CEQA compliance court may transact business at any~~
33 ~~time. Adjournments from day to day, or from time to time, are to~~
34 ~~be construed as recesses in the sessions, and shall not prevent the~~
35 ~~CEQA compliance court from sitting at any time.~~

36 SEC. 3. ~~Section 21060.2 is added to the Public Resources Code,~~
37 ~~to read:~~

38 21060.2. ~~“CEQA compliance court” means the court~~
39 ~~established pursuant to Chapter 5.2 (commencing with Section~~
40 ~~101) of Title 1 of Part 1 of the Code of Civil Procedure.~~

1 ~~SEC. 4. Section 21167.1 of the Public Resources Code is amended~~
2 ~~to read:~~

3 ~~21167.1. (a) In all actions or proceedings brought pursuant to~~
4 ~~Sections 21167, 21168, and 21168.5, including the hearing of an~~
5 ~~action or proceeding on appeal from a decision of a lower court,~~
6 ~~all courts in which the action or proceeding is pending shall give~~
7 ~~the action or proceeding preference over all other civil actions, in~~
8 ~~the matter of setting the action or proceeding for hearing or trial,~~
9 ~~and in hearing or trying the action or proceeding, so that the action~~
10 ~~or proceeding shall be quickly heard and determined. The court~~
11 ~~shall regulate the briefing schedule so that, to the extent feasible,~~
12 ~~the court shall commence hearings on an appeal within one year~~
13 ~~of the date of the filing of the appeal.~~

14 ~~(b) To ensure that actions or proceedings brought pursuant to~~
15 ~~Sections 21167, 21168, and 21168.5 may be quickly heard and~~
16 ~~determined by judges with expertise in this division and related~~
17 ~~land use and environmental laws, actions or proceedings brought~~
18 ~~pursuant to Sections 21167, 21168, and 21168.5 shall be heard by~~
19 ~~the CEQA compliance court.~~

20 ~~(c) In an action or proceeding filed pursuant to this chapter that~~
21 ~~is joined with any other cause of action, the court, upon a motion~~
22 ~~by any party, may grant severance of the actions. In determining~~
23 ~~whether to grant severance, the court shall consider such matters~~
24 ~~as judicial economy, administrative economy, and prejudice to~~
25 ~~any party.~~

26 ~~SEC. 5. Section 21167.9 of the Public Resources Code is~~
27 ~~amended to read:~~

28 ~~21167.9. An action brought in the CEQA compliance court~~
29 ~~relating to this division may be subject to a mediation proceeding~~
30 ~~conducted pursuant to Chapter 9.3 (commencing with Section~~
31 ~~66030) of Division 1 of Title 7 of the Government Code.~~

32 ~~SEC. 6. Section 21167.15 is added to the Public Resources~~
33 ~~Code, to read:~~

34 ~~21167.15. To ensure the efficient use of the court's time and~~
35 ~~a focused discussion of the issues at oral arguments, the CEQA~~
36 ~~compliance court shall first issue a preliminary decision before~~
37 ~~the opportunity for oral argument is granted.~~

38 ~~SEC. 7. Section 21168.9 of the Public Resources Code is~~
39 ~~amended to read:~~

1 ~~21168.9. (a) If the CEQA compliance court finds, as a result~~
2 ~~of a trial, hearing, or remand from the Supreme Court, that a~~
3 ~~determination, finding, or decision of a public agency has been~~
4 ~~made without compliance with this division, the court shall enter~~
5 ~~an order that includes one or more of the following:~~

6 ~~(1) A mandate that the determination, finding, or decision be~~
7 ~~voided by the public agency, in whole or in part.~~

8 ~~(2) If the CEQA compliance court finds that a specific project~~
9 ~~activity or activities will prejudice the consideration or~~
10 ~~implementation of particular mitigation measures or alternatives~~
11 ~~to the project, a mandate that the public agency and any real parties~~
12 ~~in interest suspend any or all specific project activity or activities,~~
13 ~~pursuant to the determination, finding, or decision, that could result~~
14 ~~in an adverse change or alteration to the physical environment,~~
15 ~~until the public agency has taken any actions that may be necessary~~
16 ~~to bring the determination, finding, or decision into compliance~~
17 ~~with this division.~~

18 ~~(3) A mandate that the public agency take specific action as~~
19 ~~may be necessary to bring the determination, finding, or decision~~
20 ~~into compliance with this division.~~

21 ~~(b) An order pursuant to subdivision (a) shall include only those~~
22 ~~mandates which are necessary to achieve compliance with this~~
23 ~~division and only those specific project activities in noncompliance~~
24 ~~with this division. The order shall be made by the issuance of a~~
25 ~~peremptory writ of mandate specifying what action was in error~~
26 ~~and what specific action by the public agency is necessary to~~
27 ~~comply with this division. However, the order shall be limited to~~
28 ~~that portion of a determination, finding, or decision or the specific~~
29 ~~project activity or activities found to be in noncompliance only if~~
30 ~~a court finds that (1) the portion or specific project activity or~~
31 ~~activities are severable, (2) severance will not prejudice complete~~
32 ~~and full compliance with this division, and (3) the court has not~~
33 ~~found the remainder of the project to be in noncompliance with~~
34 ~~this division. The CEQA compliance court shall retain jurisdiction~~
35 ~~over the public agency's proceedings by way of a return to the~~
36 ~~peremptory writ until the court has determined that the public~~
37 ~~agency has complied with this division.~~

38 ~~(c) This section does not authorize the CEQA compliance court~~
39 ~~to direct a public agency to exercise its discretion in any particular~~

- 1 way. Except as expressly provided in this section, this section is
- 2 not intended to limit the equitable powers of the court.