

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

SENATE BILL

No. 743

Introduced by ~~Senators Steinberg and Padilla~~ Senator Steinberg
(Coauthors: Senators Gaines, Galgiani, Nielsen, and Wolk)
(Coauthors: Assembly Members Cooley, Dickinson, Logue, and Pan)

February 22, 2013

~~An act to amend Section 739.1 of the Public Utilities Code, relating to electricity.~~ *An act to amend Sections 21181, 21186, 21187, 21189.1, and 21189.3 of, to repeal and add Section 21185 of, and to add and repeal Section 21168.6.6 of, the Public Resources Code, relating to environmental quality.*

LEGISLATIVE COUNSEL'S DIGEST

SB 743, as amended, Steinberg. ~~Electricity: rates.~~ *Environmental quality: judicial review streamlining for environmental leadership development projects and entertainment and sports center in the City of Sacramento.*

(1) The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 requires a party bringing an action or proceeding alleging that a lead agency's approval of a project certified by the Governor as an environmental leadership development project is in violation of the California Environmental Quality Act to file the action or proceeding with the Court of Appeal with geographic jurisdiction over the project and requires the Court of Appeal to issue its decision within 175 days of the filing of the petition. The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 requires the lead agency to concurrently prepare the record of proceeding for the leadership project with the review and consideration of the project. The Jobs and Economic Improvement Through

Environmental Leadership Act of 2011 provides that the above provision does not apply to a project for which a lead agency fails to certify an environmental impact report on or before June 1, 2014. The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 is repealed by its own terms on January 1, 2015.

This bill would instead require the Judicial Council, on or before July 1, 2014, to adopt a rule of court to establish procedures applicable to actions or proceedings seeking judicial review of a public agency's action in certifying the environmental impact report and in granting project approval that requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings. The bill would extend the operation of the judicial review procedures unless the lead agency fails to certify an environmental impact report for an environmental leadership project on or before January 1, 2016. The bill would provide that the above provisions do not apply to a project if the Governor does not certify the project as an environmental leadership development project prior to January 1, 2016. Because this bill would extend the time period for which a lead agency would be required to concurrently prepare the record of proceeding with the review and consideration of the environmental leadership development projects, this bill would impose a state-mandated local program. The bill would require the lead agency, within 10 days of the Governor's certification, to issue, at the applicant's expense, a specified public notice, thereby imposing a state-mandated local program. The bill would repeal the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 on January 1, 2017.

(2) The California Environmental Quality Act, commonly known as CEQA, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA establishes a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to CEQA.

This bill would require the public agency, in certifying the environmental impact report and in granting approvals for a specified entertainment and sports center project located in the City of Sacramento, including the concurrent preparation of the record of proceedings and the certification of the record of proceeding within 5 days of the filing of a specified notice, to comply with specified procedures. Because a public agency would be required to comply with those new procedures, this bill would impose a state-mandated local program. The bill would require the Judicial Council, on or before July 1, 2014, to adopt a rule of court to establish procedures applicable to actions or proceedings seeking judicial review of a public agency's action in certifying the environmental impact report and in granting project approval that requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings. The bill would provide that the above provisions are inoperative and repealed on January 1 of the following year if the applicant fails to notify the lead agency before the release of the draft environmental impact report for public comment that the applicant is electing to proceed pursuant to the above provisions.

This bill would make findings and declarations as to the necessity of a special statute for the City of Sacramento.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission to designate a baseline quantity of electricity and gas necessary to supply a significant portion of the reasonable energy needs of the average residential customer and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates. Existing law requires the commission to establish a program of assistance to specified low-income electric and gas~~

customers, referred to as the ~~California Alternate Rates for Energy (CARE) program.~~

~~Existing law revises certain prohibitions upon raising residential electrical rates adopted during the energy crisis of 2000–01, to authorize the commission to increase the rates in effect for CARE program participants for electricity usage up to 130% of baseline quantities by the annual percentage increase in benefits under the CalWORKs program, as defined, not to exceed 3%, and subject to the limitation that the CARE rates not exceed 80% of the corresponding rates charged to residential customers not participating in the CARE program.~~

~~This bill would replace the existing authorization to increase CARE rates based upon the annual percentage increase in benefits under the CalWORKs program and instead authorize the commission to increase the rates in effect for CARE program participants for electricity usage up to 130% of baseline quantities by the annual percentage increase of the Consumer Price Index from the prior year but not to exceed 4% per year, and subject to the limitation that the CARE rates not exceed 80% of the corresponding rates charged to residential customers not participating in the CARE program.~~

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

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

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *The Federal Reserve has stated that “[m]ost policymakers*
- 4 *estimate the longer-run normal rate of unemployment is between*
- 5 *5.2 and 6 percent.” At 7.6 percent, the current United States*
- 6 *unemployment rate remains markedly higher than the normal rate*
- 7 *and both the unemployment rates in Sacramento County and*
- 8 *California are higher than the current national unemployment*
- 9 *rate.*
- 10 (b) *The California Environmental Quality Act (Division 13*
- 11 *(commencing with Section 21000) of the Public Resources Code*
- 12 *requires that the environmental impacts of development projects*
- 13 *be identified and mitigated. The act also guarantees the public an*
- 14 *opportunity to review and comment on the environmental impacts*
- 15 *of a project and to participate meaningfully in the development of*

1 mitigation measures for potentially significant environmental
2 impacts.

3 (c) The existing home of the City of Sacramento's National
4 Basketball Association (NBA) team, the Sleep Train Arena, is an
5 old and outmoded facility located outside of the City of
6 Sacramento's downtown area and is not serviced by the region's
7 existing heavy and light rail transportation networks. It was
8 constructed 25 years ago and a new, more efficient entertainment
9 and sports center located in downtown Sacramento is needed to
10 meet the city's and region's needs.

11 (d) The City of Sacramento and the region would greatly benefit
12 from the addition of a multipurpose event center capable of hosting
13 a wide range of events including exhibitions, conventions, sporting
14 events, as well as musical, artistic, and cultural events in downtown
15 Sacramento.

16 (e) The proposed entertainment and sports center project is a
17 public-private partnership between the City of Sacramento and
18 the applicant that will result in the construction of a new
19 state-of-the-art multipurpose event center, and surrounding infill
20 development in downtown Sacramento as described in the notice
21 of preparation released by the City of Sacramento on April 12,
22 2013.

23 (f) The project will generate over 4,000 full-time jobs including
24 employees hired both during construction and operation of the
25 entertainment and sports center project. This employment estimate
26 does not include the substantial job generation that will occur with
27 the surrounding development uses, which will generate additional
28 hospitality, office, restaurant, and retail jobs in Sacramento's
29 downtown area.

30 (g) The project also presents an unprecedented opportunity to
31 implement innovative measures that will significantly reduce traffic
32 and air quality impacts and mitigate the greenhouse gas emissions
33 resulting from the project. The project site is located in downtown
34 Sacramento near heavy and light rail transit facilities, situated to
35 maximize opportunities to encourage nonautomobile modes of
36 travel to the entertainment and sports center project, and is
37 consistent with the policies and regional vision included in the
38 Sustainable Communities Strategy adopted pursuant to Chapter
39 728 of the Statutes of 2008 by the Sacramento Area Council of
40 Governments in April of 2012. The project is also located within

1 close proximity to three major infill development areas including
2 projects (The Bridge District, Railyards, and Township Nine) that
3 received infill infrastructure grants from the state pursuant to
4 Proposition 1C.

5 (h) It is in the interest of the state to expedite judicial review of
6 the entertainment and sports center project, as appropriate, while
7 protecting the environment and the right of the public to review,
8 comment on, and, if necessary, seek judicial review of, the
9 adequacy of the environmental impact report for the project.

10 SEC. 2. Section 21168.6.6 is added to the Public Resources
11 Code, to read:

12 21168.6.6. (a) For the purposes of this section, the following
13 definitions shall have the following meanings:

14 (1) "Applicant" means a private entity or its affiliates that
15 proposes the project and its successors, heirs, and assignees.

16 (2) "City" means the City of Sacramento.

17 (3) "Downtown arena" means an arena that is constructed to
18 meet the standards required for Leadership in Energy and
19 Environmental Design (LEED) silver certification or better by the
20 United States Green Building Council, associated public spaces,
21 and facility and infrastructure for ingress, egress, and use of the
22 arena facility from demolition and site preparation through
23 operation proposed as part of the entertainment and sports center
24 project that will become the new home to the City of Sacramento's
25 National Basketball Association (NBA) team.

26 (4) "Entertainment and sports center project" or "project"
27 means a project that substantially conforms to the project
28 description for the entertainment and sports center project set
29 forth in the notice of preparation released by the City of
30 Sacramento on April 12, 2013.

31 (b) The city may prosecute an eminent domain action associated
32 with the downtown arena through order of possession pursuant
33 to the Eminent Domain Law (Title 7 (commencing with Section
34 1230.010) of Part 3 of the Code of Civil Procedure) prior to
35 certification of the environmental impact report on the project.

36 (c) Notwithstanding any other law, the procedures established
37 pursuant to subdivision (d) shall apply to an action or proceeding
38 brought to attack, review, set aside, void, or annul the certification
39 of the environmental impact report for the project or the granting
40 of any project approvals.

1 (d) On or before July 1, 2014, the Judicial Council shall adopt
2 a rule of court to establish procedures applicable to actions or
3 proceedings brought to attack, review, set aside, void, or annul
4 the certification of the environmental impact report for the project
5 or the granting of any project approvals that require the actions
6 or proceedings, including any potential appeals therefrom, be
7 resolved, to the extent feasible, within 270 days of certification of
8 the record of proceedings pursuant to subdivision (f).

9 (e) (1) The draft and final environmental impact report shall
10 include a notice in not less than 12-point type stating the following:

11
12 THIS EIR IS SUBJECT TO SECTION 21168.6.6 OF THE
13 PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG
14 OTHER THINGS, THAT THE LEAD AGENCY NEED NOT
15 CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE
16 OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT EIR.
17 ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION
18 OF THE EIR OR THE APPROVAL OF THE PROJECT
19 DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES
20 SET FORTH IN SECTION 21168.6.6 OF THE PUBLIC
21 RESOURCES CODE. A COPY OF SECTION 21168.6.6 OF THE
22 PUBLIC RESOURCES CODE IS INCLUDED IN THE APPENDIX
23 TO THIS EIR.

24
25 (2) The draft environmental impact report and final
26 environmental impact report shall contain, as an appendix, the
27 full text of this section.

28 (3) Within 10 days after the release of the draft environmental
29 impact report, the lead agency shall conduct an informational
30 workshop to inform the public of the key analyses and conclusions
31 of that report.

32 (4) Within 10 days before the close of the public comment
33 period, the lead agency shall hold a public hearing to receive
34 testimony on the draft environmental impact report. A transcript
35 of the hearing shall be included as an appendix to the final
36 environmental impact report.

37 (5) (A) Within five days following the close of the public
38 comment period, a commenter on the draft environmental impact
39 report may submit to the lead agency a written request for
40 nonbinding mediation. The lead agency and applicant shall

1 *participate in nonbinding mediation with all commenters who*
2 *submitted timely comments on the draft environmental impact*
3 *report and who requested the mediation. Mediation conducted*
4 *pursuant to this paragraph shall end no later than 35 days after*
5 *the close of the public comment period.*

6 *(B) A request for mediation shall identify all areas of dispute*
7 *raised in the comment submitted by the commenter that are to be*
8 *mediated.*

9 *(C) The lead agency shall select one or more mediators who*
10 *shall be retired judges or recognized experts with at least five*
11 *years experience in land use and environmental law or science,*
12 *or mediation. The applicant shall bear the costs of mediation.*

13 *(D) A mediation session shall be conducted on each area of*
14 *dispute with the parties requesting mediation on that area of*
15 *dispute.*

16 *(E) The lead agency shall adopt, as a condition of approval,*
17 *any measures agreed upon by the lead agency, the applicant, and*
18 *any commenter who requested mediation. A commenter who agrees*
19 *to a measure pursuant to this subparagraph shall not raise the*
20 *issue addressed by that measure as a basis for an action or*
21 *proceeding challenging the lead agency's decision to certify the*
22 *environmental impact report or to grant one or more initial project*
23 *approvals.*

24 *(6) The lead agency need not consider written comments*
25 *submitted after the close of the public comment period, unless*
26 *those comments address any of the following:*

27 *(A) New issues raised in the response to comments by the lead*
28 *agency.*

29 *(B) New information released by the public agency subsequent*
30 *to the release of the draft environmental impact report, such as*
31 *new information set forth or embodied in a staff report, proposed*
32 *permit, proposed resolution, ordinance, or similar documents.*

33 *(C) Changes made to the project after the close of the public*
34 *comment period.*

35 *(D) Proposed conditions for approval, mitigation measures, or*
36 *proposed findings required by Section 21081 or a proposed*
37 *reporting and monitoring program required by paragraph (1) of*
38 *subdivision (a) of Section 21081.6, where the lead agency releases*
39 *those documents subsequent to the release of the draft*
40 *environmental impact report.*

1 (E) New information that was not reasonably known and could
2 not have been reasonably known during the public comment period.

3 (7) The lead agency shall file the notice required by subdivision
4 (a) of Section 21152 within five days after the last initial project
5 approval.

6 (f) (1) The lead agency shall prepare and certify the record of
7 the proceedings in accordance with this subdivision and in
8 accordance with Rule 3.1365 of the California Rules of Court. The
9 applicant shall pay the lead agency for all costs of preparing and
10 certifying the record of proceedings.

11 (2) No later than three business days following the date of the
12 release of the draft environmental impact report, the lead agency
13 shall make available to the public in a readily accessible electronic
14 format the draft environmental impact report and all other
15 documents submitted to or relied on by the lead agency in the
16 preparation of the draft environmental impact report. A document
17 prepared by the lead agency or submitted by the applicant after
18 the date of the release of the draft environmental impact report
19 that is a part of the record of the proceedings shall be made
20 available to the public in a readily accessible electronic format
21 within five business days after the document is prepared or received
22 by the lead agency.

23 (3) Notwithstanding paragraph (2), documents submitted to or
24 relied on by the lead agency that were not prepared specifically
25 for the project and are copyright protected are not required to be
26 made readily accessible in an electronic format. For those
27 copyright protected documents, the lead agency shall make an
28 index of these documents available in an electronic format no later
29 than the date of the release of the draft environmental impact
30 report, or within five business days if the document is received or
31 relied on by the lead agency after the release of the draft
32 environmental impact report. The index must specify the libraries
33 or lead agency offices in which hardcopies of the copyrighted
34 materials are available for public review.

35 (4) The lead agency shall encourage written comments on the
36 project to be submitted in a readily accessible electronic format,
37 and shall make any such comment available to the public in a
38 readily accessible electronic format within five days of its receipt.

39 (5) Within seven business days after the receipt of any comment
40 that is not in an electronic format, the lead agency shall convert

1 *that comment into a readily accessible electronic format and make*
2 *it available to the public in that format.*

3 *(6) The lead agency shall indicate in the record of the*
4 *proceedings comments received that were not considered by the*
5 *lead agency pursuant to paragraph (6) of subdivision (e) and need*
6 *not include the content of the comments as a part of the record.*

7 *(7) Within five days after the filing of the notice required by*
8 *subdivision (a) of Section 21152, the lead agency shall certify the*
9 *record of the proceedings for the approval or determination and*
10 *shall provide an electronic copy of the record to a party that has*
11 *submitted a written request for a copy. The lead agency may charge*
12 *and collect a reasonable fee from a party requesting a copy of the*
13 *record for the electronic copy, which shall not exceed the*
14 *reasonable cost of reproducing that copy.*

15 *(8) Within 10 days after being served with a complaint or a*
16 *petition for a writ of mandate, the lead agency shall lodge a copy*
17 *of the certified record of proceedings with the superior court.*

18 *(9) Any dispute over the content of the record of the proceedings*
19 *shall be resolved by the superior court. Unless the superior court*
20 *directs otherwise, a party disputing the content of the record shall*
21 *file a motion to augment the record at the time it files its initial*
22 *brief.*

23 *(10) The contents of the record of proceedings shall be as set*
24 *forth in subdivision (e) of Section 21167.6.*

25 *(g) As a condition of approval of the project subject to this*
26 *section, the lead agency shall require the applicant, with respect*
27 *to any measures specific to the operation of the project, to*
28 *implement those measures that will meet the requirements of this*
29 *division by the end of the first NBA season during which an NBA*
30 *team has played at the downtown arena. To maximize public health,*
31 *environmental, and employment benefits, the lead agency shall*
32 *place the highest priority on feasible measures that will reduce*
33 *greenhouse gas emissions on the downtown arena site and in the*
34 *neighboring communities of the downtown arena. Offset credits*
35 *shall be employed by the applicant only after feasible local*
36 *emission reduction measures have been implemented. The applicant*
37 *shall, to the extent feasible, place the highest priority on the*
38 *purchase of offset credits that produce emission reductions within*
39 *the city or the boundaries of the Sacramento Metropolitan Air*
40 *Quality Management District.*

1 (h) (1) (A) *In granting relief in an action or proceeding brought*
2 *pursuant to this section, the court shall not stay or enjoin the*
3 *construction or operation of the downtown arena unless the court*
4 *finds either of the following:*

5 (i) *The continued construction or operation of the downtown*
6 *arena presents an imminent threat to the public health and safety.*

7 (ii) *The downtown arena site contains unforeseen important*
8 *Native American artifacts or unforeseen important historical,*
9 *archaeological, or ecological values that would be materially,*
10 *permanently, and adversely affected by the continued construction*
11 *or operation of the downtown arena unless the court stays or*
12 *enjoins the construction or operation of the downtown arena.*

13 (B) *If the court finds that clause (i) or (ii) is satisfied, the court*
14 *shall only enjoin those specific activities associated with the*
15 *downtown arena that present an imminent threat to public health*
16 *and safety or that materially, permanently, and adversely affect*
17 *unforeseen important Native American artifacts or unforeseen*
18 *important historical, archaeological, or ecological values.*

19 (2) *In granting relief associated with the downtown arena in*
20 *an action or proceeding brought pursuant to this section, the court*
21 *shall enter an order mandating that the public agency conduct*
22 *further environmental review, including consideration of additional*
23 *feasible mitigation measures where available and necessary to*
24 *bring the determination, finding, or decision into compliance with*
25 *this division.*

26 (3) *Paragraphs (1) and (2) set forth the sole remedies available*
27 *in an action or proceeding brought pursuant to this section*
28 *challenging the downtown arena and no provision of law that is*
29 *inconsistent or conflicts with this subdivision shall apply to an*
30 *action or proceeding subject to this section.*

31 (4) *Where an action or proceeding brought pursuant to this*
32 *section challenges aspects of the project other than the downtown*
33 *arena and those portions or specific project activities are severable*
34 *from the downtown arena, the court may enter an order as to*
35 *aspects of the project other than the downtown arena that includes*
36 *one or more of the remedies set forth in Section 21168.9.*

37 (i) *The provisions of this section are severable. If any provision*
38 *of this section or its application is held invalid, that invalidity shall*
39 *not affect other provisions or applications that can be given effect*
40 *without the invalid provision or application.*

1 (j) (1) *This section does not apply to the project and shall*
 2 *become inoperative on the date of the release of the draft*
 3 *environmental impact report and is repealed on January 1 of the*
 4 *following year, if the applicant fails to notify the lead agency prior*
 5 *to the release of the draft environmental impact report for public*
 6 *comment that the applicant is electing to proceed pursuant to this*
 7 *section.*

8 (2) *The lead agency shall notify the Secretary of State if the*
 9 *applicant fails to notify the lead agency of its election to proceed*
 10 *pursuant to this section.*

11 *SEC. 3. Section 21181 of the Public Resources Code is*
 12 *amended to read:*

13 21181. This chapter does not apply to a project if the applicant
 14 fails to notify a lead agency prior to the release of the draft
 15 environmental impact report for public comment that the applicant
 16 is electing to proceed pursuant to this chapter. The lead agency
 17 shall notify the Secretary of the Natural Resources Agency if the
 18 applicant fails to provide notification pursuant to this section.
 19 Governor does not certify a project as an environmental leadership
 20 development project eligible for streamlining provided pursuant
 21 to this chapter prior to January 1, 2016.

22 *SEC. 4. Section 21185 of the Public Resources Code is*
 23 *repealed.*

24 ~~21185. (a) Notwithstanding any other law, any action or~~
 25 ~~proceeding alleging that a public agency or has approved or is~~
 26 ~~undertaking a leadership project certified by the Governor in~~
 27 ~~violation of this division shall be conducted in accordance with~~
 28 ~~the following streamlining benefits:~~

29 ~~(1) The action or proceeding shall be filed in the Court of Appeal~~
 30 ~~with geographic jurisdiction over the project.~~

31 ~~(2) Any party bringing such a claim shall also file concurrently~~
 32 ~~any other claims alleging that a public agency has granted land~~
 33 ~~use approvals for the leadership project in violation of the law.~~
 34 ~~The Court of Appeal shall have original jurisdiction over all those~~
 35 ~~claims.~~

36 ~~(3) The Court of Appeal shall issue its decision in the case within~~
 37 ~~175 days of the filing of the petition.~~

38 ~~(4) The court may appoint a master to assist the court in~~
 39 ~~managing and processing the case.~~

1 ~~(5) The court may grant extensions of time only for good cause~~
2 ~~shown and in order to promote the interests of justice.~~

3 ~~(b) On or before July 1, 2012, the Judicial Council shall adopt~~
4 ~~Rules of Court to implement this chapter.~~

5 *SEC. 5. Section 21185 is added to the Public Resources Code,*
6 *to read:*

7 *21185. On or before July 1, 2014, the Judicial Council shall*
8 *adopt a rule of court to establish procedures applicable to actions*
9 *or proceedings brought to attack, review, set aside, void, or annul*
10 *the certification of the environmental impact report for an*
11 *environmental leadership development project certified by the*
12 *Governor pursuant to this chapter or the granting of any project*
13 *approvals that require the actions or proceedings, including any*
14 *potential appeals therefrom, be resolved, to the extent feasible,*
15 *within 270 days of certification of the record of proceedings*
16 *pursuant to Section 21186.*

17 *SEC. 6. Section 21186 of the Public Resources Code is*
18 *amended to read:*

19 *21186. Notwithstanding any other law, the preparation and*
20 *certification of the administrative record for a leadership project*
21 *certified by the Governor shall be performed in the following*
22 *manner:*

23 (a) The lead agency for the project shall prepare the
24 administrative record pursuant to this division concurrently with
25 the administrative process.

26 (b) All documents and other materials placed in the
27 administrative record shall be posted on, and be downloadable
28 from, an Internet Web site maintained by the lead agency
29 commencing with the date of the release of the draft environmental
30 impact report.

31 (c) The lead agency shall make available to the public in a
32 readily accessible electronic format the draft environmental impact
33 report and all other documents submitted to, or relied on by, the
34 lead agency in the preparation of the draft environmental impact
35 report.

36 (d) A document prepared by the lead agency or submitted by
37 the applicant after the date of the release of the draft environmental
38 impact report that is a part of the record of the proceedings shall
39 be made available to the public in a readily accessible electronic

1 format within five business days after the document is released or
2 received by the lead agency.

3 (e) The lead agency shall encourage written comments on the
4 project to be submitted in a readily accessible electronic format,
5 and shall make any comment available to the public in a readily
6 accessible electronic format within five days of its receipt.

7 (f) Within seven business days after the receipt of any comment
8 that is not in an electronic format, the lead agency shall convert
9 that comment into a readily accessible electronic format and make
10 it available to the public in that format.

11 (g) *Notwithstanding paragraphs (b) to (f), inclusive, documents*
12 *submitted to or relied on by the lead agency that were not prepared*
13 *specifically for the project and are copyright protected are not*
14 *required to be made readily accessible in an electronic format.*
15 *For those copyright-protected documents, the lead agency shall*
16 *make an index of these documents available in an electronic format*
17 *no later than the date of the release of the draft environmental*
18 *impact report, or within five business days if the document is*
19 *received or relied on by the lead agency after the release of the*
20 *draft environmental impact report. The index must specify the*
21 *libraries or lead agency offices in which hardcopies of the*
22 *copyrighted materials are available for public review.*

23 ~~(g)~~

24 (h) The lead agency shall certify the final administrative record
25 within five days of its approval of the project.

26 ~~(h)~~

27 (i) Any dispute arising from the administrative record shall be
28 resolved by the ~~Court of Appeal pursuant to Section 21185.~~
29 *superior court. Unless the superior court directs otherwise, a party*
30 *disputing the content of the record shall file a motion to augment*
31 *the record at the time it files its initial brief.*

32 (j) *The contents of the record of proceedings shall be as set*
33 *forth in subdivision (e) of Section 21167.6.*

34 SEC. 7. Section 21187 of the Public Resources Code is
35 amended to read:

36 21187. ~~The draft and final environmental impact report shall~~
37 ~~include a~~ *Within 10 days of the Governor certifying an*
38 *environmental leadership development project pursuant to this*
39 *section, the lead agency shall, at the applicant's expense, issue a*
40 *public notice in no less than 12-point type stating the following:*

1
2 ~~“THIS EIR IS SUBJECT TO~~
3 ~~“THE APPLICANT HAS ELECTED TO PROCEED UNDER~~
4 CHAPTER 6.5 (COMMENCING WITH SECTION 21178) OF
5 THE PUBLIC RESOURCES CODE, WHICH PROVIDES,
6 AMONG OTHER THINGS, THAT ANY JUDICIAL ACTION
7 CHALLENGING THE CERTIFICATION OF THE EIR OR THE
8 APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS
9 SUBJECT TO THE PROCEDURES SET FORTH IN SECTION
10 ~~21178.2 SECTIONS 21185 TO 21186, INCLUSIVE, OF THE~~
11 ~~PUBLIC RESOURCES CODE AND MUST BE FILED WITH~~
12 ~~THE COURT OF APPEAL. CODE. A COPY OF CHAPTER 6.5~~
13 ~~(COMMENCING WITH SECTION 21178) OF THE PUBLIC~~
14 ~~RESOURCES CODE IS INCLUDED IN THE APPENDIX TO~~
15 ~~THIS EIR.” BELOW.”~~

16
17 *The public notice shall be distributed by the lead agency as*
18 *required for public notices issued pursuant to paragraph (3) of*
19 *subdivision (b) of Section 21092.*

20 *SEC. 8. Section 21189.1 of the Public Resources Code is*
21 *amended to read:*

22 21189.1. ~~(a) If, prior to January 1, 2016, a lead agency fails~~
23 ~~to certify an environmental impact report for a leadership approve~~
24 ~~a project subject to this chapter on or before June 1, 2014, this~~
25 ~~chapter shall not apply to that project. The lead agency shall notify~~
26 ~~the Secretary of the Natural Resources Agency by July 1, 2014, if~~
27 ~~an environmental impact report subject to this chapter has not been~~
28 ~~certified by that date. certified by the Governor pursuant to this~~
29 ~~chapter, then the certification expires and is no longer valid.~~

30 ~~(b) If, prior to June 1, 2014, a certification issued pursuant to~~
31 ~~this chapter has not been used or the time period during which an~~
32 ~~action or proceeding, for purposes of Section 21185, may be filed~~
33 ~~under this chapter has not elapsed, the certification expires and is~~
34 ~~no longer valid.~~

35 *SEC. 9. Section 21189.3 of the Public Resources Code is*
36 *amended to read:*

37 21189.3. This chapter shall remain in effect until January 1,
38 2015; 2017, and as of that date is repealed unless a later enacted
39 statute extends or repeals that date.

1 *SEC. 10. With respect to certain provisions of this measure,*
2 *the Legislature finds and declares that a special law is necessary*
3 *and that a general law cannot be made applicable within the*
4 *meaning of Section 16 of Article IV of the California Constitution*
5 *because of the unique need for the development of an entertainment*
6 *and sports center project in the City of Sacramento in an*
7 *expeditious manner.*

8 *SEC. 11. No reimbursement is required by this act pursuant*
9 *to Section 6 of Article XIII B of the California Constitution because*
10 *a local agency or school district has the authority to levy service*
11 *charges, fees, or assessments sufficient to pay for the program or*
12 *level of service mandated by this act, within the meaning of Section*
13 *17556 of the Government Code.*

14 ~~SECTION 1. Section 739.1 of the Public Utilities Code is~~
15 ~~amended to read:~~

16 ~~739.1. (a) As used in this section, the following terms have~~
17 ~~the following meanings:~~

18 ~~(1) “Baseline quantity” has the same meaning as defined in~~
19 ~~Section 739.~~

20 ~~(2) “California Solar Initiative” means the program providing~~
21 ~~ratepayer funded incentives for eligible solar energy systems~~
22 ~~adopted by the commission in Decision 05-12-044 and Decision~~
23 ~~06-01-024, as modified by Article 1 (commencing with Section~~
24 ~~2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with~~
25 ~~Section 25780) of Division 15 of the Public Resources Code.~~

26 ~~(3) “Public goods charge” means the nonbypassable separate~~
27 ~~rate component imposed pursuant to Article 7 (commencing with~~
28 ~~Section 381) of Chapter 2.3 and the nonbypassable system benefits~~
29 ~~charge imposed pursuant to the Reliable Electric Service~~
30 ~~Investments Act (Article 15 (commencing with Section 399) of~~
31 ~~Chapter 2.3).~~

32 ~~(b) (1) The commission shall establish a program of assistance~~
33 ~~to low-income electric and gas customers with annual household~~
34 ~~incomes that are no greater than 200 percent of the federal poverty~~
35 ~~guideline levels, the cost of which shall not be borne solely by any~~
36 ~~single class of customer. The program shall be referred to as the~~
37 ~~California Alternate Rates for Energy or CARE program. The~~
38 ~~commission shall ensure that the level of discount for low-income~~
39 ~~electric and gas customers correctly reflects the level of need.~~

1 ~~(2) The commission may, subject to the limitation in paragraph~~
2 ~~(4), increase the rates in effect for CARE program participants for~~
3 ~~electricity usage up to 130 percent of baseline quantities by the~~
4 ~~annual percentage increase in the Consumer Price Index from the~~
5 ~~prior year but not to exceed 4 percent per year. For purposes of~~
6 ~~this subdivision, the annual percentage change in the Consumer~~
7 ~~Price Index shall be calculated using the same formula that was~~
8 ~~used to determine the annual Social Security Cost of Living~~
9 ~~Adjustment on January 1, 2008.~~

10 ~~(3) Beginning January 1, 2019, the commission may, subject~~
11 ~~to the limitation in paragraph (4), establish rates for CARE program~~
12 ~~participants pursuant to this section and Sections 739 and 739.9,~~
13 ~~subject to both of the following:~~

14 ~~(A) The requirements of subdivision (b) of Section 382 that the~~
15 ~~commission ensure that low-income ratepayers are not jeopardized~~
16 ~~or overburdened by monthly energy expenditures.~~

17 ~~(B) The requirement that the level of the discount for~~
18 ~~low-income electricity and gas ratepayers correctly reflects the~~
19 ~~level of need as determined by the needs assessment conducted~~
20 ~~pursuant to subdivision (d) of Section 382.~~

21 ~~(4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80~~
22 ~~percent of the corresponding tier 1, tier 2, and tier 3 rates charged~~
23 ~~to residential customers not participating in the CARE program,~~
24 ~~excluding any Department of Water Resources bond charge~~
25 ~~imposed pursuant to Division 27 (commencing with Section 80000)~~
26 ~~of the Water Code, the CARE surcharge portion of the public~~
27 ~~goods charge, any charge imposed pursuant to the California Solar~~
28 ~~Initiative, and any charge imposed to fund any other program that~~
29 ~~exempts CARE participants from paying the charge.~~

30 ~~(5) Rates charged to CARE program participants shall not have~~
31 ~~more than three tiers. An electrical corporation that does not have~~
32 ~~a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order~~
33 ~~to moderate the impact on program participants whose usage~~
34 ~~exceeds 130 percent of baseline quantities, shall be phased in to~~
35 ~~80 percent of the corresponding rates charged to residential~~
36 ~~customers not participating in the CARE program, excluding any~~
37 ~~Department of Water Resources bond charge imposed pursuant to~~
38 ~~Division 27 (commencing with Section 80000) of the Water Code,~~
39 ~~the CARE surcharge portion of the public goods charge, any charge~~
40 ~~imposed pursuant to the California Solar Initiative, and any other~~

1 charge imposed to fund a program that exempts CARE participants
2 from paying the charge. For an electrical corporation that does not
3 have a tier 3 CARE rate that introduces a tier 3 CARE rate, the
4 initial rate shall be no more than 150 percent of the CARE baseline
5 rate. Any additional revenues collected by an electrical corporation
6 resulting from the adoption of a tier 3 CARE rate shall, until the
7 utility's next periodic general rate case review of cost allocation
8 and rate design, be credited to reduce rates of residential ratepayers
9 not participating in the CARE program with usage above 130
10 percent of baseline quantities.

11 ~~(e) The commission shall work with electrical and gas~~
12 ~~corporations to establish penetration goals. The commission shall~~
13 ~~authorize recovery of all administrative costs associated with the~~
14 ~~implementation of the CARE program that the commission~~
15 ~~determines to be reasonable, through a balancing account~~
16 ~~mechanism. Administrative costs shall include, but are not limited~~
17 ~~to, outreach, marketing, regulatory compliance, certification and~~
18 ~~verification, billing, measurement and evaluation, and capital~~
19 ~~improvements and upgrades to communications and processing~~
20 ~~equipment.~~

21 ~~(d) The commission shall examine methods to improve CARE~~
22 ~~enrollment and participation. This examination shall include, but~~
23 ~~need not be limited to, comparing information from CARE and~~
24 ~~the Universal Lifeline Telephone Service (ULTS) to determine~~
25 ~~the most effective means of utilizing that information to increase~~
26 ~~CARE enrollment, automatic enrollment of ULTS customers who~~
27 ~~are eligible for the CARE program, customer privacy issues, and~~
28 ~~alternative mechanisms for outreach to potential enrollees. The~~
29 ~~commission shall ensure that a customer consents prior to~~
30 ~~enrollment. The commission shall consult with interested parties,~~
31 ~~including ULTS providers, to develop the best methods of~~
32 ~~informing ULTS customers about other available low-income~~
33 ~~programs, as well as the best mechanism for telephone providers~~
34 ~~to recover reasonable costs incurred pursuant to this section.~~

35 ~~(e) (1) The commission shall improve the CARE application~~
36 ~~process by cooperating with other entities and representatives of~~
37 ~~California government, including the California Health and Human~~
38 ~~Services Agency and the Secretary of California Health and Human~~
39 ~~Services, to ensure that all gas and electric customers eligible for~~
40 ~~public assistance programs in California that reside within the~~

1 service territory of an electrical corporation or gas corporation,
2 are enrolled in the CARE program. To the extent practicable, the
3 commission shall develop a CARE application process using the
4 existing ULTS application process as a model. The commission
5 shall work with public utility electrical and gas corporations and
6 the Low-Income Oversight Board established in Section 382.1 to
7 meet the low-income objectives in this section.

8 (2) The commission shall ensure that an electrical corporation
9 or gas corporation with a commission-approved program to provide
10 discounts based upon economic need in addition to the CARE
11 program, including a Family Electric Rate Assistance program,
12 utilize a single application form, to enable an applicant to
13 alternatively apply for any assistance program for which the
14 applicant may be eligible. It is the intent of the Legislature to allow
15 applicants under one program, that may not be eligible under that
16 program, but that may be eligible under an alternative assistance
17 program based upon economic need, to complete a single
18 application for any commission-approved assistance program
19 offered by the public utility.

20 (f) The commission's program of assistance to low-income
21 electric and gas customers shall, as soon as practicable, include
22 nonprofit group living facilities specified by the commission, if
23 the commission finds that the residents in these facilities
24 substantially meet the commission's low-income eligibility
25 requirements and there is a feasible process for certifying that the
26 assistance shall be used for the direct benefit, such as improved
27 quality of care or improved food service, of the low-income
28 residents in the facilities. The commission shall authorize utilities
29 to offer discounts to eligible facilities licensed or permitted by
30 appropriate state or local agencies, and to facilities, including
31 women's shelters, hospices, and homeless shelters, that may not
32 have a license or permit but provide other proof satisfactory to the
33 utility that they are eligible to participate in the program.

34 (g) It is the intent of the Legislature that the commission ensure
35 CARE program participants are afforded the lowest possible
36 electric and gas rates and, to the extent possible, are exempt from
37 additional surcharges attributable to the energy crisis of 2000-01.

38 (h) (1) In addition to existing assessments of eligibility, an
39 electrical corporation may require proof of income eligibility for
40 those CARE program participants whose electricity usage, in any

1 monthly or other billing period, exceeds 400 percent of baseline
2 usage. The authority of an electrical corporation to require proof
3 of income eligibility is not limited by the means by which the
4 CARE program participant enrolled in the program, including if
5 the participant was automatically enrolled in the CARE program
6 because of participation in a governmental assistance program. If
7 a CARE program participant's electricity usage exceeds 400
8 percent of baseline usage, the electrical corporation may require
9 the CARE program participant to participate in the Energy Savings
10 Assistance Program (ESAP), which includes a residential energy
11 assessment, in order to provide the CARE program participant
12 with information and assistance in reducing his or her energy usage.
13 Continued participation in the CARE program may be conditioned
14 upon the CARE program participant agreeing to participate in
15 ESAP within 45 days of notice being given by the electrical
16 corporation pursuant to this paragraph. The electrical corporation
17 may require the CARE program participant to notify the utility of
18 whether the residence is rented, and if so, a means by which to
19 contact the landlord, and the electrical corporation may share any
20 evaluation and recommendation relative to the residential structure
21 that is made as part of an energy assessment, with the landlord of
22 the CARE program participant. Requirements imposed pursuant
23 to this paragraph shall be consistent with procedures adopted by
24 the commission.

25 (2) If a CARE program participant's electricity usage exceeds
26 600 percent of baseline usage, the electrical corporation shall
27 require the CARE program participant to participate in ESAP,
28 which includes a residential energy assessment, in order to provide
29 the CARE program participant with information and assistance in
30 reducing his or her energy usage. Continued participation in the
31 CARE program shall be conditioned upon the CARE program
32 participant agreeing to participate in ESAP within 45 days of a
33 notice made by the electrical corporation pursuant to this paragraph.
34 The electrical corporation may require the CARE program
35 participant to notify the utility of whether the residence is rented,
36 and if so, a means by which to contact the landlord, and the
37 electrical corporation may share any evaluation and
38 recommendation relative to the residential structure that is made
39 as part of an energy assessment, with the landlord of the CARE
40 program participant. Following the completion of the energy

1 ~~assessment, if the CARE program participant's electricity usage~~
2 ~~continues to exceed 600 percent of baseline usage, the electrical~~
3 ~~corporation may remove the CARE program participant from the~~
4 ~~program if the removal is consistent with procedures adopted by~~
5 ~~the commission. Nothing in this paragraph shall prevent a CARE~~
6 ~~program participant with electricity usage exceeding 600 percent~~
7 ~~of baseline usage from participating in an appeals process with the~~
8 ~~electrical corporation to determine whether the participant's usage~~
9 ~~levels are legitimate.~~

10 ~~(3) A CARE program participant in a rental residence shall not~~
11 ~~be removed from the program in situations where the landlord is~~
12 ~~nonresponsive when contacted by the electrical corporation or~~
13 ~~does not provide for ESAP participation.~~