

AMENDED IN SENATE MARCH 17, 2014
AMENDED IN ASSEMBLY JANUARY 6, 2014
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 21168.9 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 515, as amended, Dickinson. Environmental quality: California Environmental Quality Act: writ of mandate.

(1) The California Environmental Quality Act requires the court, if ~~the court~~ *it* finds that a public agency has violated the requirements of the act, to issue an order, in the form of a peremptory writ of mandate, specifying what actions by the public agency are necessary to comply with the requirements of the act.

This bill would require the *peremptory writ of mandate* to specify the time by which the public agency is to make an initial return of the *peremptory writ of mandate* containing specified information. Because a public agency would be required to file an initial return of ~~a~~ *the peremptory writ of mandate*, this bill would impose a state-mandated local program. *The bill would require the trial court, to the extent feasible, to issue a determination indicating whether the actions specified in the initial return and any subsequent return are adequate to comply with the peremptory writ of mandate within 30 days of the filing of the return.*

(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 21168.9 of the Public Resources Code
2 is amended to read:

3 21168.9. (a) If a court finds, as a result of a trial, hearing, or
4 remand from an appellate court, that any determination, finding,
5 or decision of a public agency has been made without compliance
6 with this division, the court shall enter a judgment directing the
7 issuance of a peremptory writ of mandate ~~specifying~~ *identifying*
8 *with specificity* what action by the public agency is necessary to
9 comply with this ~~division, including~~ *division*. ~~The peremptory writ~~
10 ~~of mandate may include one or more of the following:~~ *following*
11 *mandates:*

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

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

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

27 (b) (1) A *peremptory writ of mandate* issued pursuant to
28 subdivision (a) shall include only those mandates that are necessary

1 to achieve compliance with this division and shall address only
2 those specific project activities in noncompliance with this division.

3 (2) The *peremptory writ of mandate* shall be limited to that
4 portion of a determination, finding, or decision or the specific
5 project activity or activities found to be in noncompliance only if
6 a court finds all of the following:

7 (A) The portion or specific project activity or activities are
8 severable.

9 (B) Severance will not prejudice complete and full compliance
10 with this division.

11 (C) The court has not found the remainder of the project to be
12 in noncompliance with this division.

13 (3) The *peremptory writ of mandate* shall include the time by
14 which the public agency shall ~~make~~ *be required to prepare and*
15 *file* an initial return of the writ.

16 ~~(4) The trial court shall retain jurisdiction over the public~~
17 ~~agency's proceedings by way of a return to the peremptory writ~~
18 ~~until the court has determined that the public agency has complied~~
19 ~~with this division.~~

20 (c) An initial return of the *peremptory writ of mandate* shall
21 describe ~~all~~ *both* of the following:

22 (1) The actions the public agency will take to come into
23 compliance with the *peremptory writ of mandate* and this division.

24 (2) ~~A~~ *An estimated* schedule for these actions.

25 ~~(3) In the case of a negative declaration, mitigated negative~~
26 ~~declaration, or environmental impact report found not to be in~~
27 ~~compliance with this division, the public comment period~~
28 ~~applicable to the agency's revision of the document.~~

29 (d) *To the extent feasible, within 30 days of the filing of the*
30 *initial return of the peremptory writ of mandate, the trial court*
31 *shall issue a determination indicating whether the actions specified*
32 *in the initial return are adequate to comply with the peremptory*
33 *writ of mandate.*

34 (e) *The trial court shall retain jurisdiction over the public*
35 *agency's proceedings by way of a return of the peremptory writ*
36 *of mandate until the court determines that the public agency has*
37 *complied with this division. To the extent feasible, the trial court*
38 *shall issue its determination on the return of the peremptory writ*
39 *of mandate within 30 days of the filing of the return.*

40 (d)

1 (f) This section does not authorize a court to direct a public
2 agency to exercise its discretion in any particular way. Except as
3 expressly provided in this section, this section is not intended to
4 limit the equitable powers of the court.

5 (e)

6 (g) This section does not affect the authority of a court to allow
7 those determinations, findings, or decisions of a public agency that
8 are not found to be in violation of this division to proceed, if
9 allowing the public agency to proceed does not, in any manner,
10 prejudice complete and full compliance with this division.

11 SEC. 2. If the Commission on State Mandates determines that
12 this act contains costs mandated by the state, reimbursement to
13 local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.