

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1298

Introduced by Assembly Member Gipson

February 27, 2015

An act to amend Section 63088.6 of the Government Code, relating to economic development; add and repeal Section 21168.6.9 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1298, as amended, Gipson. ~~Small business financial assistance.~~
Environmental quality: City of Carson: sports stadium.

(1) 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 Carson 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 make applicable certain procedures established by the Judicial Council 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 The bill would provide that the above provisions are inoperative and repealed on January 1 of the following year if the applicant fails to notify the lead agency before the release of the draft environmental impact report for public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.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Carson.

(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.

~~The Small Business Financial Assistance Act of 2013 requires a corporation, as defined, to implement its responsibilities under the act by, among other things, performing outreach to low-resource small businesses and microbusinesses, and collaborating with other organizations and lenders to identify and assist businesses that are creditworthy but face impediments to accessing conventional sources because of reasons, such as low equity, inadequate collateral, and unacceptable legal structure.~~

~~This bill would make nonsubstantive changes to these provisions.~~

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

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

1 SECTION 1. Section 21168.6.9 is added to the Public
2 Resources Code, to read:

3 21168.6.9. (a) For the purposes of this section, the following
4 definitions shall have the following meanings:

5 (1) “Applicant” means a private entity or its affiliates that
6 proposes the project and its successors, heirs, and assignees.

1 (2) “City” means the City of Carson.

2 (3) “Entertainment and sports center project” or “project”
3 means a project that substantially conforms to the project
4 description for the stadium project described in the “Carson
5 Football Stadium Initiative” filed by the residents of the city on
6 March 4, 2015.

7 (4) “Stadium” means the following components of the
8 entertainment and sports center project, from demolition and site
9 preparation through operation:

10 (A) A stadium facility located in the city that will become the
11 new home to a National Football League (NFL) team that does
12 both of the following:

13 (i) Receives Leadership in Energy and Environmental Design
14 (LEED) gold certification for new construction within one year of
15 completion of the first NFL season.

16 (ii) Minimizes operational traffic congestion and air quality
17 impacts through either or both project design and the
18 implementation of feasible mitigation measures that will do all of
19 the following:

20 (I) Achieve and maintain carbon neutrality or better by reducing
21 to at least zero net emissions of greenhouse gases, as defined in
22 subdivision (g) of Section 38505 of the Health and Safety Code,
23 from private automobile trips to the stadium as compared to the
24 baseline as verified by the South Coast Air Quality Management
25 District.

26 (II) Achieve a per attendee reduction in greenhouse gas
27 emissions from automobiles and light trucks compared to per
28 attendee greenhouse gas emissions associated with the existing
29 NFL stadium located in the County of San Diego during the
30 2012–13 NFL season that will exceed the carbon reduction targets
31 for 2020 and 2035 achieved in the sustainable communities
32 strategy prepared by the Southern California Association of
33 Governments for the Los Angeles region pursuant to Chapter 728
34 of the Statutes of 2008.

35 (III) Achieve and maintain vehicle-miles-traveled per attendee
36 for NFL events at the stadium that is no more than 85 percent of
37 the baseline.

38 (B) Associated public spaces.

39 (C) Facilities and infrastructure for ingress, egress, and use of
40 the stadium facility.

1 (b) Notwithstanding any other law, the procedures established
 2 pursuant to subdivision (d) of Section 21168.6.6 shall apply to an
 3 action or proceeding brought to attack, review, set aside, void, or
 4 annul the certification of the environmental impact report for the
 5 project or the granting of any project approvals.

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

8
 9 THIS EIR IS SUBJECT TO SECTION 21168.6.9 OF THE
 10 PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG
 11 OTHER THINGS, THAT THE LEAD AGENCY NEED NOT
 12 CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE
 13 OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT EIR.
 14 ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION
 15 OF THE EIR OR THE APPROVAL OF THE PROJECT
 16 DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES
 17 SET FORTH IN SECTION 21168.6.9 OF THE PUBLIC
 18 RESOURCES CODE. A COPY OF SECTION 21168.6.9 OF THE
 19 PUBLIC RESOURCES CODE IS INCLUDED IN THE APPENDIX
 20 TO THIS EIR.

21
 22 (2) The draft environmental impact report and final
 23 environmental impact report shall contain, as an appendix, the
 24 full text of this section.

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

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

34 (5) (A) Within five days following the close of the public
 35 comment period, a commenter on the draft environmental impact
 36 report may submit to the lead agency a written request for
 37 nonbinding mediation. The lead agency and applicant shall
 38 participate in nonbinding mediation with all commenters who
 39 submitted timely comments on the draft environmental impact
 40 report and who requested the mediation. Mediation conducted

1 *pursuant to this paragraph shall end no later than 35 days after*
2 *the close of the public comment period.*

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

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

10 *(D) A mediation session shall be conducted on each area of*
11 *dispute with the parties requesting mediation on that area of*
12 *dispute.*

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

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

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

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

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

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

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

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

4 *(d) Subdivision (f) of Section 21168.6.6 applies to the*
5 *preparation of the record of proceedings for the project.*

6 *(e) (1) As a condition of approval of the project subject to this*
7 *section, the lead agency shall require the applicant, with respect*
8 *to any measures specific to the operation of the stadium, to*
9 *implement those measures that will meet the requirements of this*
10 *division by the end of the first NFL regular season or February*
11 *of the first NFL regular season, whichever is later, during which*
12 *an NFL team has played at the stadium.*

13 *(2) To maximize public health, environmental, and employment*
14 *benefits, the lead agency shall place the highest priority on feasible*
15 *measures that will reduce greenhouse gas emissions on the stadium*
16 *site and in the neighboring communities of the stadium. Mitigation*
17 *measures that shall be considered and implemented, if feasible*
18 *and necessary, to achieve the standards set forth in subclauses (I)*
19 *to (III), inclusive, of clause (ii) of subparagraph (A) of paragraph*
20 *(4) of subdivision (a), including, but not limited to:*

21 *(A) Temporarily expanding the capacity of a public transit line,*
22 *as needed, to serve stadium events.*

23 *(B) Providing private charter buses or other similar services,*
24 *as needed, to serve stadium events.*

25 *(C) Paying its fair share of the cost of measures that expand*
26 *the capacity of a public fixed or light rail station that is used by*
27 *spectators attending stadium events.*

28 *(3) Offset credits shall be employed by the applicant only after*
29 *feasible local emission reduction measures have been implemented.*
30 *The applicant shall, to the extent feasible, place the highest priority*
31 *on the purchase of offset credits that produce emission reductions*
32 *within the city or the boundaries of the South Coast Air Quality*
33 *Management District.*

34 *(f) (1) (A) In granting relief in an action or proceeding brought*
35 *pursuant to this section, the court shall not stay or enjoin the*
36 *construction or operation of the stadium unless the court finds*
37 *either of the following:*

38 *(i) The continued construction or operation of the stadium*
39 *presents an imminent threat to the public health and safety.*

1 (ii) *The stadium site contains unforeseen important Native*
2 *American artifacts or unforeseen important historical,*
3 *archaeological, or ecological values that would be materially,*
4 *permanently, and adversely affected by the continued construction*
5 *or operation of the stadium unless the court stays or enjoins the*
6 *construction or operation of the stadium.*

7 (B) *If the court finds that clause (i) or (ii) of subparagraph (A)*
8 *is satisfied, the court shall only enjoin those specific activities*
9 *associated with the stadium that present an imminent threat to*
10 *public health and safety or that materially, permanently, and*
11 *adversely affect unforeseen important Native American artifacts*
12 *or unforeseen important historical, archaeological, or ecological*
13 *values.*

14 (2) *An action or proceeding to attack, set aside, void, or annul*
15 *a determination, finding, or decision of the lead agency granting*
16 *a subsequent project approval shall be subject to the requirements*
17 *of this chapter.*

18 (3) *Where an action or proceeding brought pursuant to this*
19 *section challenges aspects of the project other than the stadium*
20 *and those portions or specific project activities are severable from*
21 *the stadium, the court may enter an order as to aspects of the*
22 *project other than the stadium that includes one or more of the*
23 *remedies set forth in Section 21168.9.*

24 (g) *The provisions of this section are severable. If any provision*
25 *of this section or its application is held invalid, that invalidity shall*
26 *not affect other provisions or applications that can be given effect*
27 *without the invalid provision or application.*

28 (h) (1) *This section does not apply to the project and shall*
29 *become inoperative on the date of the release of the draft*
30 *environmental impact report and is repealed on January 1 of the*
31 *following year, if the applicant fails to notify the lead agency prior*
32 *to the release of the draft environmental impact report for public*
33 *comment that the applicant is electing to proceed pursuant to this*
34 *section.*

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

38 SEC. 2. *The Legislature finds and declares that a special law*
39 *is necessary and that a general law cannot be made applicable*
40 *within the meaning of Section 16 of Article IV of the California*

1 *Constitution because of the unique need for the development of an*
2 *entertainment and sports center project in the City of Carson in*
3 *an expeditious manner.*

4 *SEC. 3. No reimbursement is required by this act pursuant to*
5 *Section 6 of Article XIII B of the California Constitution because*
6 *a local agency or school district has the authority to levy service*
7 *charges, fees, or assessments sufficient to pay for the program or*
8 *level of service mandated by this act, within the meaning of Section*
9 *17556 of the Government Code.*

10 SECTION 1. ~~Section 63088.6 of the Government Code is~~
11 ~~amended to read:~~

12 ~~63088.6. To implement its responsibilities, a corporation shall~~
13 ~~undertake program activities that shall include, but not be limited~~
14 ~~to, all of the following:~~

15 ~~(a) Outreach to low-resource small businesses and~~
16 ~~microbusinesses. The corporations located in rural areas shall give~~
17 ~~priority to low-resource farmers and rural and agriculturally related~~
18 ~~businesses.~~

19 ~~(b) Collaboration with other organizations and lenders to identify~~
20 ~~and assist businesses that are creditworthy but face impediments~~
21 ~~to accessing conventional sources because of reasons, such as low~~
22 ~~equity, inadequate collateral, unacceptable legal structure, such as~~
23 ~~a co-op or nonprofit organization, management inadequacies, and~~
24 ~~language problems.~~

25 ~~(c) To the extent possible, bringing all possible financial~~
26 ~~resources to bear on the borrower's problems, including, but not~~
27 ~~limited to, low-interest lenders, business and industrial~~
28 ~~development corporations (BIDCOs), minority enterprise small~~
29 ~~business investment companies (MESBICs), and other financial~~
30 ~~institutions, financial companies, and grantors.~~

31 ~~(d) Technical assistance to businesses receiving loans or~~
32 ~~guarantees that will maximize the probability of loan repayment.~~

33 ~~(e) Ongoing strategies for increasing program resources through~~
34 ~~private sector involvement and nonstate funds.~~

35 ~~(f) A program for collecting and liquidating defaulted loans so~~
36 ~~that the corporations can qualify to become full-service lenders~~
37 ~~under the Small Business Administration. Corporations located in~~
38 ~~rural areas shall, in addition, try to qualify for lender status under~~
39 ~~the United States Department of Agriculture's Rural Development~~
40 ~~and Farm Services Agency.~~

- 1 ~~(g) Become an agent for other financial institutions and financial~~
2 ~~companies.~~
- 3 ~~(h) Become an agent for other state or federal governmental~~
4 ~~agencies that need a qualified financial service provider, including,~~
5 ~~but not limited to, the State Energy Resources Conservation and~~
6 ~~Development Commission.~~

O