

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

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~~ *Sections 65088.1, 65088.4, and 65457* of the Government Code, and to amend Sections 21081, 21081.5, 21081.6, 21167, 21167.6, 21167.7, and 21168.9 of, to add Sections ~~21167.6.2~~ *and 21083.06, 21167.6.2, 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.

(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 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 and transportation impacts of residential, mixed-use residential, or employment center projects within transit priority areas. *The bill would require the office, on or before July 1, 2015, to prepare, develop, and transmit to the secretary recommended proposed changes or amendments to the guidelines establishing criteria for a lead agency to assess the need for translating specified notices into non-English languages and requirements for the posting of those notices in non-English languages. Because the bill would require the development of guidelines that would require a lead agency to translate notices into non-English languages and to post those translated notices, this bill would impose a state-mandated local program.* The bill would require the lead agency, in making specified findings, to make those findings available to the public at least ~~15~~ 10 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,~~ *upon the request of a member of the public,* to prepare or cause to be prepared ~~an annual~~ a report on project compliance with the required mitigation measures, *as a part of the mitigation and monitoring plan,* 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.~~ *specified information.*

(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 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) Existing law requires the development, adoption, and updating of a congestion management program for each county that includes an urbanized area, as defined. The plan is required to contain specified elements and to be submitted to regional agencies, as defined, for determination of whether the program is consistent with regional transportation plans. The regional agency is then directed to monitor the implementation of all elements of each congestion management program. The required elements include traffic level of service standards for a system of designated highways and roadways. Existing law defines “infill opportunity zone” for purposes of the above-described provisions and exempts streets and highways in an infill opportunity zone from the level of service standards specified in the above-described provisions and instead requires alternate level of service standards to be applied. Existing law prohibits a city or county from designating an infill opportunity zone after December 31, 2009.

This bill would revise the definition of “infill opportunity zone,” as specified. The bill would authorize the designation of an infill opportunity zone that is a transit priority area within a sustainable

communities strategy or alternative planning strategy adopted by an applicable metropolitan planning organization.

(8) Existing law terminates the designation of an infill opportunity zone if no development project is completed within that zone within 4 years from the date of the designation.

This bill would repeal this provision.

~~(7)~~

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

~~(8)~~

(10) 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) (1) It is the intent of the Legislature to update~~
2 ~~the California Environmental Quality Act (Division 13~~
3 ~~(commencing with Section 21000) of the Public Resources Code)~~
4 ~~to establish thresholds of significance for noise and transportation~~
5 ~~impacts for transit-oriented infill projects.~~

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

9 ~~(b) It is the intent of the Legislature to amend Section 65457 of~~
10 ~~the Government Code, which exempts from the California~~
11 ~~Environmental Quality Act projects undertaken pursuant to a~~
12 ~~specific plan for which an environmental impact report has been~~
13 ~~prepared, unless conditions specified under Section 21166 of the~~
14 ~~Public Resources Code have occurred, to define with greater~~
15 ~~specificity what “new information” means, and to avoid duplicative~~

1 review undertaken pursuant to the California Environmental
2 Quality Act for projects and activities that comply with that plan.
3 (e) It is the intent of the Legislature to enact amendments to
4 Section 21168.9 to establish clearer procedures for a trial court to
5 remand to a lead agency for remedying only those portions of an
6 environmental impact report, negative declaration, or mitigated
7 negative declaration found to be in violation of the California
8 Environmental Quality Act, while retaining those portions that are
9 not in violation so that the violations can be corrected, recirculated
10 for public comment, and completed more efficiently and
11 expeditiously. It is further the intent of the Legislature to specify
12 the circumstances under which a court could allow project
13 approvals to remain in place, and for projects to proceed.

14 ~~SEC. 2.~~

15 *SECTION 1.* This act shall be known, and may be cited, as the
16 CEQA Modernization Act of 2013.

17 *SEC. 2. (a) The Legislature finds and declares the following:*

18 *(1) With the adoption of Chapter 728 of the Statutes of 2008,*
19 *popularly known as the Sustainable Communities and Climate*
20 *Protection Act of 2008, the Legislature signaled its commitment*
21 *to encouraging land use and transportation planning decisions*
22 *and investments that reduce vehicle miles traveled and contribute*
23 *to the reductions in greenhouse gas emissions required in the*
24 *California Global Warming Solutions Act of 2006 (Division 25.5*
25 *(commencing with Section 38500) of the Health and Safety Code).*
26 *Similarly, the California Complete Streets Act of 2008 (Chapter*
27 *657 of the Statutes of 2008) requires local governments to plan*
28 *for a balanced, multimodal transportation network that meets the*
29 *needs of all users of streets, roads, and highways for safe and*
30 *convenient travel.*

31 *(2) Transportation analyses under the California Environmental*
32 *Quality Act (Division 13 (commencing with Section 21000) of the*
33 *Public Resources Code) typically study changes in auto delay.*
34 *New methodologies under the California Environmental Quality*
35 *Act are needed for evaluating transportation impacts that are*
36 *better able to promote the state's goals of reducing greenhouse*
37 *gas emissions and traffic-related air pollution, promoting the*
38 *development of a multimodal transportation system, and providing*
39 *clean, efficient access to destinations. The Sustainable*
40 *Communities and Climate Protection Act of 2008 created new*

1 *provisions in the California Environmental Quality Act for projects*
2 *in transit priority areas. The Office of Planning and Research*
3 *should similarly be directed to prepare new criteria for assessing*
4 *the significance of transportation impacts that will help the state*
5 *to achieve its goals within transit priority areas.*

6 *(b) It is the intent of the Legislature to do all of the following:*

7 *(1) Ensure that the environmental impacts of traffic, such as*
8 *noise, air pollution, and safety concerns, continue to be properly*
9 *addressed and mitigated through the California Environmental*
10 *Quality Act.*

11 *(2) Amend Section 65457 of the Government Code, which*
12 *exempts from the California Environmental Quality Act projects*
13 *undertaken pursuant to a specific plan for which an environmental*
14 *impact report has been prepared, unless conditions specified under*
15 *Section 21166 of the Public Resources Code have occurred, to*
16 *define with greater specificity what “new information” means,*
17 *and to avoid duplicative review undertaken pursuant to the*
18 *California Environmental Quality Act for projects and activities*
19 *that comply with that plan.*

20 *(3) Enact amendments to Section 21168.9 of the Public*
21 *Resources Code to establish clearer procedures for a trial court*
22 *to remand to a lead agency for remedying only those portions of*
23 *an environmental impact report, negative declaration, or mitigated*
24 *negative declaration found to be in violation of the California*
25 *Environmental Quality Act, while retaining those portions that*
26 *are not in violation so that the violations can be corrected,*
27 *recirculated for public comment, and completed more efficiently*
28 *and expeditiously.*

29 *(4) Specify the circumstances under which a court could allow*
30 *project approvals to remain in place and for projects to proceed.*

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

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

38 (b) The department shall establish an internal division with the
39 primary purpose of performing comprehensive planning and

1 environmental compliance services with priority given to projects
2 involving the building of eligible renewable energy resources.

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

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

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

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

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

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

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

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

26 SEC. 5. Section 65088.1 of the Government Code is amended
27 to read:

28 65088.1. As used in this chapter the following terms have the
29 following meanings:

30 ~~(a) Unless the context requires otherwise, “regional agency”~~
31 ~~means the agency responsible for preparation of the regional~~
32 ~~transportation improvement program.~~

33 ~~(b)~~

34 (a) Unless the context requires otherwise, “agency” means the
35 agency responsible for the preparation and adoption of the
36 congestion management program.

37 (b) “Bus rapid transit corridor” means a bus service that
38 includes at least four of the following attributes:

39 (1) Coordination with land use planning.

40 (2) Exclusive right-of-way.

- 1 (3) *Improved passenger boarding facilities.*
- 2 (4) *Limited stops.*
- 3 (5) *Passenger boarding at the same height as the bus.*
- 4 (6) *Prepaid fares.*
- 5 (7) *Real-time passenger information.*
- 6 (8) *Traffic priority at intersections.*
- 7 (9) *Signal priority.*
- 8 (10) *Unique vehicles.*

9 (c) “Commission” means the California Transportation
 10 Commission.

11 (d) “Department” means the Department of Transportation.

12 ~~(e) “Local jurisdiction” means a city, a county, or a city and~~
 13 ~~county.~~

14 ~~(f) “Parking cash-out program” means an employer-funded~~
 15 ~~program under which an employer offers to provide a cash~~
 16 ~~allowance to an employee equivalent to the parking subsidy that~~
 17 ~~the employer would otherwise pay to provide the employee with~~
 18 ~~a parking space. “Parking subsidy” means the difference between~~
 19 ~~the out-of-pocket amount paid by an employer on a regular basis~~
 20 ~~in order to secure the availability of an employee parking space~~
 21 ~~not owned by the employer and the price, if any, charged to an~~
 22 ~~employee for use of that space.~~

23 ~~A parking cash-out program may include a requirement that~~
 24 ~~employee participants certify that they will comply with guidelines~~
 25 ~~established by the employer designed to avoid neighborhood~~
 26 ~~parking problems, with a provision that employees not complying~~
 27 ~~with the guidelines will no longer be eligible for the parking~~
 28 ~~cash-out program.~~

29 ~~(g)~~

30 (e) “Infill opportunity zone” means a specific area designated
 31 by a city or county, pursuant to subdivision (c) of Section 65088.4,
 32 zoned for new compact residential or mixed use development
 33 within one-third mile of a site with an existing or future rail transit
 34 station, a ferry terminal served by either a bus or rail transit service,
 35 an intersection of at least two major bus routes, or within 300 feet
 36 of a bus rapid transit corridor, in counties with a population over
 37 400,000. The mixed use development zoning shall consist of three
 38 or more land uses that facilitate significant human interaction in
 39 close proximity, with residential use as the primary land use
 40 supported by other land uses such as office, hotel, health care,

1 hospital, entertainment, restaurant, retail, and service uses. The
2 transit service shall have maximum scheduled headways of 15
3 minutes for at least 5 hours per day. A qualifying future rail station
4 shall have broken ground on construction of the station and
5 programmed operational funds to provide maximum scheduled
6 headways of 15 minutes for at least 5 hours per day. *that is within*
7 *one-half mile of a major transit stop or high-quality transit corridor*
8 *included in a regional transportation plan. A major transit stop*
9 *is as defined in Section 21064.3 of the Public Resources Code,*
10 *except that, for purposes of this section, it also includes major*
11 *transit stops that are included in the applicable regional*
12 *transportation plan. For purposes of this section, a high-quality*
13 *transit corridor means a corridor with fixed route bus service with*
14 *service intervals no longer than 15 minutes during peak commute*
15 *hours.*

16 (h)

17 (f) “Interregional travel” means any trips that originate outside
18 the boundary of the agency. A “trip” means a one-direction vehicle
19 movement. The origin of any trip is the starting point of that trip.
20 A roundtrip consists of two individual trips.

21 (i)

22 (g) “Level of service standard” is a threshold that defines a
23 deficiency on the congestion management program highway and
24 roadway system which requires the preparation of a deficiency
25 plan. It is the intent of the Legislature that the agency shall use all
26 elements of the program to implement strategies and actions that
27 avoid the creation of deficiencies and to improve multimodal
28 mobility.

29 (h) “Local jurisdiction” means a city, a county, or a city and
30 county.

31 (j)

32 (i) “Multimodal” means the utilization of all available modes
33 of travel that enhance the movement of people and goods,
34 including, but not limited to, highway, transit, nonmotorized, and
35 demand management strategies including, but not limited to,
36 telecommuting. The availability and practicality of specific
37 multimodal systems, projects, and strategies may vary by county
38 and region in accordance with the size and complexity of different
39 urbanized areas.

1 (j) (1) *“Parking cash-out program” means an employer-funded*
2 *program under which an employer offers to provide a cash*
3 *allowance to an employee equivalent to the parking subsidy that*
4 *the employer would otherwise pay to provide the employee with*
5 *a parking space. “Parking subsidy” means the difference between*
6 *the out-of-pocket amount paid by an employer on a regular basis*
7 *in order to secure the availability of an employee parking space*
8 *not owned by the employer and the price, if any, charged to an*
9 *employee for use of that space.*

10 (2) *A parking cash-out program may include a requirement that*
11 *employee participants certify that they will comply with guidelines*
12 *established by the employer designed to avoid neighborhood*
13 *parking problems, with a provision that employees not complying*
14 *with the guidelines will no longer be eligible for the parking*
15 *cash-out program.*

16 (k) *“Performance measure” is an analytical planning tool that*
17 *is used to quantitatively evaluate transportation improvements and*
18 *to assist in determining effective implementation actions,*
19 *considering all modes and strategies. Use of a performance measure*
20 *as part of the program does not trigger the requirement for the*
21 *preparation of deficiency plans.*

22 (l) *“Urbanized area” has the same meaning as is defined in the*
23 *1990 federal census for urbanized areas of more than 50,000*
24 *population.*

25 ~~(m) “Bus rapid transit corridor” means a bus service that~~
26 ~~includes at least four of the following attributes:~~

- 27 ~~(1) Coordination with land use planning.~~
- 28 ~~(2) Exclusive right-of-way.~~
- 29 ~~(3) Improved passenger boarding facilities.~~
- 30 ~~(4) Limited stops.~~
- 31 ~~(5) Passenger boarding at the same height as the bus.~~
- 32 ~~(6) Prepaid fares.~~
- 33 ~~(7) Real-time passenger information.~~
- 34 ~~(8) Traffic priority at intersections.~~
- 35 ~~(9) Signal priority.~~
- 36 ~~(10) Unique vehicles.~~

37 (m) *Unless the context requires otherwise, “regional agency”*
38 *means the agency responsible for preparation of the regional*
39 *transportation improvement program.*

1 *SEC. 6. Section 65088.4 of the Government Code is amended*
2 *to read:*

3 65088.4. (a) It is the intent of the Legislature to balance the
4 need for level of service standards for traffic with the need to build
5 infill housing and mixed use commercial developments within
6 walking distance of mass transit facilities, downtowns, and town
7 centers and to provide greater flexibility to local governments to
8 balance these sometimes competing needs.

9 (b) Notwithstanding any other provision of law, level of service
10 standards described in Section 65089 shall not apply to the streets
11 and highways within an infill opportunity zone. ~~The city or county~~
12 ~~shall do either of the following:~~

13 ~~(1) Include these streets and highways under an alternative~~
14 ~~areawide level of service standard or multimodal composite or~~
15 ~~personal level of service standard that takes into account both of~~
16 ~~the following:~~

17 ~~(A) The broader benefits of regional traffic congestion reduction~~
18 ~~by siting new residential development within walking distance of,~~
19 ~~and no more than one-third mile from, mass transit stations, shops,~~
20 ~~and services, in a manner that reduces the need for long vehicle~~
21 ~~commutes and improves the jobs-housing balance.~~

22 ~~(B) Increased use of alternative transportation modes, such as~~
23 ~~mass transit, bicycling, and walking.~~

24 ~~(2) Approve a list of flexible level of service mitigation options~~
25 ~~that includes roadway expansion and investments in alternate~~
26 ~~modes of transportation that may include, but are not limited to,~~
27 ~~transit infrastructure, pedestrian infrastructure, and ridesharing,~~
28 ~~vanpool, or shuttle programs.~~

29 (c) The city or county may designate an infill opportunity zone
30 by adopting a resolution after determining that the infill opportunity
31 zone is consistent with the general plan and any applicable specific
32 plan. ~~A city or county may not designate an infill opportunity zone~~
33 ~~after December 31, 2009: plan, and is a transit priority area within~~
34 ~~a sustainable communities strategy or alternative planning strategy~~
35 ~~adopted by the applicable metropolitan planning organization.~~

36 ~~(d) The city or county in which the infill opportunity zone is~~
37 ~~located shall ensure that a development project shall be completed~~
38 ~~within the infill opportunity zone not more than four years after~~
39 ~~the date on which the city or county adopted its resolution pursuant~~
40 ~~to subdivision (c). If no development project is completed within~~

1 ~~an infill opportunity zone by the time limit imposed by this~~
2 ~~subdivision, the infill opportunity zone shall automatically~~
3 ~~terminate.~~

4 ~~SEC. 5.~~

5 *SEC. 7.* Section 65457 of the Government Code is amended
6 to read:

7 65457. (a) A residential development project, including any
8 subdivision, or any zoning change that is undertaken to implement,
9 and is consistent with, a specific plan for which an environmental
10 impact report has been certified after January 1, 1980, is exempt
11 from the requirements of Division 13 (commencing with Section
12 21000) of the Public Resources Code. However, if after adoption
13 of the specific plan, an event as specified in Section 21166 of the
14 Public Resources Code occurs, the exemption provided by this
15 subdivision does not apply unless and until a supplemental
16 environmental impact report for the specific plan is prepared and
17 certified in accordance with the provisions of Division 13
18 (commencing with Section 21000) of the Public Resources Code.
19 After a supplemental environmental impact report is certified, the
20 exemption specified in this subdivision applies to projects
21 undertaken pursuant to the specific plan.

22 (b) An action or proceeding alleging that a public agency has
23 approved a project pursuant to a specific plan without having
24 previously certified a supplemental environmental impact report
25 for the specific plan, where required by subdivision (a), shall be
26 commenced within 30 days of the public agency's decision to carry
27 out or approve the project.

28 (c) For the purposes of this section, "an event as specified in
29 Section 21166 of the Public Resources Code" does not include
30 any new information consisting solely of ~~argument, speculation,~~
31 ~~unsubstantiated opinion or narrative, evidence that is clearly~~
32 ~~inaccurate or erroneous, or evidence of social or economic impacts~~
33 ~~that do not contribute to, or are not caused by, physical impacts~~
34 ~~on the environment.~~ *information described in subdivision (c) of*
35 *Section 21082.2.*

36 *SEC. 8.* Section 21083.06 is added to the Public Resources
37 Code, to read:

38 21083.06. (a) *On or before July 1, 2015, the Office of Planning*
39 *and Research shall prepare, develop, and transmit to the Secretary*
40 *of the Natural Resources Agency recommended proposed changes*

1 *or amendments to the guidelines establishing criteria for a lead*
 2 *agency to assess the need for translating notices required pursuant*
 3 *to Sections 21083.9, 21092, 21108, and 21152 into non-English*
 4 *languages for projects considered pursuant to CEQA and*
 5 *requirements for posting these notices in non-English languages.*

6 *(b) On or before January 1, 2016, the Secretary of the Natural*
 7 *Resources Agency shall certify and adopt guidelines prepared and*
 8 *developed by the Office of Planning and Research pursuant to*
 9 *subdivision (a).*

10 ~~SEC. 6.~~

11 *SEC. 9.* Section 21081 of the Public Resources Code is
 12 amended to read:

13 21081. (a) Pursuant to the policy stated in Sections 21002 and
 14 21002.1, a public agency shall not approve or carry out a project
 15 for which an environmental impact report has been certified that
 16 identifies one or more significant effects on the environment that
 17 would occur if the project is approved or carried out, unless both
 18 of the following occur:

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

21 (A) Changes or alterations have been required in, or incorporated
 22 into, the project that mitigate or avoid the significant effects on
 23 the environment.

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

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

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

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

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

5 ~~SEC. 7.~~

6 *SEC. 10.* Section 21081.5 of the Public Resources Code is
7 amended to read:

8 21081.5. (a) In making the findings required by paragraph (3)
9 of subdivision (a) of, and subdivision (b) of, Section 21081, the
10 public agency shall base its findings on substantial evidence in the
11 record. Those findings shall be made available in draft form for
12 review by the members of the public for at least ~~15~~ 10 days prior
13 to approval of the proposed project. *A lead agency may provide a*
14 *copy of the draft findings and the notice of their proposed adoption*
15 *pursuant to Section 54957.5 of the Government Code if the posting*
16 *of the draft finding and notice otherwise complies with this section.*

17 (b) To make the draft findings available to the members of the
18 public for the purposes of subdivision (a), the lead agency shall
19 provide a notice of availability of the findings for review at the
20 lead agency's office during normal business hours through all of
21 the following mechanisms:

22 (1) Publication in a newspaper of general circulation in the area
23 affected by the proposed project. If more than one area will be
24 affected, the notice shall be published in the newspaper with the
25 largest circulation from among the newspapers of general
26 circulation in those areas.

27 (2) By electronic mail, if available, and mail to the last known
28 name and address of all individuals and organizations that have
29 submitted timely comments on the draft environmental impact
30 report.

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

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

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

1 ~~SEC. 8.~~

2 *SEC. 11.* Section 21081.6 of the Public Resources Code is
3 amended to read:

4 21081.6. (a) When making the findings required by paragraph
5 (1) of subdivision (a) of Section 21081 or when adopting a
6 mitigated negative declaration pursuant to paragraph (2) of
7 subdivision (c) of Section 21080, the following requirements shall
8 apply:

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

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

23 (b) A public agency shall provide that measures to mitigate or
24 avoid significant effects on the environment are fully enforceable
25 through permit conditions, agreements, or other measures.
26 Conditions of project approval may be set forth in referenced
27 documents which address required mitigation measures or, in the
28 case of the adoption of a plan, policy, regulation, or other public
29 project, by incorporating the mitigation measures into the plan,
30 policy, regulation, or project design.

31 (c) Prior to the close of the public review period for a draft
32 environmental impact report or mitigated negative declaration, a
33 responsible agency, or a public agency having jurisdiction over
34 natural resources affected by the project, shall either submit to the
35 lead agency complete and detailed performance objectives for
36 mitigation measures which would address the significant effects
37 on the environment identified by the responsible agency or agency
38 having jurisdiction over natural resources affected by the project,
39 or refer the lead agency to appropriate, readily available guidelines
40 or reference documents. Any mitigation measures submitted to a

1 lead agency by a responsible agency or an agency having
 2 jurisdiction over natural resources affected by the project shall be
 3 limited to measures which mitigate impacts to resources which
 4 are subject to the statutory authority of, and definitions applicable
 5 to, that agency. Compliance or noncompliance by a responsible
 6 agency or agency having jurisdiction over natural resources
 7 affected by a project with that requirement shall not limit the
 8 authority of the responsible agency or agency having jurisdiction
 9 over natural resources affected by a project, or the authority of the
 10 lead agency, to approve, condition, or deny projects as provided
 11 by this division or any other provision of law.

12 (d) As a part of the mitigation monitoring plan established
 13 pursuant to this section, *and upon the request of a member of the*
 14 *public*, the lead agency shall prepare or cause to be prepared ~~an~~
 15 ~~annual~~ a report on project compliance with mitigation measures
 16 required pursuant to this division. ~~The~~ *To the extent the lead agency*
 17 *operates or maintains an Internet Web site*, the report shall be
 18 made publicly available online to enhance public disclosure and
 19 accountability. The lead agency may cease reporting once all
 20 mitigation measures are completed.

21 ~~SEC. 9.~~

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

24

25 CHAPTER 2.7. ~~STANDARDIZED THRESHOLDS OF SIGNIFICANCE~~
 26 *MODERNIZATION OF TRANSPORTATION ANALYSIS FOR*
 27 *TRANSIT-ORIENTED INFILL PROJECTS*

28

29 21099. (a) For purposes of this section, the following terms
 30 mean the following:

31 (1) “Employment center project” means a project located on
 32 property zoned for commercial uses with a floor area ratio of no
 33 less than 0.75 and that is located within a transit priority area.

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

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

1 (4) “Infill site” means a lot located within an urban area that
2 has been previously developed, or on a vacant site where at least
3 75 percent of the perimeter of the site adjoins, or is separated only
4 by an ~~improve~~ *improved* public right-of-way from, parcels that are
5 developed with qualified urban uses.

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

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

10 (7) “Transit priority area” means an area within one-half mile
11 of a major transit stop that is existing or planned, if the planned
12 stop is scheduled to be completed within the planning horizon
13 included in a Transportation Improvement Program adopted
14 pursuant to Section 450.216 or 450.322 of Title 23 of the Code of
15 Federal Regulations.

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

26 ~~(2) On or before July 1, 2014, the Office of Planning and~~
27 ~~Research shall circulate a draft revision prepared pursuant to~~
28 ~~paragraph (1).~~

29 *(b) (1) The Office of Planning and Research shall prepare,*
30 *develop, and transmit to the Secretary of the Natural Resources*
31 *Agency for certification and adoption proposed revisions to the*
32 *guidelines adopted pursuant to Section 21083 establishing criteria*
33 *for determining the significance of transportation impacts of*
34 *projects within transit priority areas. Those criteria may address*
35 *a project’s vehicle miles traveled, vehicle miles traveled per capita,*
36 *automobile trip generation rates, automobile trips generated, or*
37 *other metrics that promote the reduction of greenhouse gas*
38 *emissions, the development of multimodal transportation networks,*
39 *and a diversity of land uses. The office may also establish criteria*
40 *for models used in determining these impacts in order to be sure*

1 *the models are accurate, reliable, and consistent with the intent*
2 *of this section.*

3 (2) *Upon certification of the guidelines by the Secretary of the*
4 *Natural Resources Agency pursuant to this section, automobile*
5 *delay, as described solely by level of service or similar measures*
6 *of capacity or congestion within a transit priority area, shall not*
7 *support a finding of significance pursuant to this division.*

8 (3) *This subdivision does not relieve a public agency from the*
9 *requirement of analyzing a project's potentially significant impacts*
10 *related to air quality, noise, safety, or any other impact associated*
11 *with transportation. The methodology established by these*
12 *guidelines shall not create a presumption that a project will not*
13 *result in significant impacts related to air quality, noise, safety,*
14 *or any other impact associated with transportation.*
15 *Notwithstanding the foregoing, the adequacy of parking for a*
16 *project shall not support a finding of significance pursuant to this*
17 *section.*

18 (4) *This subdivision does not preclude the application of local*
19 *general plan policies, zoning codes, conditions of approval,*
20 *thresholds, or any other planning requirements pursuant to the*
21 *police power or any other authority.*

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

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

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

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

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

37 (d) *This section does not affect the authority of a public agency*
38 *to establish or adopt more stringent thresholds of significance for*
39 *projects subject to this division. that are more protective of the*
40 *environment.*

1 ~~SEC. 10.~~

2 *SEC. 13.* Section 21167 of the Public Resources Code is
3 amended to read:

4 21167. An action or proceeding to attack, review, set aside,
5 void, or annul the following acts or decisions of a public agency
6 on the grounds of noncompliance with this division shall be
7 commenced as follows:

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

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

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

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

38 (e) An action or proceeding alleging that another act or omission
39 of a public agency does not comply with this division shall be
40 commenced within 30 days from the date of the filing of the notice

1 required by subdivision (a) of Section 21108 or subdivision (a) of
2 Section 21152.

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

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

24 ~~SEC. 14.~~

25 *SEC. 14.* 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.~~

24 *SEC. 15.* Section 21167.6.2 is added to the Public Resources
25 Code, to read:

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

33 (A) The lead agency for the project shall prepare the record of
34 proceedings pursuant to this division concurrently with the
35 administrative ~~process~~; *process, in a standardized format, as*
36 *determined by the lead agency.*

37 (B) All documents and other materials placed in the record of
38 proceedings shall be posted on, and be downloadable from, an
39 Internet Web site maintained by the lead agency commencing with
40 the date of the release of the draft environmental document for a

1 project specified in Section 21167.6.3. If the lead agency cannot
2 maintain an Internet Web site with the information required
3 pursuant to this section, the lead agency shall provide a link on
4 the agency's Internet Web site to that information.

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

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

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

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

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

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

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

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

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

1 (e) The negative declaration, mitigated negative declaration,
2 draft and final environmental impact report, or other environmental
3 document for a project specified in Section 21167.6.3 shall include
4 a notice in no less than 12-point type stating the following:

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

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

23 ~~SEC. 13.~~

24 *SEC. 16.* Section 21167.6.3 is added to the Public Resources
25 Code, to read:

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

30 (1) A project determined to be of statewide, regional, or
31 areawide environmental significance pursuant to subdivision (d)
32 of Section 21083.

33 (2) A project subject to ~~Section 21094.5~~ of Chapter 4.2
34 (commencing with Section 21155).

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

39 (B) The lead agency shall respond to a request by the project
40 applicant within 10 business days from the date that the request

1 pursuant to subdivision (a) of Section 21167.6.2 is received by the
2 lead agency.

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

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

15 (b) The written request of the applicant submitted pursuant to
16 subdivision (a) of Section 21167.6.2 shall include an agreement
17 to pay all of the lead agency's costs of preparing and certifying
18 the record of proceedings pursuant to Section 21167.6.2 and
19 complying with the requirements of this section and Section
20 21167.6.2 in a manner specified by the lead agency.

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

26 ~~SEC. 14.~~

27 *SEC. 17.* Section 21167.7 of the Public Resources Code is
28 amended to read:

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

38 (b) Notwithstanding Section 10231.5 of the Government Code,
39 the California Research Bureau, subject to the availability of funds
40 and of the information described in paragraphs (1) to (3), inclusive,

1 shall annually submit to the Legislature a report, in compliance
 2 with Section 9795 of the Government Code, with information on
 3 actions or proceedings brought pursuant to this division that
 4 includes, but is not limited to, all of the following:

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

7 (2) The type of action or proceeding filed and the alleged
 8 violation.

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

10 ~~SEC. 15.~~

11 *SEC. 18.* Section 21168.9 of the Public Resources Code is
 12 amended to read:

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

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

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

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

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

39 (2) The writ shall be limited to that portion of a determination,
 40 finding, or decision, or the specific project activity or activities

1 found to be in noncompliance only if a court finds all of the
2 following:

3 (A) The portion or specific project activity or activities is
4 severable.

5 (B) Severance will not prejudice complete and full compliance
6 with this division.

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

9 (3) A writ shall include a time by which the agency shall make
10 an initial return of the writ.

11 (4) The trial court shall retain jurisdiction over the public
12 agency's proceedings by way of a return to the peremptory writ
13 until the court has determined that the public agency has complied
14 with this division.

15 (c) An initial return to a writ shall describe all of the following:

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

18 (2) A schedule for these actions.

19 (3) In the case of a negative declaration, mitigated negative
20 declaration, or environmental impact report found not to be in
21 compliance with this division, the public comment period
22 applicable to the agency's revision of the document.

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

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

32 ~~SEC. 16.~~

33 *SEC. 19.* It is the intent of the Legislature to appropriate the
34 sum of thirty million dollars (\$30,000,000) in the annual Budget
35 Act to the Strategic Growth Council to provide competitive grants
36 to local agencies for planning activities pursuant to Chapter 4.2
37 (commencing with Section 21155) of Division 13 of the Public
38 Resources Code.

1 ~~SEC. 17.~~

2 *SEC. 20.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 a local agency or school district has the authority to levy service
5 charges, fees, or assessments sufficient to pay for the program or
6 level of service mandated by this act, within the meaning of Section
7 17556 of the Government Code.

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

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