

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1302

Introduced by Assembly Member Hagman

February 22, 2013

An act to amend Section 6104 of the Public Resources Code, relating to the State Lands Commission: *add Division 13.6 (commencing with Section 21200) to the Public Resources Code, relating to environmental quality.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1302, as amended, Hagman. ~~State Lands Commission: meetings.~~ *Environmental quality: the Sustainable Environmental Protection Act.*

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.

Existing law establishes regulations related to numerous environmental issues.

This bill would enact the Sustainable Environmental Protection Act and would specify the environmental review required pursuant to CEQA for projects related to specified environmental topical areas. For a

judicial action or proceeding filed challenging an action taken by a lead agency on the ground of noncompliance with CEQA, the bill would prohibit a cause of action that (1) alleges noncompliance with CEQA based on any topical area or criteria for which compliance obligations are identified or (2) challenges the environmental document based on noncompliance with CEQA if: (A) the environmental document discloses compliance with applicable environmental law, (B) the project conforms with the use designation, density, or building intensity in an applicable plan, as defined, and (C) the project approval is conditioned on compliance with applicable mitigation requirements in the environmental document. The bill would provide that the Sustainable Environmental Protection Act only applies if the lead agency or project applicant has agreed to provide to the public in a readily accessible electronic format an annual compliance report prepared pursuant to the mitigation monitoring and reporting program.

Because this bill would impose additional duties on local agencies, it would impose a state-mandated local program.

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.

~~Existing law establishes the State Lands Commission in the Natural Resources Agency, consisting of the Controller, the Lieutenant Governor, and the Director of Finance. Existing law requires the commission to meet, upon due notice to all members of the commission, at such times and places within the State as are deemed necessary by it for the proper transaction of the business committed to it.~~

~~This bill would make nonsubstantive changes to this provision.~~

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

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

- 1 SECTION 1. Division 13.6 (commencing with Section 21200)
- 2 is added to the Public Resources Code, to read:

1 (17) *Recreational resources.*

2 (c) *In the years before and the 40 years following the enactment*
3 *of CEQA, Congress and the Legislature have each adopted more*
4 *than 100 laws to protect environmental quality in those*
5 *environmental topical areas required to be independently mitigated*
6 *under CEQA described in subdivision (b). The Legislature has*
7 *enacted environmental protection laws that are as or more*
8 *stringent than federal law, and California environmental laws are*
9 *often at the cutting edge of environmental protection nationally*
10 *and even globally. These environmental protection laws, all*
11 *enacted after 1970, include, but are not limited to, the following:*

12 (1) *Air quality, including air pollution and toxic air*
13 *contaminants: the federal Clean Air Act (42 U.S.C. Sec. 7401 et*
14 *seq.) and the federal Acid Precipitation Act of 1980 (42 U.S.C.*
15 *Sec. 8901 et seq.), and California air quality laws, including*
16 *Division 26 (commencing with Section 39000) of the Health and*
17 *Safety Code, the Protect California Air Act of 2003 (Chapter 4.5*
18 *(commencing with Section 42500) of Part 4 of Division 26 of the*
19 *Health and Safety Code), the Carl Moyer Memorial Air Quality*
20 *Standards Attainment Program (Chapter 9 (commencing with*
21 *Section 44275) of Part 5 of Division 26 of the Health and Safety*
22 *Code), the California Port Community Air Quality Program*
23 *(Chapter 9.8 (commencing with Section 44299.80) of Part 5 of*
24 *Division 26 of the Health and Safety Code), the California Clean*
25 *Schoolbus Program (Chapter 10 (commencing with Section*
26 *44299.90) of Part 5 of Division 26 of the Health and Safety Code),*
27 *the Air Pollution Permit Streamlining Act of 1992 (Article 1.3*
28 *(commencing with Section 42320) of Chapter 4 of Part 4 of*
29 *Division 26 of the Health and Safety Code), and the California air*
30 *pollution control laws, including the Air Toxics “Hot Spots”*
31 *Information and Assessment Act of 1987 (Part 6 (commencing*
32 *with Section 44300) of Division 26 of the Health and Safety Code),*
33 *the Atmospheric Acidity Protection Act of 1988 (Chapter 6*
34 *(commencing with Section 39900) of Part 2 of Division 26 of the*
35 *Health and Safety Code), the Connelly-Areias-Chandler Rice Straw*
36 *Burning Reduction Act of 1991 (Section 41865 of the Health and*
37 *Safety Code), and the Lewis-Presley Air Quality Management Act*
38 *(Chapter 5.5 (commencing with Section 40400) of Part 3 of*
39 *Division 26 of the Health and Safety Code).*

1 (2) *Biological resources, including protected species and habitat*
2 *types: the federal Endangered Species Act of 1973 (16 U.S.C. Sec.*
3 *1531 et seq.), the federal Migratory Bird Treaty Act (16 U.S.C.*
4 *Sec. 703 et seq.), the federal Bald and Golden Eagle Protection*
5 *Act (16 U.S.C. Sec. 668), Section 404(b) of the federal Clean Water*
6 *Act (33 U.S.C. Sec. 1344(b)), the federal Marine Mammal*
7 *Protection Act of 1972 (16 U.S.C. Sec. 1361 et seq.), the federal*
8 *Nonindigenous Aquatic Nuisance Prevention and Control Act of*
9 *1990 (16 U.S.C. Sec. 4701 et seq.), the California Endangered*
10 *Species Act (Chapter 1.5 (commencing with Section 2050) of*
11 *Division 3 of the Fish and Game Code), Sections 1602, 3503.5,*
12 *3511, 3513, and 4700 of the Fish and Game Code, the Oak*
13 *Woodlands Conservation Act (Article 3.5 (commencing with*
14 *Section 1360) of Chapter 3 of Division 2 of the Fish and Game*
15 *Code), Article 3 (commencing with Section 355) of Chapter 3 of*
16 *Division 1 of the Fish and Game Code, Division 5 (commencing*
17 *with Section 5000) of the Fish and Game Code, Division 6*
18 *(commencing with Section 5500) of the Fish and Game Code, and*
19 *subdivision (e) of Section 65302 of the Government Code.*

20 (3) *Cultural resources, including archaeological resources:*
21 *Section 106 of the federal National Historic Preservation Act (16*
22 *U.S.C. Sec. 470(f)), the federal American Indian Religious Freedom*
23 *Act (42 U.S.C. Sec. 1996), Section 7050.5 of the Health and Safety*
24 *Code, and Section 5097.9.*

25 (4) *Climate change and greenhouse gas emissions: the federal*
26 *Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the federal Energy*
27 *Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et*
28 *seq.), the California Global Warming Solutions Act of 2006*
29 *(Division 25.5 (commencing with Section 38500) of the Health*
30 *and Safety Code), Division 26 (commencing with Section 39000)*
31 *of the Health and Safety Code, the California Alternative and*
32 *Renewable Fuel, Vehicle Technology, Clean Air, and Carbon*
33 *Reduction Act of 2007 (Chapter 8.9 (commencing with Section*
34 *44270) of Part 5 of Division 26 of the Health and Safety Code),*
35 *the California Energy-Efficient Vehicle Group Purchase Program*
36 *(Article 1.5 (commencing with Section 43810) of Chapter 4 of Part*
37 *5 of Division 26 of the Health and Safety Code), Section 43018.5*
38 *of the Health and Safety Code, and Chapter 728 of the Statutes of*
39 *2008.*

1 (5) Hazards and hazardous materials, including toxic chemical
2 exposures, brownfields or contaminated site issues, and chemical
3 accident risks: the federal Comprehensive Environmental
4 Response, Compensation, and Liability Act of 1980 (42 U.S.C.
5 Sec. 9601 et seq.), the federal Resource Conservation and Recovery
6 Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the federal Emergency
7 Planning and Community Right-to-Know Act of 1986 (42 U.S.C.
8 Sec. 11001 et seq.), the federal Pollution Prevention Act of 1990
9 (42 U.S.C. Sec. 13101 et seq.), the federal Oil Pollution Act of
10 1990 (33 U.S.C. Sec. 2701 et seq.), the Federal Insecticide,
11 Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.), the
12 federal Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.),
13 the federal Asbestos Hazard Emergency Response Act of 1986 (15
14 U.S.C. Sec. 2641 et seq.), the federal Lead-Based Paint Exposure
15 Reduction Act (15 U.S.C. Sec. 2681 et seq.), the federal Low-Level
16 Radioactive Waste Policy Act (42 U.S.C. Sec. 2121b et seq.), the
17 federal Lead Contamination Control Act of 1988 (42 U.S.C. Sec.
18 300j-21 et seq.), the Hazardous Waste Control Law (Chapter 6.5
19 (commencing with Section 25100) of Division 20 of the Health
20 and Safety Code), Chapter 6.7 (commencing with Section 25280)
21 of Division 20 of the Health and Safety Code, Sections 25356.1.5
22 and 25395.94 of the Health and Safety Code, Chapter 6.95
23 (commencing with Section 25500) of Division 20 of the Health
24 and Safety Code, the Elder California Pipeline Safety Act of 1981
25 (Chapter 5.5 (commencing with Section 51010) of Part 1 of
26 Division 1 of Title 5 of the Government Code), and the Natural
27 Gas Pipeline Safety Act of 2011 (Article 2 (commencing with
28 Section 955) of Chapter 4.5 of Part 1 of Division 1 of the Public
29 Utilities Code).

30 (6) Hydrology and water quality, including flooding and sea
31 level rise: the federal Water Pollution Control Act (33 U.S.C. Sec.
32 1251 et seq.), the National Contaminated Sediment Assessment
33 and Management Act (33 U.S.C. Sec. 1271 et seq.), the federal
34 Safe Drinking Water Act (33 U.S.C. Sec. 300f et seq.), Section
35 1602 of the Fish and Game Code, the Integrated Regional Water
36 Management Planning Act (Part 2.2 (commencing with Section
37 10530) of Division 6 of the Water Code), the Stormwater Resource
38 Planning Act (Part 2.3 (commencing with Section 10560) of
39 Division 6 of the Water Code), the Porter-Cologne Water Quality
40 Control Act (Division 7 (commencing with Section 13000) of the

1 *Water Code), the Safe Drinking Water and Toxic Enforcement Act*
2 *of 1986 (Chapter 6.6 (commencing with Section 25249.5) of*
3 *Division 20 of the Health and Safety Code), the Urban Water*
4 *Management Planning Act (Part 2.6 (commencing with Section*
5 *10610) of Division 6 of the Water Code), Part 2.10 (commencing*
6 *with Section 10910) of Division 6 of the Water Code, the Water*
7 *Conservation in Landscaping Act (Article 10.8 (commencing with*
8 *Section 65591) of Chapter 3 of Division 1 of Title 7 of the*
9 *Government Code), the Storm Water Enforcement Act of 1998*
10 *(Chapter 5.9 (commencing with Section 13399.25) of Division 7*
11 *of the Water Code), the Water Recycling Law (Chapter 7*
12 *(commencing with Section 13500) of Division 7 of the Water Code),*
13 *Chapter 7.3 (commencing with Section 13560) of Division 7 of the*
14 *Water Code, and Part 2.75 (commencing with Section 10750) of*
15 *Division 6 of the Water Code.*

16 *(7) Land use planning including consistency with land use plans:*
17 *the federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec.*
18 *1451 et seq.), the Federal Land Policy and Management Act of*
19 *1976 (43 U.S.C. Sec. 1701 et seq.), the federal Forest and*
20 *Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C.*
21 *Secs. 1600 to 1614, incl., and 1641 to 1649, incl.), the National*
22 *Forest Management Act of 1976 (16 U.S.C. Secs. 1600 and 1611*
23 *to 1614, incl.), the Planning and Zoning Law (Title 7 (commencing*
24 *with Section 65000) of the Government Code), the Subdivision*
25 *Map Act (Division 2 (commencing with Section 66410) of Title 7*
26 *of the Government Code), the California Coastal Act of 1976*
27 *(Division 20 (commencing with Section 30000) of this code), the*
28 *Cortese-Knox-Hertzberg Local Government Reorganization Act*
29 *of 2000 (Part 1 (commencing with Section 56000) of Division 3*
30 *of Title 5 of the Government Code), the California Green Building*
31 *Standards Code (Part 11 of Title 24 of the California Code of*
32 *Regulations), and the California Building Code (Part 2 of Title*
33 *24 of the California Code of Regulations).*

34 *(8) Public services, including fire and police protection, schools,*
35 *parks, solid waste, recycling, and other public facilities: Chapter*
36 *2 (commencing with Section 17921) of Part 1.5 of Division 13 of*
37 *the Health and Safety Code, Sections 65996, 65997, and 66477 of*
38 *the Government Code, Title 7.3 (commencing with Section 66799)*
39 *of the Government Code, the Used Oil Recycling Act (Article 9*
40 *(commencing with Section 3460) of Chapter 1 of Division 3 of this*

1 *code), the California Beverage Container Recycling and Litter*
2 *Reduction Act (Division 12.1 (commencing with Section 14500),*
3 *Division 12.3 (commencing with Section 16000), Division 12.4*
4 *(commencing with Section 16050), and Division 12.7 (commencing*
5 *with Section 18000) of this code), the Fiberglass Recycled Content*
6 *Act of 1991 (Division 12.9 (commencing with Section 19500) of*
7 *this code), the California Integrated Waste Management Act of*
8 *1989 (Division 30 (commencing with Section 40000) of this code),*
9 *the California Fire Code (Part 9 of Title 24 of the California Code*
10 *of Regulations), and Sections 1270 and 6773 of Title 8 of the*
11 *California Code of Regulations.*

12 (9) *Traffic and transportation, including transit, vehicular,*
13 *bicycle, and pedestrian transportation, emergency access, and*
14 *roadway safety: the federal Safe, Accountable, Flexible, Efficient*
15 *Transportation Equity Act: A Legacy for Users (23 U.S.C. Sec.*
16 *101 et seq.), Titles 23 and 49 of the United States Code, and*
17 *Chapter 2.3 (commencing with Section 65070), Chapter 2.5*
18 *(commencing with Section 65080), and Chapter 2.8 (commencing*
19 *with Section 65088) of Division 1 of Title 7 of the Government*
20 *Code.*

21 (10) *Utilities and service systems, including wastewater, water*
22 *supply, stormwater, landfill and waste management systems: Part*
23 *2.10 (commencing with Section 10910) of Division 6 of the Water*
24 *Code, Part 2.55 (commencing with Section 10608) of Division 6*
25 *of the Water Code, the Urban Water Management Planning Act*
26 *(Part 2.6 (commencing with Section 10610) of Division 6 of the*
27 *Water Code), and the Water Conservation in Landscaping Act*
28 *(Article 10.8 (commencing with Section 65591) of Chapter 3 of*
29 *Division 1 of Title 7 of the Government Code).*

30 (11) *Aesthetics: the federal Highway Beautification Act of 1965*
31 *(23 U.S.C. Sec. 131), Article 2.5 (commencing with Section 260)*
32 *of Chapter 1 of Division 1 of the Streets and Highways Code, the*
33 *Outdoor Advertising Act (Chapter 2 (commencing with Section*
34 *5200) of Division 3 of the Business and Professions Code), and*
35 *subdivision (e) of Section 656302 of the Government Code.*

36 (12) *Agriculture: the federal Soil and Water Conservation Act*
37 *of 1977 (16 U.S.C. Sec. 2001 et seq.) and the Williamson Act*
38 *(Chapter 7 (commencing with Section 51200) of Part 1 of Division*
39 *1 of Title 5 of the Government Code); and forestry resources: the*
40 *Z'Berg-Nejedly Forest Practice Act of 1973 (Chapter 8*

1 (commencing with Section 4511) of Part 2 of Division 4) and
2 corresponding regulations (Chapter 4 (commencing with Section
3 895), Chapter 4.5 (commencing with Section 1115), and Chapter
4 10 (commencing with Section 1600) of Division 1.5 of Title 14 of
5 the California Code of Regulations), Protection of Forest, Range
6 and Forage Lands (Part 2 (commencing with Section 4101) of
7 Division 4), and the Wild and Scenic Rivers Act (Chapter 1.4
8 (commencing with Section 5093.50) of Division 5).

9 (13) Mineral resources: the federal Surface Mining Control
10 and Reclamation Act of 1977 (30 U.S.C. Sec. 1201 et seq.) and
11 the Surface Mining and Reclamation Act of 1975 (Chapter 9
12 (commencing with Section 2710) of Division 2).

13 (14) Noise: the federal Noise Control Act of 1972 (43 U.S.C.
14 Sec. 4901 et seq.), the federal Aviation Safety and Noise Abatement
15 Act of 1979 (49 U.S.C. Sec. 47501 et seq.), Article 5 (commencing
16 with Section 65300) of Chapter 3 of Division 1 of Title 7 of the
17 Government Code, the California Noise Insulation Standards (Part
18 2 of Title 24 of the California Code of Regulations), the California
19 Employee Noise Exposure Limits (Article 105 (commencing with
20 Section 5095) of Group 15 of Subchapter 7 of Chapter 4 of Division
21 1 of Title 8 of the California Code of Regulations).

22 (d) Over the same 40-year period since the enactment of CEQA,
23 the Legislature has also adopted environmental protection laws
24 affecting three topical areas for which the United States Congress
25 has not taken any action to adopt federal environmental law of
26 general application in California, as follows:

27 (1) Geology and soils, including seismic and landslide risk: the
28 Alquist-Priolo Earthquake Fault Zoning Act (Chapter 7.5
29 (commencing with Section 2621) of Division 2 of this code), the
30 Seismic Hazards Mapping Act (Chapter 7.8 (commencing with
31 Section 2690) of Division 2 of this code), the California Building
32 Code (Title 24 of the California Code of Regulations), Chapter
33 12.2 (commencing with Section 8875) of Division 1 of Title 2 of
34 the Government Code, subdivision (g) of Section 65302 of the
35 Government Code, and the Surface Mining and Reclamation Act
36 of 1975 (Chapter 9 (commencing with Section 2710) of Division
37 2 of this code).

38 (2) Population and housing growth: Article 10.6 (commencing
39 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the

1 *Government Code and Chapter 13 (commencing with Section*
2 *75120) of Division 43.*

3 *(3) Recreational resources: Section 66477 of the Government*
4 *Code and the Public Park Preservation Act of 1971 (Chapter 2.5*
5 *(commencing with Section 5400) of Division 5 of this code).*

6 *(e) When enacting CEQA and subsequent amendments, the*
7 *Legislature declared its intent to ensure that all public agencies*
8 *give major consideration to preventing environmental damage,*
9 *while providing a decent home and satisfying living environment*
10 *for every Californian and to create and maintain conditions under*
11 *which humankind and nature can exist in productive harmony to*
12 *fulfill the social and economic requirements of present and future*
13 *generations.*

14 *(f) Environmental laws, including implementing plans,*
15 *programs, regulations, and permit requirements that have been*
16 *adopted since the 1970 enactment of CEQA, are designed to ensure*
17 *California continues as a national and international leader in*
18 *protecting the environment, health, safety, and welfare of*
19 *California and those within its borders.*

20 *(1) At the local level, the California Constitution and California*
21 *law require cities, counties, and cities and counties to adopt land*
22 *use plans in order to develop and implement an orderly planning*
23 *process for protecting and enhancing the quality of the community*
24 *and the environment while providing for jobs, revenues,*
25 *recreational and other services, housing, and other community*
26 *needs.*

27 *(2) Pursuant to Chapter 728 of the Statutes of 2008,*
28 *metropolitan planning organizations (MPOs) are directed to*
29 *prepare sustainable communities strategies (SCSs) to reduce*
30 *regional greenhouse gas emissions from the land use and*
31 *transportation sector. Additionally, many cities and counties have*
32 *adopted, or are in the process of adopting, land use plans such as*
33 *general plan updates, zoning code revisions, specific plans,*
34 *community plans, and area plans to encourage both renewable*
35 *energy production and higher density, transit-oriented development*
36 *patterns.*

37 *(3) In response to the challenges of climate change and in*
38 *furtherance of energy independence and security, the Legislature*
39 *has established significant new mandates for the development and*
40 *use of renewable energy and higher density development patterns*

1 *that promote transit utilization and conserve water and energy*
2 *resources.*

3 *(4) With recent mandates and policies encouraging denser*
4 *development patterns to promote transit, energy and water*
5 *efficiency, job and housing growth is prioritized in areas that are*
6 *already well populated and include urbanized conditions such as*
7 *regional freeway congestion and local roadway congestion, and*
8 *neighborhood-scale challenges such as parking and evolving*
9 *aesthetic values. By directing growth into higher density,*
10 *transit-oriented development patterns, SCS and local land use*
11 *plan and zoning code adoption and implementation generally*
12 *cause significant unavoidable density-related adverse*
13 *environmental impacts under CEQA, such as traffic and parking*
14 *and related air quality emissions. Additionally, infrastructure and*
15 *services in many urbanized areas are challenged and require*
16 *upgrades that are beyond the fiscal ability or jurisdictional*
17 *authority, or both, of a city or county, resulting in findings of*
18 *additional significant unavoidable impacts for CEQA purposes.*
19 *Impacts from higher density development land use plans and zoning*
20 *code revisions (urbanization impacts) are evaluated and in many*
21 *instances approved by decisionmakers as an appropriate policy*
22 *decision based on climate, energy security, agricultural or*
23 *open-space preservation, or other inherent policy choices that are*
24 *informed by the EIR's environmental analysis and public disclosure*
25 *process.*

26 *(g) Environmental laws and regulations identify compliance*
27 *obligations that apply uniformly to similarly situated projects and*
28 *activities, and provide critical environmental protections that go*
29 *well beyond the ad hoc review process created by CEQA.*
30 *Environmental laws and regulations identify compliance*
31 *obligations of general applicability and thereby provide greater*
32 *clarity than the project-by-project ad hoc review process that was*
33 *created for CEQA in 1970.*

34 *(h) CEQA requires a public and environmental review process*
35 *for the review and adoption of land use plans and zoning code*
36 *revisions, including requirements to avoid or minimize the*
37 *significant environmental impacts of land use plan and zoning*
38 *code implementation. For plan or zoning code changes for which*
39 *an environmental impact report (EIR) was prepared and certified,*

1 CEQA mandates inclusion of mitigation measures and alternatives
2 to avoid or minimize significant unavoidable impacts.

3 (i) The court, in *Friends of Westwood v. City of Los Angeles*
4 (1987) 191 Cal.App.3d 259, determined that the CEQA process is
5 required even for projects that complied with the density, use type,
6 and intensity restrictions in applicable land use plans and the
7 zoning code.

8 (j) Applying CEQA's existing requirements at a project-specific
9 level can often undermine the policy goals and objectives of
10 applicable land use plans. A project that brings higher density to
11 an area, with corresponding jobs, revenues, or housing, also brings
12 traffic and parking demands, with associated air quality and other
13 impacts, as well as a host of other urbanized effects as disclosed
14 in the land use plan EIR. Where urbanized effects have been
15 mitigated on the plan level to the extent feasible, the reanalysis of
16 these impacts at the project level can be problematic.

17 (k) Duplicative CEQA review of projects that comply with the
18 density, use type, and intensity requirements of land use plans that
19 have already undergone an EIR process was not intended by the
20 Legislature and creates unacceptable delays and uncertainties in
21 the plan implementation process. Avoidance of duplicative review
22 will reduce litigation and the considerable political uncertainty
23 that has resulted for communities and project proponents who
24 attempt to implement land use plans, notwithstanding previously
25 disclosed significant unavoidable urbanized impacts.

26 (l) Development of projects consistent with the density, use type,
27 and intensity requirements of land use plans should be encouraged
28 by avoiding duplicative environmental review of those projects if
29 project approval is conditioned on implementing applicable
30 mitigation measures included in the EIR prepared for the
31 applicable land use plans.

32 (m) Public agencies are subject to public notice and disclosure
33 requirements when approving projects, including the Ralph M.
34 Brown Act (Chapter 9 (commencing with Section 54950) of Part
35 1 of Division 2 of Title 5 of the Government Code) and the
36 Bagley-Keene Open Meeting Act (Article 9 (commencing with
37 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
38 the Government Code), and are also authorized to require
39 comprehensive project applications and to condition project

1 *approvals under their police powers and other laws, not including*
2 *CEQA.*

3 *(n) Public agencies are encouraged to create and maintain*
4 *electronic records where feasible to reduce paperwork and*
5 *increase efficiency. The prompt commencement and resolution of*
6 *litigation filed under this division and CEQA is dependent upon*
7 *the prompt availability of the respondent public agency's record*
8 *of proceedings for the challenged agency action. There are no*
9 *practical means by which records of proceedings which are*
10 *predominantly maintained in electronic format can be readily*
11 *accessed, organized, and produced by any party other than the*
12 *respondent public agency. Where all or most of the respondent*
13 *agency's record of proceeding is maintained by the respondent*
14 *agency or its designee in an electronic format, timely production*
15 *of the record of proceedings requires that the record be prepared*
16 *by the respondent agency.*

17 *(o) In enacting this division, it is the intent of the Legislature*
18 *to further the purposes of CEQA by integrating environmental and*
19 *planning laws and regulations adopted over the last 40 years,*
20 *while avoiding the sometimes conflicting and often duplicative ad*
21 *hoc environmental review and mitigation requirements under*
22 *CEQA.*

23 *(p) In enacting this division, it is also the intent of the*
24 *Legislature to continue to foster public disclosure and informed*
25 *public participation of the environmental consequences of projects.*

26 *(q) In enacting this division, it is the intent of the Legislature*
27 *to preserve the authority of a lead agency, consistent with the*
28 *jurisdiction and authority of that agency, to disapprove projects*
29 *or to condition approvals of projects on terms that may require*
30 *more stringent environmental protections or project approval*
31 *conditions than those required by applicable environmental or*
32 *planning laws.*

33 *21201. For the purposes of this division, the following*
34 *definitions shall apply:*

35 *(a) "Applicable environmental law" is a law related to an*
36 *environmental topical area listed in subdivision (b) of Section*
37 *21200.5 that is relevant to a project and that does any of the*
38 *following:*

39 *(1) Includes a policy determination, or directs or authorizes the*
40 *adoption by an implementing agency of regulations, plans, or*

1 *permits, licenses, or authorization applications and approval*
2 *processing procedure and practices to implement that policy*
3 *determination, regarding a standard applicable to a topical area*
4 *requiring analysis and mitigation under CEQA.*

5 (2) *Identifies quantitative and qualitative analytical methods*
6 *or approaches, or directs or authorizes the adoption by an*
7 *implementing agency of regulations, plans, or permits, licenses,*
8 *or authorization applications and approval processing procedures*
9 *and practices that include those analytical methods or approaches,*
10 *regarding a standard.*

11 (3) *Identifies required or permissible practices for mitigating*
12 *or minimizing adverse impacts to a topical area requiring analysis*
13 *and mitigation under CEQA, or directs or authorizes the adoption*
14 *by an implementing agency of regulations or plans, or directs or*
15 *authorizes an implementing agency to review and approve permits,*
16 *licenses, or authorization applications that include avoidance,*
17 *minimization, mitigation, conditions or other requirements to*
18 *achieve a standard applicable to a topical area requiring analysis*
19 *and mitigation under CEQA.*

20 (b) *“Applicable plan” means a planning document for which*
21 *an environmental impact report, supplemental environmental*
22 *impact report, or environmental impact report addendum was*
23 *certified, including either of the following:*

24 (1) *A land use plan, such as a general plan, specific plan, or*
25 *sustainable communities strategies adopted by a city, county, city*
26 *and county, metropolitan planning organization, or other local,*
27 *regional, or state agency that establishes use designations,*
28 *densities, and building intensities.*

29 (2) *A plan to improve or maintain public facilities or*
30 *infrastructure to be funded in whole or in part by public funds and*
31 *which has been adopted by a local, regional, or state agency.*

32 (c) *“Applicable mitigation requirements” means all mitigation*
33 *measures included in an applicable plan with the exception of*
34 *mitigation measures the lead agency determines, based on*
35 *substantial evidence, are not required to mitigate a potentially*
36 *significant impact of a proposed project.*

37 (d) *“CEQA” means the California Environmental Quality Act*
38 *(Division 13 (commencing with Section 21000)).*

1 (e) “Implementing agency” means any state or federal agency,
2 board, or commission, any county, city and county, city, regional
3 agency, public district, or other political subdivision.

4 (f) “Standard” means a quantitative or qualitative level of
5 protection, preservation, enhancement, pollution, reduction,
6 avoidance, or other measure for a topical area requiring analysis
7 and mitigation under CEQA.

8 21202. (a) An environmental document prepared pursuant to
9 CEQA shall disclose all applicable environmental laws.

10 (1) An environmental document prepared under CEQA and that
11 discloses an applicable environmental law described in paragraph
12 (1) of subdivision (a) of Section 21201 shall disclose the applicable
13 compliance requirements of that law, and compliance with the
14 applicable standards for impacts that occur or might occur as a
15 result of approval of the project shall be the exclusive means of
16 evaluating and mitigating environmental impacts under CEQA
17 regarding the subject of that law, notwithstanding any other
18 provision of law.

19 (2) An environmental document prepared under CEQA and that
20 discloses an applicable environmental law described in paragraph
21 (2) of subdivision (a) of Section 21201 shall disclose the applicable
22 analytical methods or approaches, and the disclosure of those
23 analytical methods or approaches shall be the exclusive means of
24 evaluating potential project impacts under CEQA regarding the
25 relevant law, notwithstanding any other provision of law.

26 (3) An environmental document prepared under CEQA and that
27 discloses an applicable environmental law described in paragraph
28 (3) of subdivision (a) of Section 21201 shall disclose the applicable
29 mitigation and minimization methods or approaches typically used
30 by implementing agencies as part of their review and approval or
31 permits, licenses, or authorization applications, and compliance
32 with mitigation and minimization practices shall be the exclusive
33 means of mitigating environmental impacts under CEQA regarding
34 the subject of the relevant law, notwithstanding any other provision
35 of law.

36 (b) The disclosure obligations set forth in this section are
37 intended to foster informed environmental review and public
38 participation in the environmental and public review process
39 required by CEQA or other applicable laws and regulations, such
40 as the Ralph M. Brown Act (Chapter 9 (commencing with Section

1 54950) of Part 1 of Division 2 of Title 5 of the Government Code)
2 and the Bagley-Keene Open Meeting Act (Article 9 (commencing
3 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
4 2 of the Government Code).

5 21203. (a) A cause of action shall not be commenced under
6 Section 21167 for noncompliance with CEQA under either of the
7 following circumstances:

8 (1) If the cause of action relates to an environmental topical
9 area listed in subdivision (b) of Section 21200.5 and the
10 environmental document discloses compliance with any applicable
11 environmental law pertaining to a topical area or any regulation,
12 plan, permit, license, or authorization application and approval
13 processing procedures adopted by an implementing agency as
14 directed or authorized by that applicable environmental law.

15 (2) If the environmental document for the project discloses
16 compliance with applicable environmental law pertaining to a
17 topical area or any regulation, plan, permit, license, or
18 authorization application and approval processing procedures
19 adopted by an implementing agency as directed or authorized by
20 that applicable environmental law; the project conforms to the
21 use designation, density, or building intensity in a land use plan
22 or was included in any other applicable plan identified in
23 subdivision (b) of Section 21201; and the lead agency conditions
24 approval on compliance with applicable mitigation requirements
25 included in the certified environmental impact report, supplemental
26 environmental impact report, or environmental impact report
27 addendum prepared for the applicable plan into the environmental
28 document prepared for the project.

29 (b) This section does not prohibit a cause of action otherwise
30 authorized by law to enforce compliance with any other existing
31 local, state, and federal law, regulation, or applicable plan.

32 21204. (a) Except for projects with potentially significant
33 aesthetic impacts on an official state scenic highway established
34 pursuant to section 262 of the Streets and Highways Code, a lead
35 agency shall not be required to evaluate aesthetics pursuant to
36 CEQA or this division, and the lead agency shall not be required
37 to make findings pursuant to subdivision (a) of Section 21081 on
38 or relating to aesthetic impacts.

39 (b) This section does not change the authority of a lead agency
40 to consider aesthetic issues and to require mitigation or avoidance

1 of adverse aesthetic impacts pursuant to discretionary powers
2 provided by laws other than CEQA or this division.

3 21204.5. This division does not modify the obligation of a lead
4 agency to evaluate the potential for a project to effect Native
5 American resources and to comply with Section 5097.98, including
6 the obligation to discuss and confer with the appropriate Native
7 Americans, as identified by the Native American Heritage
8 Commission and the obligation to avoid, mitigate, and minimize
9 adverse impacts to significant Native American resources.

10 21205. This division applies only to projects for which the lead
11 agency or applicant has agreed to provide to the public in a readily
12 accessible electronic format an annual compliance report prepared
13 pursuant to the mitigation monitoring and reporting program
14 required by paragraph (1) of subdivision (a) of Section 21081.6.

15 21206. This division does not preclude any state agency, board,
16 or commission, or any city, county, city and county, regional
17 agency, public district, redevelopment agency, or other political
18 subdivision from requiring information or analysis of the project
19 under consideration, or imposing conditions of approval for that
20 project, under laws and regulations other than this division and
21 CEQA.

22 21207. (a) An environmental document, prepared pursuant
23 to CEQA, shall be required to consider only those environmental
24 topical areas listed in subdivision (b) of Section 21200.5 and only
25 to the extent those environmental topical areas are relevant to the
26 project.

27 (b) Subdivision (b) of Section 21200.5 is not intended to affirm,
28 reject, or otherwise affect court decisions concerning the
29 consistency of the guidelines provisions within the provisions of
30 CEQA.

31 (c) This section does not preclude a lead agency from modifying
32 or updating its analytical methodologies for those topical areas.

33 SEC. 2. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 a local agency or school district has the authority to levy service
36 charges, fees, or assessments sufficient to pay for the program or
37 level of service mandated by this act, within the meaning of Section
38 17556 of the Government Code.

39 SECTION 1. ~~Section 6104 of the Public Resources Code is~~
40 ~~amended to read:~~

1 ~~6104. The commission shall meet, upon due notice to all~~
2 ~~members of the commission, at such times and places within the~~
3 ~~state as are deemed necessary by it for the proper transaction of~~
4 ~~the business committed to it.~~

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