

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 23, 2013

SENATE BILL

No. 731

Introduced by Senators Steinberg and Hill

February 22, 2013

An act to amend, repeal, and add Section 705 of the Fish and Game Code, to amend Section 65457 of the Government Code, and to amend Sections ~~21080~~, *21081*, 21081.5, 21081.6, 21167, 21167.6, 21167.7, and 21168.9 of, to add Sections 21167.6.2 and 21167.6.3 to, and to add Chapter 2.7 (commencing with Section 21099) to Division 13 of, the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

SB 731, as amended, Steinberg. Environment: California Environmental Quality ~~Act and sustainable communities strategy~~. *Act*.

(1) The California Environmental Quality Act, or CEQA, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report, or 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 requires the Office of Planning and Research to

develop and prepare, and the Secretary of the Natural Resources Agency to certify and adopt, guidelines for the implementation of CEQA by public agencies. CEQA establishes a procedure for the preparation and certification of the record of proceedings upon the filing of an action or proceeding challenging a lead agency's action on the grounds of noncompliance with CEQA. CEQA establishes time periods within which a person is required to bring a judicial action or proceeding to challenge a public agency's action taken pursuant to CEQA.

This bill would provide that aesthetic *and parking* impacts of a residential, mixed-use residential, or employment center project, as defined, *on an infill site, as defined*, within a transit priority area, as defined, shall not be considered significant impacts on the environment. The bill would require the office to prepare ~~and propose~~, and *submit to* the Secretary of the Natural Resources Agency, *and the secretary* to certify and adopt, revisions to the guidelines for the implementation of CEQA establishing thresholds of significance for ~~noise~~, *noise* and ~~for the transportation and parking~~ impacts of residential, mixed-use residential, or employment center projects within transit priority areas. The bill would require the lead agency, in making specified findings, to make those findings available to the public at least 15 days prior to the approval of the proposed project and to provide specified notice of the availability of the findings for public review. Because the bill would require the lead agency to make the draft finding available for public review and to provide specified notices to the public, this bill would impose a state-mandated local program. The bill would require the lead agency, at the request of a project applicant for specified projects, to, among other things, prepare a record of proceedings concurrently with the preparation of negative declarations, mitigated negative declarations, EIRs, or other environmental documents for specified projects. Because the bill would require a lead agency to prepare the record of proceedings as provided, this bill would impose a state-mandated local program. The bill would authorize the tolling of the time period in which a person is required to bring a judicial action or proceeding challenging a public agency's action taken pursuant to CEQA through a tolling agreement that does not exceed 4 years. The bill would authorize the extension of the tolling agreement.

(2) For mitigation measures required pursuant to an EIR or a mitigated negative declaration, CEQA requires the lead agency to adopt a reporting and monitoring program to ensure compliance with those required mitigation measures during project implementation.

This bill would require the lead agency, as a part of the mitigation and monitoring plan, to prepare or cause to be prepared an annual report on project compliance with the required mitigation measures that is publicly available online. Because the lead agency would be required to prepare and make available this report, this bill would impose a state-mandated local program.

(3) Existing law exempts from the requirements of CEQA residential development projects that are undertaken to implement, and are consistent with a specific plan for which an EIR has been certified after January 1, 1980. Existing law provides that this exemption does not apply if, after the certification of the EIR, a specified event occurs, unless a supplemental EIR for the specified plan is prepared and certified.

This bill would specify that the event does not include new information consisting solely of argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are caused by, physical impacts on the environment.

(4) CEQA requires the court, if the court finds that a public agency has violated the requirements of CEQA, to issue an order containing specified mandates.

This bill would require the court to issue *an order that includes* a peremptory writ of mandate specifying actions that a public agency needs to take to comply with the requirements of CEQA. The bill would require the writ to specify the time by which the public agency is to file an initial return to a writ containing specified information. Because a public agency would be required to file an initial return to a writ, this bill would impose a state-mandated local program.

(5) CEQA requires every person bringing an action or proceeding alleging a violation of CEQA to furnish to the Attorney General a copy of the pleading within 10 days after filing and a copy of any amended or supplemental pleading.

This bill would require the ~~Attorney General~~ *California Research Bureau, subject to the availability of funding and of information, to annually submit to the Legislature a report containing specified information on CEQA litigation in the state.*

(6) Existing law requires the regional transportation plan for regions of the state with a metropolitan planning organization to each adopt a sustainable communities strategy, as part of their regional transportation plan, as specified, designed to achieve certain goals for the reduction

of greenhouse gas emissions from automobiles and light trucks in a region. Existing law establishes the Strategic Growth Council to manage and award grants and loans to support the planning and development of sustainable communities strategies.

This bill would state the intent of the Legislature to appropriate \$30,000,000 annually by the council for the purposes of providing competitive grants to local agencies for planning activities for the implementation of the sustainable communities strategy.

(7) This bill would, until January 1, 2017, establish in the office of the Governor the position of Advisor on Renewable Energy Facilities.

(8) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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. (a) It is the intent of the Legislature to enact~~
2 ~~legislation to adopt provisions of Chapter 3 (commencing with~~
3 ~~Section 15000) of Division 6 of Title 14 of the California Code of~~
4 ~~Regulations (CEQA Guidelines) that are intended to provide greater~~
5 ~~certainty for smart infill development, such as Section 15183.3 of~~
6 ~~the CEQA Guidelines and related appendices that implement~~
7 ~~Chapter 469 of the Statutes of 2011. It is further the intent of the~~
8 ~~Legislature to explore amendments to expand the definition of~~
9 ~~“infill” and to accommodate infill development in the Central~~
10 ~~Valley.~~

11 ~~(b) It is the intent of the Legislature to explore amendments to~~
12 ~~the California Environmental Quality Act (Division 13~~
13 ~~(commencing with Section 21000) of the Public Resources Code);~~
14 ~~to further streamline the law for renewable energy projects,~~
15 ~~advanced manufacturing projects, transit, bike, and pedestrian~~
16 ~~projects, and renewable energy transmission projects.~~

1 (e)

2 ~~SECTION 1. (a) (1) It is the intent of the Legislature to update~~
3 ~~CEQA the California Environmental Quality Act (Division 13~~
4 ~~(commencing with Section 21000) of the Public Resources Code)~~
5 ~~to establish a threshold thresholds of significance for noise,~~
6 ~~aesthetics, parking, noise and traffic levels of service, and~~
7 ~~thresholds relating to these land use impacts, so that projects~~
8 ~~meeting those thresholds are not subject to further environmental~~
9 ~~review for those environmental impacts. It is further the intent of~~
10 ~~the Legislature to review other similar land use related impacts to~~
11 ~~determine if other thresholds of significance can be set~~
12 ~~transportation impacts for transit-oriented infill projects.~~

13 (2) It is not the intent of the Legislature to affect the authority,
14 consistent with CEQA, for a local agency to impose its own, more
15 stringent thresholds.

16 (3) ~~It is not the intent of the Legislature to replace full CEQA~~
17 ~~analysis with state or local standards, with the exception of the~~
18 ~~land use standards described in paragraph (1).~~

19 (d)

20 (b) It is the intent of the Legislature to amend Section ~~65456,~~
21 ~~65457 of the Government Code,~~ which exempts from ~~CEQA the~~
22 ~~California Environmental Quality Act~~ projects undertaken pursuant
23 to a specific plan for which an ~~EIR environmental impact report~~
24 has been prepared, unless conditions specified under Section 21166
25 of the Public Resources Code have occurred, to define with greater
26 specificity what “new information” means, and to avoid duplicative
27 ~~CEQA review undertaken pursuant to the California~~
28 ~~Environmental Quality Act~~ for projects and activities that comply
29 with that plan. ~~It is further the intent of the Legislature to review~~
30 ~~the possibility of defining other types of plans to determine if~~
31 ~~similar treatment could be applied to those plans or portions of~~
32 ~~those plans that are consistent with sustainable communities~~
33 ~~strategies adopted pursuant to Section 65080 of the Government~~
34 ~~Code or that have had a certified EIR within the past five years.~~

35 (e)

36 (c) It is the intent of the Legislature to enact amendments to
37 Section 21168.9 to establish clearer procedures for a trial court to
38 remand to a lead agency for remedying only those portions of an
39 ~~EIR environmental impact report,~~ negative declaration, or
40 mitigated negative declaration found to be in violation of ~~CEQA,~~

1 *the California Environmental Quality Act*, while retaining those
2 portions that are not in violation so that the violations can be
3 corrected, recirculated for public comment, and completed more
4 efficiently and expeditiously. It is further the intent of the
5 Legislature to explore options *specify the circumstances* under
6 which a court could allow project approvals to remain in place,
7 and for projects to proceed.

8 ~~(f) It is the intent of the Legislature to amend Section 21091 of~~
9 ~~the Public Resources Code and related provisions of law to~~
10 ~~establish clear statutory rules under which “late hits” and~~
11 ~~“document dumps” are prohibited or restricted prior to certification~~
12 ~~of an EIR, if a project proponent or lead agency has not~~
13 ~~substantively changed the draft EIR or substantively modified the~~
14 ~~project.~~

15 ~~(g) It is the intent of the Legislature to provide \$30 million~~
16 ~~annually to the Strategic Growth Council for the purposes of~~
17 ~~providing planning incentive grants to local and regional agencies~~
18 ~~to update and implement general plans, sustainable communities~~
19 ~~strategies, and smart growth plans pursuant to Chapter 728 of the~~
20 ~~Statutes of 2008.~~

21 SEC. 2. This act shall be known, and may be cited, as the
22 CEQA Modernization Act of 2013.

23 SEC. 3. Section 705 of the Fish and Game Code is amended
24 to read:

25 705. (a) For purposes of this section, “eligible renewable
26 energy resources” has the same meaning as in the California
27 Renewables Portfolio Standard Program (Article 16 (commencing
28 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
29 Public Utilities Code).

30 (b) The department shall establish an internal division with the
31 primary purpose of performing comprehensive planning and
32 environmental compliance services with priority given to projects
33 involving the building of eligible renewable energy resources.

34 (c) The internal division shall ensure the timely completion of
35 plans pursuant to the Natural Community Conservation Planning
36 Act (Chapter 10 (commencing with Section 2800) of Division 3).

37 (d) The position of Advisor on Renewable Energy Facilities is
38 hereby established in the office of the Governor.

1 (e) This section shall remain in effect only until January 1, 2017,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2017, deletes or extends that date.

4 SEC. 4. Section 705 is added to the Fish and Game Code, to
5 read:

6 705. (a) For purposes of this section, “eligible renewable
7 energy resources” has the same meaning as in the California
8 Renewables Portfolio Standard Program (Article 16 (commencing
9 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
10 Public Utilities Code).

11 (b) The department shall establish an internal division with the
12 primary purpose of performing comprehensive planning and
13 environmental compliance services with priority given to projects
14 involving the building of eligible renewable energy resources.

15 (c) The internal division shall ensure the timely completion of
16 plans pursuant to the Natural Community Conservation Planning
17 Act (Chapter 10 (commencing with Section 2800) of Division 3).

18 (d) This section shall become operative on January 1, 2017.

19 SEC. 5. Section 65457 of the Government Code is amended
20 to read:

21 65457. (a) A residential development project, including any
22 subdivision, or any zoning change that is undertaken to implement,
23 and is consistent with, a specific plan for which an environmental
24 impact report has been certified after January 1, 1980, is exempt
25 from the requirements of Division 13 (commencing with Section
26 21000) of the Public Resources Code. However, if after adoption
27 of the specific plan, an event as specified in Section 21166 of the
28 Public Resources Code occurs, the exemption provided by this
29 subdivision does not apply unless and until a supplemental
30 environmental impact report for the specific plan is prepared and
31 certified in accordance with the provisions of Division 13
32 (commencing with Section 21000) of the Public Resources Code.
33 After a supplemental environmental impact report is certified, the
34 exemption specified in this subdivision applies to projects
35 undertaken pursuant to the specific plan.

36 (b) An action or proceeding alleging that a public agency has
37 approved a project pursuant to a specific plan without having
38 previously certified a supplemental environmental impact report
39 for the specific plan, where required by subdivision (a), shall be

1 commenced within 30 days of the public agency’s decision to carry
2 out or approve the project.

3 (c) For the purposes of this section, “an event as specified in
4 Section 21166 of the Public Resources Code” does not include
5 any new information consisting solely of argument, speculation,
6 unsubstantiated opinion or narrative, evidence that is clearly
7 inaccurate or erroneous, or evidence of social or economic impacts
8 that do not contribute to, or are *not* caused by, physical impacts
9 on the environment.

10 ~~SEC. 6. Section 21080 of the Public Resources Code is~~
11 ~~amended to read:~~

12 ~~21080. (a) Except as otherwise provided in this division, this~~
13 ~~division shall apply to discretionary projects proposed to be carried~~
14 ~~out or approved by public agencies, including, but not limited to,~~
15 ~~the enactment and amendment of zoning ordinances, the issuance~~
16 ~~of zoning variances, the issuance of conditional use permits, and~~
17 ~~the approval of tentative subdivision maps unless the project is~~
18 ~~exempt from this division.~~

19 ~~(b) This division does not apply to any of the following~~
20 ~~activities:~~

21 ~~(1) Ministerial projects proposed to be carried out or approved~~
22 ~~by public agencies.~~

23 ~~(2) Emergency repairs to public service facilities necessary to~~
24 ~~maintain service.~~

25 ~~(3) Projects undertaken, carried out, or approved by a public~~
26 ~~agency to maintain, repair, restore, demolish, or replace property~~
27 ~~or facilities damaged or destroyed as a result of a disaster in a~~
28 ~~disaster-stricken area in which a state of emergency has been~~
29 ~~proclaimed by the Governor pursuant to Chapter 7 (commencing~~
30 ~~with Section 8550) of Division 1 of Title 2 of the Government~~
31 ~~Code.~~

32 ~~(4) Specific actions necessary to prevent or mitigate an~~
33 ~~emergency.~~

34 ~~(5) Projects which a public agency rejects or disapproves.~~

35 ~~(6) Actions undertaken by a public agency relating to any~~
36 ~~thermal powerplant site or facility, including the expenditure,~~
37 ~~obligation, or encumbrance of funds by a public agency for~~
38 ~~planning, engineering, or design purposes, or for the conditional~~
39 ~~sale or purchase of equipment, fuel, water (except groundwater),~~
40 ~~steam, or power for a thermal powerplant, if the powerplant site~~

1 and related facility will be the subject of an environmental impact
2 report, negative declaration, or other document, prepared pursuant
3 to a regulatory program certified pursuant to Section 21080.5,
4 which will be prepared by the State Energy Resources Conservation
5 and Development Commission, by the Public Utilities Commission,
6 or by the city or county in which the powerplant and related facility
7 would be located if the environmental impact report, negative
8 declaration, or document includes the environmental impact, if
9 any, of the action described in this paragraph.

10 (7) ~~Activities or approvals necessary to the bidding for, hosting~~
11 ~~or staging of, and funding or carrying out of, an Olympic games~~
12 ~~under the authority of the International Olympic Committee, except~~
13 ~~for the construction of facilities necessary for the Olympic games.~~

14 (8) ~~The establishment, modification, structuring, restructuring,~~
15 ~~or approval of rates, tolls, fares, or other charges by public agencies~~
16 ~~which the public agency finds are for the purpose of (A) meeting~~
17 ~~operating expenses, including employee wage rates and fringe~~
18 ~~benefits, (B) purchasing or leasing supplies, equipment, or~~
19 ~~materials, (C) meeting financial reserve needs and requirements,~~
20 ~~(D) obtaining funds for capital projects necessary to maintain~~
21 ~~service within existing service areas, or (E) obtaining funds~~
22 ~~necessary to maintain those intracity transfers as are authorized~~
23 ~~by city charter. The public agency shall incorporate written findings~~
24 ~~in the record of any proceeding in which an exemption under this~~
25 ~~paragraph is claimed setting forth with specificity the basis for the~~
26 ~~claim of exemption.~~

27 (9) ~~All classes of projects designated pursuant to Section 21084.~~

28 (10) ~~A project for the institution or increase of passenger or~~
29 ~~commuter services on rail or highway rights-of-way already in~~
30 ~~use, including modernization of existing stations and parking~~
31 ~~facilities.~~

32 (11) ~~A project for the institution or increase of passenger or~~
33 ~~commuter service on high-occupancy vehicle lanes already in use,~~
34 ~~including the modernization of existing stations and parking~~
35 ~~facilities.~~

36 (12) ~~Facility extensions not to exceed four miles in length which~~
37 ~~are required for the transfer of passengers from or to exclusive~~
38 ~~public mass transit guideway or busway public transit services.~~

39 (13) ~~A project for the development of a regional transportation~~
40 ~~improvement program, the state transportation improvement~~

1 program, or a congestion management program prepared pursuant
2 to Section 65089 of the Government Code.

3 ~~(14) Any project or portion thereof located in another state
4 which will be subject to environmental impact review pursuant to
5 the National Environmental Policy Act of 1969 (42 U.S.C. Sec.
6 4321 et seq.) or similar state laws of that state. Any emissions or
7 discharges that would have a significant effect on the environment
8 in this state are subject to this division.~~

9 ~~(15) Projects undertaken by a local agency to implement a rule
10 or regulation imposed by a state agency, board, or commission
11 under a certified regulatory program pursuant to Section 21080.5.
12 Any site-specific effect of the project which was not analyzed as
13 a significant effect on the environment in the plan or other written
14 documentation required by Section 21080.5 is subject to this
15 division.~~

16 ~~(e) If a lead agency determines that a proposed project, not
17 otherwise exempt from this division, would not have a significant
18 effect on the environment, the lead agency shall adopt a negative
19 declaration to that effect. The negative declaration shall be prepared
20 for the proposed project in either of the following circumstances:~~

21 ~~(1) There is no substantial evidence, in light of the whole record
22 before the lead agency, that the project may have a significant
23 effect on the environment.~~

24 ~~(2) An initial study identifies potentially significant effects on
25 the environment, but (A) revisions in the project plans or proposals
26 made by, or agreed to by, the applicant before the proposed
27 negative declaration and initial study are released for public review
28 would avoid the effects or mitigate the effects to a point where
29 clearly no significant effect on the environment would occur, and
30 (B) there is no substantial evidence, in light of the whole record
31 before the lead agency, that the project, as revised, may have a
32 significant effect on the environment.~~

33 ~~(d) If there is substantial evidence, in light of the whole record
34 before the lead agency, that the project may have a significant
35 effect on the environment, an environmental impact report shall
36 be prepared.~~

37 ~~(e) (1) For the purposes of this section and this division,
38 substantial evidence includes fact, a reasonable assumption
39 predicated upon fact, or expert opinion supported by fact.~~

1 ~~(2) Substantial evidence is not argument, speculation,~~
2 ~~unsubstantiated opinion or narrative, evidence that is clearly~~
3 ~~inaccurate or erroneous, or evidence of social or economic impacts~~
4 ~~that do not contribute to, or are not caused by, physical impacts~~
5 ~~on the environment.~~

6 ~~(f) As a result of the public review process for a mitigated~~
7 ~~negative declaration, including administrative decisions and public~~
8 ~~hearings, the lead agency may conclude that certain mitigation~~
9 ~~measures identified pursuant to paragraph (2) of subdivision (e)~~
10 ~~are infeasible or otherwise undesirable. In those circumstances,~~
11 ~~the lead agency, prior to approving the project, may delete those~~
12 ~~mitigation measures and substitute for them other mitigation~~
13 ~~measures that the lead agency finds, after holding a public hearing~~
14 ~~on the matter, are equivalent or more effective in mitigating~~
15 ~~significant effects on the environment to a less than significant~~
16 ~~level and that do not cause any potentially significant effect on the~~
17 ~~environment. If those new mitigation measures are made conditions~~
18 ~~of project approval or are otherwise made part of the project~~
19 ~~approval, the deletion of the former measures and the substitution~~
20 ~~of the new mitigation measures shall not constitute an action or~~
21 ~~circumstance requiring recirculation of the mitigated negative~~
22 ~~declaration.~~

23 ~~(g) This section does not preclude a project applicant or any~~
24 ~~other person from challenging, in an administrative or judicial~~
25 ~~proceeding, the legality of a condition of project approval imposed~~
26 ~~by the lead agency. If, however, any condition of project approval~~
27 ~~set aside by either an administrative body or court was necessary~~
28 ~~to avoid or lessen the likelihood of the occurrence of a significant~~
29 ~~effect on the environment, the lead agency's approval of the~~
30 ~~negative declaration and project shall be invalid and a new~~
31 ~~environmental review process shall be conducted before the project~~
32 ~~can be reapproved, unless the lead agency substitutes a new~~
33 ~~condition that the lead agency finds, after holding a public hearing~~
34 ~~on the matter, is equivalent to, or more effective in, lessening or~~
35 ~~avoiding significant effects on the environment and that does not~~
36 ~~cause any potentially significant effect on the environment.~~

37 ~~(h) A project applicant for a renewable energy project may~~
38 ~~present to the public agency, orally or in writing, the benefits onsite~~
39 ~~or offsite of the project, including, but not limited to, measures~~
40 ~~that will mitigate greenhouse gas emissions resulting from the~~

1 project or measures that will significantly reduce traffic, improve
 2 air quality or replace higher emitting energy sources, and other
 3 significant environmental or public health impacts.

4 *SEC. 6. Section 21081 of the Public Resources Code is*
 5 *amended to read:*

6 21081. (a) Pursuant to the policy stated in Sections 21002
 7 and 21002.1, ~~no~~ a public agency shall *not* approve or carry out a
 8 project for which an environmental impact report has been certified
 9 ~~which~~ *that* identifies one or more significant effects on the
 10 environment that would occur if the project is approved or carried
 11 ~~out out~~, unless both of the following occur:

12 ~~(a)~~

13 (1) The public agency makes one or more of the following
 14 findings with respect to each significant effect:

15 ~~(1)~~

16 (A) Changes or alterations have been required in, or incorporated
 17 into, the project ~~which~~ *that* mitigate or avoid the significant effects
 18 on the environment.

19 ~~(2)~~

20 (B) Those changes or alterations are within the responsibility
 21 and jurisdiction of another public agency and have been, or can
 22 and should be, adopted by that other agency.

23 ~~(3)~~

24 (C) Specific economic, legal, social, technological, or other
 25 considerations, including considerations for the provision of
 26 employment opportunities for highly trained workers, make
 27 infeasible the mitigation measures or alternatives identified in the
 28 environmental impact report.

29 ~~(b)~~

30 (2) With respect to significant effects ~~which~~ *that* were subject
 31 to a finding under *subparagraph (C) of paragraph (3) of subdivision*
 32 ~~(a) (1)~~, the public agency finds that specific overriding economic,
 33 legal, social, technological, or other benefits of the project outweigh
 34 the significant effects on the environment.

35 (b) *A project applicant for a renewable energy project may*
 36 *present to the public agency, orally or in writing, the benefits onsite*
 37 *or offsite of the project, including, but not limited to, measures*
 38 *that will mitigate greenhouse gas emissions resulting from the*
 39 *project or measures that will significantly reduce traffic, improve*

1 *air quality or replace higher emitting energy sources, and other*
2 *significant environmental or public health impacts.*

3 SEC. 7. Section 21081.5 of the Public Resources Code is
4 amended to read:

5 21081.5. (a) In making the findings required by paragraph (3)
6 of subdivision (a) of, and subdivision (b) of, Section 21081, the
7 public agency shall base its findings on substantial evidence in the
8 record. Those findings shall be made available in draft form for
9 review by the members of the public for at least 15 days prior to
10 approval of the proposed project.

11 (b) To make the draft findings available to the members of the
12 public for the purposes of subdivision (a), the lead agency shall
13 provide a notice of availability of the findings for review ~~either~~ at
14 the lead agency's office during normal business hours ~~and online~~
15 through all of the following mechanisms:

16 (1) Publication in a newspaper of general circulation in the area
17 affected by the proposed project. If more than one area will be
18 affected, the notice shall be published in the newspaper with the
19 largest circulation from among the newspapers of general
20 circulation in those areas.

21 (2) By electronic mail, if available, and mail to the last known
22 name and address of all individuals and organizations that have
23 submitted timely comments on the draft environmental impact
24 report.

25 (3) By electronic mail, if available, and mail to responsible and
26 trustee agencies that have submitted timely comments on the draft
27 environmental impact report.

28 (4) By electronic mail, if available, and mail to the project
29 applicant, if different from the lead agency, and the applicant's
30 duly authorized agent.

31 (5) By electronic mail, if available, and mail to a person who
32 has filed a written request for notice with the clerk of the governing
33 body, if there is no governing body, the director of the agency.

34 SEC. 8. Section 21081.6 of the Public Resources Code is
35 amended to read:

36 21081.6. (a) When making the findings required by paragraph
37 (1) of subdivision (a) of Section 21081 or when adopting a
38 mitigated negative declaration pursuant to paragraph (2) of
39 subdivision (c) of Section 21080, the following requirements shall
40 apply:

1 (1) The public agency shall adopt a reporting or monitoring
2 program for the changes made to the project or conditions of
3 project approval, adopted in order to mitigate or avoid significant
4 effects on the environment. The reporting or monitoring program
5 shall be designed to ensure compliance during project
6 implementation. For those changes which have been required or
7 incorporated into the project at the request of a responsible agency
8 or a public agency having jurisdiction by law over natural resources
9 affected by the project, that agency shall, if so requested by the
10 lead agency or a responsible agency, prepare and submit a proposed
11 reporting or monitoring program.

12 (2) The lead agency shall specify the location and custodian of
13 the documents or other material which constitute the record of
14 proceedings upon which its decision is based.

15 (b) A public agency shall provide that measures to mitigate or
16 avoid significant effects on the environment are fully enforceable
17 through permit conditions, agreements, or other measures.
18 Conditions of project approval may be set forth in referenced
19 documents which address required mitigation measures or, in the
20 case of the adoption of a plan, policy, regulation, or other public
21 project, by incorporating the mitigation measures into the plan,
22 policy, regulation, or project design.

23 (c) Prior to the close of the public review period for a draft
24 environmental impact report or mitigated negative declaration, a
25 responsible agency, or a public agency having jurisdiction over
26 natural resources affected by the project, shall either submit to the
27 lead agency complete and detailed performance objectives for
28 mitigation measures which would address the significant effects
29 on the environment identified by the responsible agency or agency
30 having jurisdiction over natural resources affected by the project,
31 or refer the lead agency to appropriate, readily available guidelines
32 or reference documents. Any mitigation measures submitted to a
33 lead agency by a responsible agency or an agency having
34 jurisdiction over natural resources affected by the project shall be
35 limited to measures which mitigate impacts to resources which
36 are subject to the statutory authority of, and definitions applicable
37 to, that agency. Compliance or noncompliance by a responsible
38 agency or agency having jurisdiction over natural resources
39 affected by a project with that requirement shall not limit the
40 authority of the responsible agency or agency having jurisdiction

1 over natural resources affected by a project, or the authority of the
2 lead agency, to approve, condition, or deny projects as provided
3 by this division or any other provision of law.

4 (d) As a part of the mitigation monitoring plan established
5 pursuant to this section, the lead agency shall prepare or cause to
6 be prepared an annual report on project compliance with mitigation
7 measures required pursuant to this division. The report shall be
8 made publicly available online to enhance public disclosure and
9 accountability. The lead agency may cease reporting once all
10 mitigation measures are completed.

11 SEC. 9. Chapter 2.7 (commencing with Section 21099) is added
12 to Division 13 of the Public Resources Code, to read:

13
14 CHAPTER 2.7. STANDARDIZED THRESHOLDS OF SIGNIFICANCE
15 FOR ENVIRONMENTALLY BENEFICIAL *TRANSIT-ORIENTED INFILL*
16 PROJECTS
17

18 21099. (a) For purposes of this section, the following terms
19 mean the following:

20 (1) “Employment center project” means a project located on
21 property zoned for commercial uses with a floor area ratio of no
22 less than 0.75 and that is located within ~~one-half mile of a major~~
23 ~~transit stop or high-quality transit corridor included in a regional~~
24 ~~transportation plan~~ *a transit priority area.*

25 (2) “Floor area ratio” means the ratio of gross building area of
26 the development, excluding structured parking areas, proposed for
27 the project divided by the net lot area.

28 (3) “Gross building area” means the sum of all finished areas
29 of all floors of a building included within the outside faces of its
30 exterior walls.

31 (4) *“Infill site” means a lot located within an urban area that*
32 *has been previously developed, or on a vacant site where at least*
33 *75 percent of the perimeter of the site adjoins, or is separated only*
34 *by an improve public right-of-way from, parcels that are developed*
35 *with qualified urban uses.*

36 ~~(4)~~

37 (5) “Lot” means all parcels utilized by the project.

38 ~~(5)~~

1 (6) “Net lot area” means the area of a lot, excluding publicly
 2 dedicated land and private streets that meet local standards, and
 3 other public use areas as determined by the local land use authority.

4 ~~(6)~~

5 (7) “Transit priority area” means an area within one-half mile
 6 of a major transit stop that is existing or planned, if the planned
 7 stop is scheduled to be completed within the planning horizon
 8 ~~established by~~ *included in a Transportation Improvement Program*
 9 *adopted pursuant to Section 450.216 or 450.322 of Title 23 of the*
 10 *Code of Federal Regulations.*

11 (b) (1) The Office of Planning and Research shall prepare ~~and~~
 12 ~~propose revisions to the guidelines adopted pursuant to Section~~
 13 ~~21083,~~ and submit to the Secretary of the Natural Resources
 14 Agency for certification and ~~adoption of,~~ *adoption, proposed*
 15 *revisions to the guidelines adopted pursuant to Section 21083*
 16 *establishing thresholds of significance for noise, noise and for the*
 17 ~~transportation and parking~~ *impacts for residential, mixed-use*
 18 *residential, or employment center projects or infill sites* within
 19 transit priority areas. The thresholds of significance shall be based
 20 upon a project’s proximity to a multimodal transportation network,
 21 its overall transportation accessibility, and its proximity to a
 22 diversity of land uses.

23 (2) On or before July 1, 2014, the Office of Planning and
 24 Research shall circulate a draft revision prepared pursuant to
 25 paragraph (1).

26 (c) (1) Aesthetic ~~and parking~~ impacts of a residential, mixed-use
 27 residential, or employment center project *on an infill site* within
 28 a ~~priority~~ transit *priority* area shall not be considered significant
 29 impacts on the environment.

30 (2) (A) This subdivision does not affect, change, or modify the
 31 authority of a lead agency to consider aesthetic impacts pursuant
 32 to local design review ordinances or other discretionary powers
 33 provided by other laws or policies.

34 (B) *For the purposes of this subdivision, aesthetic impacts do*
 35 *not include impacts on historical or cultural resources.*

36 (C) *This subdivision does not affect the significance of traffic*
 37 *congestion on air quality.*

38 (d) This section does not affect the authority of a public agency
 39 ~~from establishing or adopting transportation or parking standards~~

1 ~~applicable to projects or~~ *to establish or adopt* more stringent
2 thresholds of significance *for projects subject to this division.*

3 SEC. 10. Section 21167 of the Public Resources Code is
4 amended to read:

5 21167. An action or proceeding to attack, review, set aside,
6 void, or annul the following acts or decisions of a public agency
7 on the grounds of noncompliance with this division shall be
8 commenced as follows:

9 (a) An action or proceeding alleging that a public agency is
10 carrying out or has approved a project that may have a significant
11 effect on the environment without having determined whether the
12 project may have a significant effect on the environment shall be
13 commenced within 180 days from the date of the public agency's
14 decision to carry out or approve the project, or, if a project is
15 undertaken without a formal decision by the public agency, within
16 180 days from the date of commencement of the project.

17 (b) An action or proceeding alleging that a public agency has
18 improperly determined whether a project may have a significant
19 effect on the environment shall be commenced within 30 days
20 from the date of the filing of the notice required by subdivision
21 (a) of Section 21108 or subdivision (a) of Section 21152.

22 (c) An action or proceeding alleging that an environmental
23 impact report does not comply with this division shall be
24 commenced within 30 days from the date of the filing of the notice
25 required by subdivision (a) of Section 21108 or subdivision (a) of
26 Section 21152 by the lead agency.

27 (d) An action or proceeding alleging that a public agency has
28 improperly determined that a project is not subject to this division
29 pursuant to subdivision (b) of Section 21080 or Section 21172
30 shall be commenced within 35 days from the date of the filing by
31 the public agency, or person specified in subdivision (b) or (c) of
32 Section 21065, of the notice authorized by subdivision (b) of
33 Section 21108 or subdivision (b) of Section 21152. If the notice
34 has not been filed, the action or proceeding shall be commenced
35 within 180 days from the date of the public agency's decision to
36 carry out or approve the project, or, if a project is undertaken
37 without a formal decision by the public agency, within 180 days
38 from the date of commencement of the project.

39 (e) An action or proceeding alleging that another act or omission
40 of a public agency does not comply with this division shall be

1 commenced within 30 days from the date of the filing of the notice
2 required by subdivision (a) of Section 21108 or subdivision (a) of
3 Section 21152.

4 (f) If a person has made a written request to the public agency
5 for a copy of the notice specified in Section 21108 or 21152 prior
6 to the date on which the agency approves or determines to carry
7 out the project, then not later than five days from the date of the
8 agency's action, the public agency shall deposit a written copy of
9 the notice addressed to that person in the United States mail, first
10 class postage prepaid. The date upon which this notice is mailed
11 shall not affect the time periods specified in subdivisions (b), (c),
12 (d), and (e).

13 (g) The limitation period provided pursuant to this section may
14 be tolled for a period not to exceed four years if the agreement to
15 toll the limitation period is in writing and signed by the party
16 asserting noncompliance with this division, the public agency, and
17 the real party in interest, as specified in subdivision (a) of Section
18 21167.6.5, if any. The tolling agreement shall bar a defense to any
19 action filed pursuant to this division that the action was not
20 commenced within the time period specified in this section. Prior
21 to the expiration of the tolling agreement, the tolling agreement
22 may be renewed for a further period not to exceed four years from
23 the immediately preceding tolling agreement. The extension of
24 the tolling agreement may be made successively.

25 SEC. 11. Section 21167.6 of the Public Resources Code is
26 amended to read:

27 21167.6. Notwithstanding any other provision of law, in all
28 actions or proceedings brought pursuant to Section 21167, except
29 as provided in Section 21167.6.2 or those involving the Public
30 Utilities Commission, all of the following shall apply:

31 (a) At the time that the action or proceeding is filed, the plaintiff
32 or petitioner shall file a request that the respondent public agency
33 prepare the record of proceedings relating to the subject of the
34 action or proceeding. The request, together with the complaint or
35 petition, shall be served personally upon the public agency not
36 later than 10 business days from the date that the action or
37 proceeding was filed.

38 (b) (1) The public agency shall prepare and certify the record
39 of proceedings not later than 60 days from the date that the request
40 specified in subdivision (a) was served upon the public agency.

1 Upon certification, the public agency shall lodge a copy of the
2 record of proceedings with the court and shall serve on the parties
3 notice that the record of proceedings has been certified and lodged
4 with the court. The parties shall pay any reasonable costs or fees
5 imposed for the preparation of the record of proceedings in
6 conformance with any law or rule of court.

7 (2) The plaintiff or petitioner may elect to prepare the record
8 of proceedings or the parties may agree to an alternative method
9 of preparation of the record of proceedings, subject to certification
10 of its accuracy by the public agency, within the time limit specified
11 in this subdivision.

12 (c) The time limit established by subdivision (b) may be
13 extended only upon the stipulation of all parties who have been
14 properly served in the action or proceeding or upon order of the
15 court. Extensions shall be liberally granted by the court when the
16 size of the record of proceedings renders infeasible compliance
17 with that time limit. There is no limit on the number of extensions
18 that may be granted by the court, but no single extension shall
19 exceed 60 days unless the court determines that a longer extension
20 is in the public interest.

21 (d) If the public agency fails to prepare and certify the record
22 within the time limit established in paragraph (1) of subdivision
23 (b), or any continuances of that time limit, the plaintiff or petitioner
24 may move for sanctions, and the court may, upon that motion,
25 grant appropriate sanctions.

26 (e) The record of proceedings shall include, but is not limited
27 to, all of the following items:

28 (1) All project application materials.

29 (2) All staff reports and related documents prepared by the
30 respondent public agency with respect to its compliance with the
31 substantive and procedural requirements of this division and with
32 respect to the action on the project.

33 (3) All staff reports and related documents prepared by the
34 respondent public agency and written testimony or documents
35 submitted by any person relevant to any findings or statement of
36 overriding considerations adopted by the respondent agency
37 pursuant to this division.

38 (4) Any transcript or minutes of the proceedings at which the
39 decisionmaking body of the respondent public agency heard
40 testimony on, or considered any environmental document on, the

1 project, and any transcript or minutes of proceedings before any
2 advisory body to the respondent public agency that were presented
3 to the decisionmaking body prior to action on the environmental
4 documents or on the project.

5 (5) All notices issued by the respondent public agency to comply
6 with this division or with any other law governing the processing
7 and approval of the project.

8 (6) All written comments received in response to, or in
9 connection with, environmental documents prepared for the project,
10 including responses to the notice of preparation.

11 (7) All written evidence or correspondence submitted to, or
12 transferred from, the respondent public agency with respect to
13 compliance with this division or with respect to the project.

14 (8) Any proposed decisions or findings submitted to the
15 decisionmaking body of the respondent public agency by its staff,
16 or the project proponent, project opponents, or other persons.

17 (9) The documentation of the final public agency decision,
18 including the final environmental impact report, mitigated negative
19 declaration, or negative declaration, and all documents, in addition
20 to those referenced in paragraph (3), cited or relied on in the
21 findings or in a statement of overriding considerations adopted
22 pursuant to this division.

23 (10) Any other written materials relevant to the respondent
24 public agency's compliance with this division or to its decision on
25 the merits of the project, including the initial study, any drafts of
26 any environmental document, or portions thereof, that have been
27 released for public review, and copies of studies or other documents
28 relied upon in any environmental document prepared for the project
29 and either made available to the public during the public review
30 period or included in the respondent public agency's files on the
31 project, and all internal agency communications, including staff
32 notes and memoranda related to the project or to compliance with
33 this division.

34 (11) The full written record before any inferior administrative
35 decisionmaking body whose decision was appealed to a superior
36 administrative decisionmaking body prior to the filing of litigation.

37 (f) In preparing the record of proceedings, the party preparing
38 the record shall strive to do so at reasonable cost in light of the
39 scope of the record.

1 (g) The clerk of the superior court shall prepare and certify the
2 clerk's transcript on appeal not later than 60 days from the date
3 that the notice designating the papers or records to be included in
4 the clerk's transcript was filed with the superior court, if the party
5 or parties pay any costs or fees for the preparation of the clerk's
6 transcript imposed in conformance with any law or rules of court.
7 Nothing in this subdivision precludes an election to proceed by
8 appendix, as provided in Rule 8.124 of the California Rules of
9 Court.

10 (h) Extensions of the period for the filing of any brief on appeal
11 may be allowed only by stipulation of the parties or by order of
12 the court for good cause shown. Extensions for the filing of a brief
13 on appeal shall be limited to one 30-day extension for the
14 preparation of an opening brief, and one 30-day extension for the
15 preparation of a responding brief, except that the court may grant
16 a longer extension or additional extensions if it determines that
17 there is a substantial likelihood of settlement that would avoid the
18 necessity of completing the appeal.

19 (i) At the completion of the filing of briefs on appeal, the
20 appellant shall notify the court of the completion of the filing of
21 briefs, whereupon the clerk of the reviewing court shall set the
22 appeal for hearing on the first available calendar date.

23 SEC. 12. Section 21167.6.2 is added to the Public Resources
24 Code, to read:

25 21167.6.2. (a) (1) Notwithstanding Section 21167.6, for a
26 project described in Section 21167.6.3, the lead agency, upon the
27 written request of a project applicant received no later than 30 days
28 after the date that the lead agency makes a determination pursuant
29 to subdivision (a) of Section 21080.1, Section 21094.5, or Chapter
30 4.2 (commencing with Section 21155), shall prepare and certify
31 the record of proceedings in the following manner:

32 (A) The lead agency for the project shall prepare the record of
33 proceedings pursuant to this division concurrently with the
34 administrative process.

35 (B) All documents and other materials placed in the record of
36 proceedings shall be posted on, and be downloadable from, an
37 Internet Web site maintained by the lead agency commencing with
38 the date of the release of the draft environmental document for a
39 project specified in Section 21167.6.3. If the lead agency cannot
40 maintain an Internet Web site with the information required

1 pursuant to this section, the lead agency shall provide a link on
2 the agency's Internet Web site to that information.

3 (C) The lead agency shall make available to the public in a
4 readily accessible electronic format the draft environmental
5 document for a project specified in Section 21167.6.3, and all other
6 documents submitted to, cited by, or relied on by the lead agency,
7 in the preparation of the draft environmental document for a project
8 specified in Section 21167.6.3.

9 (D) A document prepared by the lead agency or submitted by
10 the applicant after the date of the release of the draft environmental
11 document for a project specified in Section 21167.6.3 that is a part
12 of the record of the proceedings shall be made available to the
13 public in a readily accessible electronic format within five business
14 days after the document is released or received by the lead agency.

15 (E) The lead agency shall encourage written comments on the
16 project to be submitted in a readily accessible electronic format,
17 and shall make any comment available to the public in a readily
18 accessible electronic format within five business days of its receipt.

19 (F) Within seven business days after the receipt of any comment
20 that is not in an electronic format, the lead agency shall convert
21 that comment into a readily accessible electronic format and make
22 it available to the public in that format.

23 (G) The lead agency shall certify the record of proceedings
24 within 30 days after the filing of the notice required pursuant to
25 Section 21108 or 21152.

26 (2) This subdivision does not require the disclosure or posting
27 of any trade secret as defined in Section 6254.7 of the Government
28 Code, information about the location of archaeological sites or
29 sacred lands, or any other information that is subject to the
30 disclosure restrictions of Section 6254 of the Government Code.

31 (b) Any dispute regarding the record of proceedings shall be
32 resolved by the court in an action or proceeding brought pursuant
33 to subdivision (b) or (c) of Section 21167.

34 (c) The content of the record of proceedings shall be as specified
35 in subdivision (e) of Section 21167.6.

36 (d) Subdivisions (g) to (i), inclusive, of Section 21167.6 are
37 applicable to an appeal of a decision in an action or proceeding
38 brought pursuant to subdivision (b) or (c) of Section 21167.

39 (e) The negative declaration, mitigated negative declaration,
40 draft and final environmental impact report, or other environmental

1 document for a project specified in Section 21167.6.3 shall include
2 a notice in no less than 12-point type stating the following:

3
4 “THIS NEGATIVE DECLARATION, MITIGATED
5 NEGATIVE DECLARATION, EIR, OR ENVIRONMENTAL
6 DOCUMENT IS SUBJECT TO SECTIONS 21167.6.2 AND
7 21167.6.3 OF THE PUBLIC RESOURCES CODE, WHICH
8 REQUIRES THE RECORD OF PROCEEDINGS FOR THIS
9 PROJECT TO BE PREPARED CONCURRENTLY WITH THE
10 ADMINISTRATIVE PROCESS, DOCUMENTS PREPARED
11 BY, OR SUBMITTED TO, THE LEAD AGENCY TO BE
12 POSTED ON THE LEAD AGENCY’S INTERNET WEB SITE,
13 AND THE LEAD AGENCY TO ENCOURAGE WRITTEN
14 COMMENTS ON THE PROJECT TO BE SUBMITTED TO THE
15 LEAD AGENCY IN A READILY ACCESSIBLE ELECTRONIC
16 FORMAT.”

17
18 (f) For a lead agency that is a state agency, this section shall
19 apply if the state agency consents to the preparation of the record
20 of proceedings pursuant to this section.

21 SEC. 13. Section 21167.6.3 is added to the Public Resources
22 Code, to read:

23 21167.6.3. (a) Section 21167.6.2 applies to the record of
24 proceedings for the preparation of a negative declaration, mitigated
25 negative declaration, environmental impact report, or other
26 environmental document prepared for any of the following:

27 (1) A project determined to be of statewide, regional, or
28 areawide environmental significance pursuant to subdivision (d)
29 of Section 21083.

30 (2) A project subject to Section 21094.5 of Chapter 4.2
31 (commencing with Section 21155).

32 (3) (A) A project, other than those described in paragraph (1)
33 or (2), for which the project applicant has requested for, and the
34 lead agency consents to, the preparation for the record of
35 proceeding pursuant to this section and Section 21167.6.2.

36 (B) The lead agency shall respond to a request by the project
37 applicant within 10 business days from the date that the request
38 pursuant to subdivision (a) of Section 21167.6.2 is received by the
39 lead agency.

1 (C) A project applicant and the lead agency may mutually agree,
2 in writing, to extend the time period for the lead agency to respond
3 pursuant to subparagraph (B), but they shall not extend that period
4 beyond the commencement of the public review period for the
5 proposed negative declaration, mitigated negative declaration,
6 draft environmental impact report, or other environmental
7 document.

8 (D) The request to prepare a record of proceedings pursuant to
9 this paragraph shall be deemed denied if the lead agency fails to
10 respond within 10 business days of receiving the request or within
11 the time period agreed upon pursuant to subparagraph (C),
12 whichever ends later.

13 (b) The written request of the applicant submitted pursuant to
14 subdivision (a) of Section 21167.6.2 shall include an agreement
15 to pay all of the lead agency's costs of preparing and certifying
16 the record of proceedings pursuant to Section 21167.6.2 and
17 complying with the requirements of this section and Section
18 21167.6.2 in a manner specified by the lead agency.

19 (c) The cost of preparing the record of proceedings pursuant to
20 Section 21167.6.2 and complying with the requirements of this
21 section and Section 21167.6.2 are not recoverable costs pursuant
22 to ~~Section 1033 21167.6 or Sections 1032 to 1033.5, inclusive,~~ of
23 the Code of Civil Procedure.

24 SEC. 14. Section 21167.7 of the Public Resources Code is
25 amended to read:

26 21167.7. (a) Every person who brings an action pursuant to
27 Section 21167 shall comply with the requirements of Section 388
28 of the Code of Civil Procedure. Every such person shall also furnish
29 pursuant to Section 388 of the Code of Civil Procedure a copy of
30 any amended or supplemental pleading filed by such person in
31 such action to the Attorney General. No relief, temporary or
32 permanent, shall be granted until a copy of the pleading has been
33 furnished to the Attorney General in accordance with such
34 requirements.

35 (b) Notwithstanding Section 10231.5 of the Government Code,
36 ~~the Attorney General~~ *California Research Bureau, subject to the*
37 *availability of funds and of the information described in*
38 *paragraphs (1) to (3), inclusive,* shall annually submit to the
39 Legislature a report, ~~pursuant to~~ *in compliance with* Section 9795
40 of the Government Code, with information on actions or

1 proceedings brought pursuant to this division that includes, but is
2 not limited to, all of the following:

3 (1) The names of the plaintiffs or petitioners, the respondents
4 or defendants, and the real parties in interest.

5 (2) The type of action or proceeding filed and the alleged
6 violation.

7 (3) The disposition, if any, of the action or proceeding.

8 SEC. 15. Section 21168.9 of the Public Resources Code is
9 amended to read:

10 21168.9. (a) If a court finds, as a result of a trial, hearing, or
11 remand from an appellate court, that any determination, finding,
12 or decision of a public agency has been made without compliance
13 with this division, the court shall ~~issue~~ *enter an order that includes*
14 *issuing* a peremptory writ of mandate specifying what action by
15 the public agency is necessary to comply with this division,
16 including one or more of the following:

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

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

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

32 (b) (1) A writ pursuant to subdivision (a) shall include only
33 those mandates that are necessary to achieve compliance with this
34 division and only those specific project activities in noncompliance
35 with this division.

36 ~~(2) In the case of a negative declaration, mitigated negative~~
37 ~~declaration, or environmental impact report found not to be in~~
38 ~~compliance with this division, the writ may direct the agency to~~
39 ~~revise only those portions of the document found not to be in~~
40 ~~compliance with this division.~~

1 ~~(3)~~
 2 (2) The writ shall be limited to that portion of a determination,
 3 finding, or decision, or the specific project activity ~~or activities,~~
 4 ~~or document~~ *activities* found to be in noncompliance only if a court
 5 finds all of the following:

6 (A) The portion or specific project activity or activities ~~or~~
 7 ~~document~~ is severable.

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

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

12 ~~(4)~~
 13 (3) A writ shall include a time by which the agency shall make
 14 an initial return of the writ.

15 ~~(5)~~
 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 to a writ shall describe all of the following:

21 (1) The actions the agency will take to come into compliance
 22 with the writ and this division.

23 (2) A schedule for these actions.

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

28 (d) This section does not authorize a court to direct a public
 29 agency to exercise its discretion in any particular way. Except as
 30 expressly provided in this section, this section is not intended to
 31 limit the equitable powers of the court.

32 (e) This section does not affect the authority of a court to allow
 33 those determinations, findings, or decisions of a public agency that
 34 are not found to be in violation of this division to proceed, if
 35 allowing the public agency to proceed does not, in any manner,
 36 prejudice complete and full compliance with this division.

37 SEC. 16. It is the intent of the Legislature to ~~appropriate~~
 38 *appropriate* the sum of thirty million dollars (\$30,000,000) in the
 39 annual Budget Act to the Strategic Growth Council to provide
 40 competitive grants to local agencies for planning activities pursuant

1 to Chapter 4.2 (commencing with Section 21155) of Division 13
2 of the Public Resources Code.

3 SEC. 17. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 a local agency or school district has the authority to levy service
6 charges, fees, or assessments sufficient to pay for the program or
7 level of service mandated by this act, within the meaning of Section
8 17556 of the Government Code.

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