

AMENDED IN ASSEMBLY JANUARY 4, 2016

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 ~~add and repeal Section 21168.6.9 of the Public Resources Code, relating to environmental quality; amend Section 65583 of the Government Code, relating to local planning.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1298, as amended, Gipson. ~~Environmental quality: City of Carson: sports stadium.~~ *Land use: local planning: housing elements.*

The Planning and Zoning Law requires a city or county to prepare and adopt a comprehensive, long-term general plan, and requires the general plan to include specified, mandatory elements, including a housing element. That law requires the housing element, in turn, to contain, among other items, an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.

This bill would revise references to redevelopment agencies within those housing element provisions to instead refer to housing successor agencies.

~~(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:~~

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

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

1 SECTION 1. Section 65583 of the Government Code is
2 amended to read:

1 65583. The housing element shall consist of an identification
2 and analysis of existing and projected housing needs and a
3 statement of goals, policies, quantified objectives, financial
4 resources, and scheduled programs for the preservation,
5 improvement, and development of housing. The housing element
6 shall identify adequate sites for housing, including rental housing,
7 factory-built housing, mobilehomes, and emergency shelters, and
8 shall make adequate provision for the existing and projected needs
9 of all economic segments of the community. The element shall
10 contain all of the following:

11 (a) An assessment of housing needs and an inventory of
12 resources and constraints relevant to the meeting of these needs.
13 The assessment and inventory shall include all of the following:

14 (1) An analysis of population and employment trends and
15 documentation of projections and a quantification of the locality's
16 existing and projected housing needs for all income levels,
17 including extremely low income households, as defined in
18 subdivision (b) of Section 50105 and Section 50106 of the Health
19 and Safety Code. These existing and projected needs shall include
20 the locality's share of the regional housing need in accordance
21 with Section 65584. Local agencies shall calculate the subset of
22 very low income households allotted under Section 65584 that
23 qualify as extremely low income households. The local agency
24 may either use available census data to calculate the percentage
25 of very low income households that qualify as extremely low
26 income households or presume that 50 percent of the very low
27 income households qualify as extremely low income households.
28 The number of extremely low income households and very low
29 income households shall equal the jurisdiction's allocation of very
30 low income households pursuant to Section 65584.

31 (2) An analysis and documentation of household characteristics,
32 including level of payment compared to ability to pay, housing
33 characteristics, including overcrowding, and housing stock
34 condition.

35 (3) An inventory of land suitable for residential development,
36 including vacant sites and sites having potential for redevelopment,
37 and an analysis of the relationship of zoning and public facilities
38 and services to these sites.

39 (4) (A) The identification of a zone or zones where emergency
40 shelters are allowed as a permitted use without a conditional use

1 or other discretionary permit. The identified zone or zones shall
2 include sufficient capacity to accommodate the need for emergency
3 shelter identified in paragraph (7), except that each local
4 government shall identify a zone or zones that can accommodate
5 at least one year-round emergency shelter. If the local government
6 cannot identify a zone or zones with sufficient capacity, the local
7 government shall include a program to amend its zoning ordinance
8 to meet the requirements of this paragraph within one year of the
9 adoption of the housing element. The local government may
10 identify additional zones where emergency shelters are permitted
11 with a conditional use permit. The local government shall also
12 demonstrate that existing or proposed permit processing,
13 development, and management standards are objective and
14 encourage and facilitate the development of, or conversion to,
15 emergency shelters. Emergency shelters may only be subject to
16 those development and management standards that apply to
17 residential or commercial development within the same zone except
18 that a local government may apply written, objective standards
19 that include all of the following:

20 (i) The maximum number of beds or persons permitted to be
21 served nightly by the facility.

22 (ii) Off-street parking based upon demonstrated need, provided
23 that the standards do not require more parking for emergency
24 shelters than for other residential or commercial uses within the
25 same zone.

26 (iii) The size and location of exterior and interior onsite waiting
27 and client intake areas.

28 (iv) The provision of onsite management.

29 (v) The proximity to other emergency shelters, provided that
30 emergency shelters are not required to be more than 300 feet apart.

31 (vi) The length of stay.

32 (vii) Lighting.

33 (viii) Security during hours that the emergency shelter is in
34 operation.

35 (B) The permit processing, development, and management
36 standards applied under this paragraph shall not be deemed to be
37 discretionary acts within the meaning of the California
38 Environmental Quality Act (Division 13 (commencing with Section
39 21000) of the Public Resources Code).

1 (C) A local government that can demonstrate to the satisfaction
2 of the department the existence of one or more emergency shelters
3 either within its jurisdiction or pursuant to a multijurisdictional
4 agreement that can accommodate that jurisdiction's need for
5 emergency shelter identified in paragraph (7) may comply with
6 the zoning requirements of subparagraph (A) by identifying a zone
7 or zones where new emergency shelters are allowed with a
8 conditional use permit.

9 (D) A local government with an existing ordinance or ordinances
10 that comply with this paragraph shall not be required to take
11 additional action to identify zones for emergency shelters. The
12 housing element must only describe how existing ordinances,
13 policies, and standards are consistent with ~~the requirements of this~~
14 paragraph.

15 (5) An analysis of potential and actual governmental constraints
16 upon the maintenance, improvement, or development of housing
17 for all income levels, including the types of housing identified in
18 paragraph (1) of subdivision (c), and for persons with disabilities
19 as identified in the analysis pursuant to paragraph (7), including
20 land use controls, building codes and their enforcement, site
21 improvements, fees and other exactions required of developers,
22 and local processing and permit procedures. The analysis shall
23 also demonstrate local efforts to remove governmental constraints
24 that hinder the locality from meeting its share of the regional
25 housing need in accordance with Section 65584 and from meeting
26 the need for housing for persons with disabilities, supportive
27 housing, transitional housing, and emergency shelters identified
28 pursuant to paragraph (7). Transitional housing and supportive
29 housing shall be considered a residential use of property, and shall
30 be subject only to those restrictions that apply to other residential
31 dwellings of the same type in the same zone.

32 (6) An analysis of potential and actual nongovernmental
33 constraints upon the maintenance, improvement, or development
34 of housing for all income levels, including the availability of
35 financing, the price of land, and the cost of construction.

36 (7) An analysis of any special housing needs, such as those of
37 the elderly; persons with disabilities, including a developmental
38 disability, as defined in Section 4512 of the Welfare and
39 Institutions Code; large families; farmworkers; families with female
40 heads of households; and families and persons in need of

1 emergency shelter. The need for emergency shelter shall be
 2 assessed based on annual and seasonal need. The need for
 3 emergency shelter may be reduced by the number of supportive
 4 housing units that are identified in an adopted 10-year plan to end
 5 chronic homelessness and that are either vacant or for which
 6 funding has been identified to allow construction during the
 7 planning period. An analysis of special housing needs by a city or
 8 county may include an analysis of the need for frequent user
 9 coordinated care housing services.

10 (8) An analysis of opportunities for energy conservation with
 11 respect to residential development. Cities and counties are
 12 encouraged to include weatherization and energy efficiency
 13 improvements as part of publicly subsidized housing rehabilitation
 14 projects. This may include energy efficiency measures that
 15 encompass the building envelope, its heating and cooling systems,
 16 and its electrical system.

17 (9) An analysis of existing assisted housing developments that
 18 are eligible to change from low-income housing uses during the
 19 next 10 years due to termination of subsidy contracts, mortgage
 20 prepayment, or expiration of restrictions on use. “Assisted housing
 21 developments,” for the purpose of this section, shall mean
 22 multifamily rental housing that receives governmental assistance
 23 under federal programs listed in subdivision (a) of Section
 24 65863.10, state and local multifamily revenue bond programs,
 25 local redevelopment *or housing successor agency* programs, the
 26 federal Community Development Block Grant Program, or local
 27 in-lieu fees. “Assisted housing developments” shall also include
 28 multifamily rental units that were developed pursuant to a local
 29 inclusionary housing program or used to qualify for a density bonus
 30 pursuant to Section 65916. *The analysis shall do all of the*
 31 *following:*

32 (A) ~~The analysis shall include~~ *Include* a listing of each
 33 development by project name and address, the type of
 34 governmental assistance received, the earliest possible date of
 35 change from low-income use, and the total number of elderly and
 36 nonelderly units that could be lost from the locality’s low-income
 37 housing stock in each year during the 10-year period. For purposes
 38 of state and federally funded projects, the analysis required by this
 39 subparagraph need only contain information available on a
 40 statewide basis.

1 (B) ~~The analysis shall estimate~~ *Estimate* the total cost of
2 producing new rental housing that is comparable in size and rent
3 levels, to replace the units that could change from low-income use,
4 and an estimated cost of preserving the assisted housing
5 developments. This cost analysis for replacement housing may be
6 done aggregately for each five-year period and does not have to
7 contain a project-by-project cost estimate.

8 (C) ~~The analysis shall identify~~ *Identify* public and private
9 nonprofit corporations known to the local government which have
10 legal and managerial capacity to acquire and manage these housing
11 developments.

12 (D) ~~The analysis shall identify~~ *Identify* and consider the use of
13 all federal, state, and local financing and subsidy programs which
14 can be used to preserve, for lower income households, the assisted
15 housing developments, identified in this paragraph, including, but
16 not limited to, federal Community Development Block Grant
17 Program funds, ~~tax increment funds received by a redevelopment~~
18 ~~agency of the community,~~ *funding available to a housing successor*
19 *agency,* and administrative fees received by a housing authority
20 operating within the community. In considering the use of these
21 financing and subsidy programs, the analysis shall identify the
22 amounts of funds under each available program which have not
23 been legally obligated for other purposes and which could be
24 available for use in preserving assisted housing developments.

25 (b) (1) A statement of the community's goals, quantified
26 objectives, and policies relative to the maintenance, preservation,
27 improvement, and development of housing.

28 (2) It is recognized that the total housing needs identified
29 pursuant to subdivision (a) may exceed available resources and
30 the community's ability to satisfy this need within the content of
31 the general plan requirements outlined in Article 5 (commencing
32 with Section 65300). Under these circumstances, the quantified
33 objectives need not be identical to the total housing needs. The
34 quantified objectives shall establish the maximum number of
35 housing units by income category, including extremely low income,
36 that can be constructed, rehabilitated, and conserved over a
37 five-year time period.

38 (c) A program ~~which~~ *that* sets forth a schedule of actions during
39 the planning period, each with a timeline for implementation,
40 which may recognize that certain programs are ongoing, such that

1 there will be beneficial impacts of the programs within the planning
2 period, that the local government is undertaking or intends to
3 undertake to implement the policies and achieve the goals and
4 objectives of the housing element through the administration of
5 land use and development controls, the provision of regulatory
6 concessions and incentives, the utilization of appropriate federal
7 and state financing and subsidy programs when available, and the
8 utilization of moneys in a low- and moderate-income housing fund
9 of an agency if the locality has established a redevelopment project
10 area pursuant to the Community Redevelopment Law (Division
11 24 (commencing with Section 33000) of the Health and Safety
12 Code). *a housing successor agency*. In order to make adequate
13 provision for the housing needs of all economic segments of the
14 community, the program shall do all of the following:

15 (1) Identify actions that will be taken to make sites available
16 during the planning period with appropriate zoning and
17 development standards and with services and facilities to
18 accommodate that portion of the city's or county's share of the
19 regional housing need for each income level that could not be
20 accommodated on sites identified in the inventory completed
21 pursuant to paragraph (3) of subdivision (a) without rezoning, and
22 to comply with the requirements of Section 65584.09. Sites shall
23 be identified as needed to facilitate and encourage the development
24 of a variety of types of housing for all income levels, including
25 multifamily rental housing, factory-built housing, mobilehomes,
26 housing for agricultural employees, supportive housing,
27 single-room occupancy units, emergency shelters, and transitional
28 housing.

29 (A) Where the inventory of sites, pursuant to paragraph (3) of
30 subdivision (a), does not identify adequate sites to accommodate
31 the need for groups of all household income levels pursuant to
32 Section 65584, rezoning of those sites, including adoption of
33 minimum density and development standards, for jurisdictions
34 with an eight-year housing element planning period pursuant to
35 Section 65588, shall be completed no later than three years after
36 either the date the housing element is adopted pursuant to
37 subdivision (f) of Section 65585 or the date that is 90 days after
38 receipt of comments from the department pursuant to subdivision
39 (b) of Section 65585, whichever is earlier, unless the deadline is
40 extended pursuant to subdivision (f). Notwithstanding the

1 foregoing, for a local government that fails to adopt a housing
2 element within 120 days of the statutory deadline in Section 65588
3 for adoption of the housing element, rezoning of those sites,
4 including adoption of minimum density and development standards,
5 shall be completed no later than three years and 120 days from the
6 statutory deadline in Section 65588 for adoption of the housing
7 element.

8 (B) Where the inventory of sites, pursuant to paragraph (3) of
9 subdivision (a), does not identify adequate sites to accommodate
10 the need for groups of all household income levels pursuant to
11 Section 65584, the program shall identify sites that can be
12 developed for housing within the planning period pursuant to
13 subdivision (h) of Section 65583.2. The identification of sites shall
14 include all components specified in subdivision (b) of Section
15 65583.2.

16 (C) Where the inventory of sites pursuant to paragraph (3) of
17 subdivision (a) does not identify adequate sites to accommodate
18 the need for farmworker housing, the program shall provide for
19 sufficient sites to meet the need with zoning that permits
20 farmworker housing use by right, including density and
21 development standards that could accommodate and facilitate the
22 feasibility of the development of farmworker housing for low- and
23 very low income households.

24 (2) Assist in the development of adequate housing to meet the
25 needs of extremely low, very low, low-, and moderate-income
26 households.

27 (3) Address and, where appropriate and legally possible, remove
28 governmental constraints to the maintenance, improvement, and
29 development of housing, including housing for all income levels
30 and housing for persons with disabilities. The program shall remove
31 constraints to, and provide reasonable accommodations for housing
32 designed for, intended for occupancy by, or with supportive
33 services for, persons with disabilities.

34 (4) Conserve and improve the condition of the existing
35 affordable housing stock, which may include addressing ways to
36 mitigate the loss of dwelling units demolished by public or private
37 action.

38 (5) Promote housing opportunities for all persons regardless of
39 race, religion, sex, marital status, ancestry, national origin, color,
40 familial status, or disability.

1 (6) Preserve for lower income households the assisted housing
2 developments identified pursuant to paragraph (9) of subdivision
3 (a). The program for preservation of the assisted housing
4 developments shall utilize, to the extent necessary, all available
5 federal, state, and local financing and subsidy programs identified
6 in paragraph (9) of subdivision (a), except where a community has
7 other urgent needs for which alternative funding sources are not
8 available. The program may include strategies that involve local
9 regulation and technical assistance.

10 (7) Include an identification of the agencies and officials
11 responsible for the implementation of the various actions and the
12 means by which consistency will be achieved with other general
13 plan elements and community goals.

14 (8) Include a diligent effort by the local government to achieve
15 public participation of all economic segments of the community
16 in the development of the housing element, and the program shall
17 describe this effort.

18 (d) (1) A local government may satisfy all or part of its
19 requirement to identify a zone or zones suitable for the
20 development of emergency shelters pursuant to paragraph (4) of
21 subdivision (a) by adopting and implementing a multijurisdictional
22 agreement, with a maximum of two other adjacent communities,
23 that requires the participating jurisdictions to develop at least one
24 year-round emergency shelter within two years of the beginning
25 of the planning period.

26 (2) The agreement shall allocate a portion of the new shelter
27 capacity to each jurisdiction as credit toward its emergency shelter
28 need, and each jurisdiction shall describe how the capacity was
29 allocated as part of its housing element.

30 (3) Each member jurisdiction of a multijurisdictional agreement
31 shall describe in its housing element all of the following:

32 (A) How the joint facility will meet the jurisdiction's emergency
33 shelter need.

34 (B) The jurisdiction's contribution to the facility for both the
35 development and ongoing operation and management of the
36 facility.

37 (C) The amount and source of the funding that the jurisdiction
38 contributes to the facility.

1 (4) The aggregate capacity claimed by the participating
2 jurisdictions in their housing elements shall not exceed the actual
3 capacity of the shelter.

4 (e) Except as otherwise provided in this article, amendments to
5 this article that alter the required content of a housing element
6 shall apply to both of the following:

7 (1) A housing element or housing element amendment prepared
8 pursuant to subdivision (e) of Section 65588 or Section 65584.02,
9 when a city, county, or city and county submits a draft to the
10 department for review pursuant to Section 65585 more than 90
11 days after the effective date of the amendment to this section.

12 (2) Any housing element or housing element amendment
13 prepared pursuant to subdivision (e) of Section 65588 or Section
14 65584.02, when the city, county, or city and county fails to submit
15 the first draft to the department before the due date specified in
16 Section 65588 or 65584.02.

17 (f) The deadline for completing required rezoning pursuant to
18 subparagraph (A) of paragraph (1) of subdivision (c) shall be
19 extended by one year if the local government has completed the
20 rezoning at densities sufficient to accommodate at least 75 percent
21 of the units for low- and very low income households and if the
22 legislative body at the conclusion of a public hearing determines,
23 based upon substantial evidence, that any of the following
24 circumstances exist:

25 (1) The local government has been unable to complete the
26 rezoning because of the action or inaction beyond the control of
27 the local government of any other state, federal, or local agency.

28 (2) The local government is unable to complete the rezoning
29 because of infrastructure deficiencies due to fiscal or regulatory
30 constraints.

31 (3) The local government must undertake a major revision to
32 its general plan in order to accommodate the housing-related
33 policies of a sustainable communities strategy or an alternative
34 planning strategy adopted pursuant to Section 65080.

35 The resolution and the findings shall be transmitted to the
36 department together with a detailed budget and schedule for
37 preparation and adoption of the required rezonings, including plans
38 for citizen participation and expected interim action. The schedule
39 shall provide for adoption of the required rezoning within one year
40 of the adoption of the resolution.

1 (g) (1) If a local government fails to complete the rezoning by
 2 the deadline provided in subparagraph (A) of paragraph (1) of
 3 subdivision (c), as it may be extended pursuant to subdivision (f),
 4 except as provided in paragraph (2), a local government ~~may~~ *shall*
 5 not disapprove a housing development project, nor require a
 6 conditional use permit, planned unit development permit, or other
 7 locally imposed discretionary permit, or impose a condition that
 8 would render the project infeasible, if the housing development
 9 project (A) is proposed to be located on a site required to be
 10 rezoned pursuant to the program action required by that
 11 subparagraph and (B) complies with applicable, objective general
 12 plan and zoning standards and criteria, including design review
 13 standards, described in the program action required by that
 14 subparagraph. Any subdivision of sites shall be subject to the
 15 Subdivision Map Act (Division 2 (commencing with Section
 16 66410)). Design review shall not constitute a “project” for purposes
 17 of Division 13 (commencing with Section 21000) of the Public
 18 Resources Code.

19 (2) A local government may disapprove a housing development
 20 described in paragraph (1) if it makes written findings supported
 21 by substantial evidence on the record that both of the following
 22 conditions exist:

23 (A) The housing development project would have a specific,
 24 adverse impact upon the public health or safety unless the project
 25 is disapproved or approved upon the condition that the project be
 26 developed at a lower density. As used in this paragraph, a “specific,
 27 adverse impact” means a significant, quantifiable, direct, and
 28 unavoidable impact, based on objective, identified written public
 29 health or safety standards, policies, or conditions as they existed
 30 on the date the application was deemed complete.

31 (B) There is no feasible method to satisfactorily mitigate or
 32 avoid the adverse impact identified pursuant to paragraph (1), other
 33 than the disapproval of the housing development project or the
 34 approval of the project upon the condition that it be developed at
 35 a lower density.

36 (3) The applicant or any interested person may bring an action
 37 to enforce this subdivision. If a court finds that the local agency
 38 disapproved a project or conditioned its approval in violation of
 39 this subdivision, the court shall issue an order or judgment
 40 compelling compliance within 60 days. The court shall retain

1 jurisdiction to ensure that its order or judgment is carried out. If
2 the court determines that its order or judgment has not been carried
3 out within 60 days, the court may issue further orders to ensure
4 that the purposes and policies of this subdivision are fulfilled. In
5 any such action, the city, county, or city and county shall bear the
6 burden of proof.

7 (4) For purposes of this subdivision, “housing development
8 project” means a project to construct residential units for which
9 the project developer provides sufficient legal commitments to the
10 appropriate local agency to ensure the continued availability and
11 use of at least 49 percent of the housing units for very low, low-,
12 and moderate-income households with an affordable housing cost
13 or affordable rent, as defined in Section 50052.5 or 50053 of the
14 Health and Safety Code, respectively, for the period required by
15 the applicable financing.

16 (h) An action to enforce the program actions of the housing
17 element shall be brought pursuant to Section 1085 of the Code of
18 Civil Procedure.

19 ~~SECTION 1. Section 21168.6.9 is added to the Public~~
20 ~~Resources Code, to read:~~

21 ~~21168.6.9. (a) For the purposes of this section, the following~~
22 ~~definitions shall have the following meanings:~~

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

25 ~~(2) “City” means the City of Carson.~~

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

30 ~~(4) “Stadium” means the following components of the~~
31 ~~entertainment and sports center project, from demolition and site~~
32 ~~preparation through operation:~~

33 ~~(A) A stadium facility located in the city that will become the~~
34 ~~new home to a National Football League (NFL) team that does~~
35 ~~both of the following:~~

36 ~~(i) Receives Leadership in Energy and Environmental Design~~
37 ~~(LEED) gold certification for new construction within one year of~~
38 ~~completion of the first NFL season.~~

39 ~~(ii) Minimizes operational traffic congestion and air quality~~
40 ~~impacts through either or both project design and the~~

1 implementation of feasible mitigation measures that will do all of
2 the following:

3 (I) ~~Achieve and maintain carbon neutrality or better by reducing~~
4 ~~to at least zero net emissions of greenhouse gases, as defined in~~
5 ~~subdivision (g) of Section 38505 of the Health and Safety Code,~~
6 ~~from private automobile trips to the stadium as compared to the~~
7 ~~baseline as verified by the South Coast Air Quality Management~~
8 ~~District.~~

9 (II) ~~Achieve a per attendee reduction in greenhouse gas~~
10 ~~emissions from automobiles and light trucks compared to per~~
11 ~~attendee greenhouse gas emissions associated with the existing~~
12 ~~NFL stadium located in the County of San Diego during the~~
13 ~~2012-13 NFL season that will exceed the carbon reduction targets~~
14 ~~for 2020 and 2035 achieved in the sustainable communities strategy~~
15 ~~prepared by the Southern California Association of Governments~~
16 ~~for the Los Angeles region pursuant to Chapter 728 of the Statutes~~
17 ~~of 2008.~~

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

21 (B) ~~Associated public spaces.~~

22 (C) ~~Facilities and infrastructure for ingress, egress, and use of~~
23 ~~the stadium facility.~~

24 (b) ~~Notwithstanding any other law, the procedures established~~
25 ~~pursuant to subdivision (d) of Section 21168.6.6 shall apply to an~~
26 ~~action or proceeding brought to attack, review, set aside, void, or~~
27 ~~annul the certification of the environmental impact report for the~~
28 ~~project or the granting of any project approvals.~~

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

31
32 ~~THIS EIR IS SUBJECT TO SECTION 21168.6.9 OF THE~~
33 ~~PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG~~
34 ~~OTHER THINGS, THAT THE LEAD AGENCY NEED NOT~~
35 ~~CONSIDER CERTAIN COMMENTS FILED AFTER THE~~
36 ~~CLOSE OF THE PUBLIC COMMENT PERIOD FOR THE~~
37 ~~DRAFT EIR. ANY JUDICIAL ACTION CHALLENGING THE~~
38 ~~CERTIFICATION OF THE EIR OR THE APPROVAL OF THE~~
39 ~~PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE~~
40 ~~PROCEDURES SET FORTH IN SECTION 21168.6.9 OF THE~~

1 PUBLIC RESOURCES CODE. A COPY OF SECTION 21168.6.9
2 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN THE
3 APPENDIX TO THIS EIR.

4

5 ~~(2) The draft environmental impact report and final~~
6 ~~environmental impact report shall contain, as an appendix, the full~~
7 ~~text of this section.~~

8 ~~(3) Within 10 days after the release of the draft environmental~~
9 ~~impact report, the lead agency shall conduct an informational~~
10 ~~workshop to inform the public of the key analyses and conclusions~~
11 ~~of that report.~~

12 ~~(4) Within 10 days before the close of the public comment~~
13 ~~period, the lead agency shall hold a public hearing to receive~~
14 ~~testimony on the draft environmental impact report. A transcript~~
15 ~~of the hearing shall be included as an appendix to the final~~
16 ~~environmental impact report.~~

17 ~~(5) (A) Within five days following the close of the public~~
18 ~~comment period, a commenter on the draft environmental impact~~
19 ~~report may submit to the lead agency a written request for~~
20 ~~nonbinding mediation. The lead agency and applicant shall~~
21 ~~participate in nonbinding mediation with all commenters who~~
22 ~~submitted timely comments on the draft environmental impact~~
23 ~~report and who requested the mediation. Mediation conducted~~
24 ~~pursuant to this paragraph shall end no later than 35 days after the~~
25 ~~close of the public comment period.~~

26 ~~(B) A request for mediation shall identify all areas of dispute~~
27 ~~raised in the comment submitted by the commenter that are to be~~
28 ~~mediated.~~

29 ~~(C) The lead agency shall select one or more mediators who~~
30 ~~shall be retired judges or recognized experts with at least five years~~
31 ~~experience in land use and environmental law, science, or~~
32 ~~mediation. The applicant shall bear the costs of mediation.~~

33 ~~(D) A mediation session shall be conducted on each area of~~
34 ~~dispute with the parties requesting mediation on that area of~~
35 ~~dispute.~~

36 ~~(E) The lead agency shall adopt, as a condition of approval, any~~
37 ~~measures agreed upon by the lead agency, the applicant, and the~~
38 ~~commenter who requested mediation. A commenter who agrees~~
39 ~~to a measure pursuant to this subparagraph shall not raise the issue~~
40 ~~addressed by that measure as a basis for an action or proceeding~~

1 challenging the lead agency's decision to certify the environmental
2 impact report or to grant one or more initial project approvals.

3 ~~(6) The lead agency need not consider written comments~~
4 ~~submitted after the close of the public comment period, unless~~
5 ~~those comments address any of the following:~~

6 ~~(A) New issues raised in the response to comments by the lead~~
7 ~~agency.~~

8 ~~(B) New information released by the public agency subsequent~~
9 ~~to the release of the draft environmental impact report, such as~~
10 ~~new information set forth or embodied in a staff report, proposed~~
11 ~~permit, proposed resolution, ordinance, or similar documents.~~

12 ~~(C) Changes made to the project after the close of the public~~
13 ~~comment period.~~

14 ~~(D) Proposed conditions for approval, mitigation measures, or~~
15 ~~proposed findings required by Section 21081 or a proposed~~
16 ~~reporting and monitoring program required by paragraph (1) of~~
17 ~~subdivision (a) of Section 21081.6, where the lead agency releases~~
18 ~~those documents subsequent to the release of the draft~~
19 ~~environmental impact report.~~

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

22 ~~(7) The lead agency shall file the notice required by subdivision~~
23 ~~(a) of Section 21152 within five days after the last initial project~~
24 ~~approval.~~

25 ~~(d) Subdivision (f) of Section 21168.6.6 applies to the~~
26 ~~preparation of the record of proceedings for the project.~~

27 ~~(e) (1) As a condition of approval of the project subject to this~~
28 ~~section, the lead agency shall require the applicant, with respect~~
29 ~~to any measures specific to the operation of the stadium, to~~
30 ~~implement those measures that will meet the requirements of this~~
31 ~~division by the end of the first NFL regular season or February of~~
32 ~~the first NFL regular season, whichever is later, during which an~~
33 ~~NFL team has played at the stadium.~~

34 ~~(2) To maximize public health, environmental, and employment~~
35 ~~benefits, the lead agency shall place the highest priority on feasible~~
36 ~~measures that will reduce greenhouse gas emissions on the stadium~~
37 ~~site and in the neighboring communities of the stadium. Mitigation~~
38 ~~measures that shall be considered and implemented, if feasible and~~
39 ~~necessary, to achieve the standards set forth in subclauses (I) to~~

1 ~~(H), inclusive, of clause (ii) of subparagraph (A) of paragraph (4)~~
2 ~~of subdivision (a), including, but not limited to:~~
3 ~~(A) Temporarily expanding the capacity of a public transit line,~~
4 ~~as needed, to serve stadium events.~~
5 ~~(B) Providing private charter buses or other similar services, as~~
6 ~~needed, to serve stadium events.~~
7 ~~(C) Paying its fair share of the cost of measures that expand the~~
8 ~~capacity of a public fixed or light rail station that is used by~~
9 ~~spectators attending stadium events.~~
10 ~~(3) Offset credits shall be employed by the applicant only after~~
11 ~~feasible local emission reduction measures have been implemented.~~
12 ~~The applicant shall, to the extent feasible, place the highest priority~~
13 ~~on the purchase of offset credits that produce emission reductions~~
14 ~~within the city or the boundaries of the South Coast Air Quality~~
15 ~~Management District.~~
16 ~~(f) (1) (A) In granting relief in an action or proceeding brought~~
17 ~~pursuant to this section, the court shall not stay or enjoin the~~
18 ~~construction or operation of the stadium unless the court finds~~
19 ~~either of the following:~~
20 ~~(i) The continued construction or operation of the stadium~~
21 ~~presents an imminent threat to the public health and safety.~~
22 ~~(ii) The stadium site contains unforeseen important Native~~
23 ~~American artifacts or unforeseen important historical,~~
24 ~~archaeological, or ecological values that would be materially,~~
25 ~~permanently, and adversely affected by the continued construction~~
26 ~~or operation of the stadium unless the court stays or enjoins the~~
27 ~~construction or operation of the stadium.~~
28 ~~(B) If the court finds that clause (i) or (ii) of subparagraph (A)~~
29 ~~is satisfied, the court shall only enjoin those specific activities~~
30 ~~associated with the stadium that present an imminent threat to~~
31 ~~public health and safety or that materially, permanently, and~~
32 ~~adversely affect unforeseen important Native American artifacts~~
33 ~~or unforeseen important historical, archaeological, or ecological~~
34 ~~values.~~
35 ~~(2) An action or proceeding to attack, set aside, void, or annul~~
36 ~~a determination, finding, or decision of the lead agency granting~~
37 ~~a subsequent project approval shall be subject to the requirements~~
38 ~~of this chapter.~~
39 ~~(3) Where an action or proceeding brought pursuant to this~~
40 ~~section challenges aspects of the project other than the stadium~~

1 and those portions or specific project activities are severable from
2 the stadium, the court may enter an order as to aspects of the project
3 other than the stadium that includes one or more of the remedies
4 set forth in Section 21168.9.

5 (g) The provisions of this section are severable. If any provision
6 of this section or its application is held invalid, that invalidity shall
7 not affect other provisions or applications that can be given effect
8 without the invalid provision or application.

9 (h) (1) This section does not apply to the project and shall
10 become inoperative on the date of the release of the draft
11 environmental impact report and is repealed on January 1 of the
12 following year, if the applicant fails to notify the lead agency prior
13 to the release of the draft environmental impact report for public
14 comment that the applicant is electing to proceed pursuant to this
15 section.

16 (2) The lead agency shall notify the Secretary of State if the
17 applicant fails to notify the lead agency of its election to proceed
18 pursuant to this section.

19 SEC. 2. The Legislature finds and declares that a special law
20 is necessary and that a general law cannot be made applicable
21 within the meaning of Section 16 of Article IV of the California
22 Constitution because of the unique need for the development of
23 an entertainment and sports center project in the City of Carson
24 in an expeditious manner.

25 SEC. 3. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 a local agency or school district has the authority to levy service
28 charges, fees, or assessments sufficient to pay for the program or
29 level of service mandated by this act, within the meaning of Section
30 17556 of the Government Code.