

## Assembly Bill No. 175

### CHAPTER 415

An act to amend Sections 21080.4, 21080.14, and 21153 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 21, 1997. Filed  
with Secretary of State September 22, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 175, Torlakson. Environmental quality: development projects: notification.

Existing law, the California Environmental Quality Act, requires a state or local 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, as defined.

The act exempts specified development projects of not more than 45 units.

This bill would apply that exemption to those projects of not more than 100 units, and make related changes.

The bill would require the Office of Planning and Research to ensure that affected agencies are notified regarding early consultation requested by a lead agency with respect to certain projects, and meetings that are requested with respect to certain of those projects.

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

SECTION 1. Section 21080.4 of the Public Resources Code is amended to read:

21080.4. (a) If a lead agency determines that an environmental impact report is required for a project, the lead agency shall immediately send notice of that determination by certified mail or an equivalent procedure to each responsible agency and to those public agencies having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California. Upon receipt of the notice, each responsible agency and each public agency having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California shall specify to the lead agency the scope and content of the environmental information that is germane to the statutory responsibilities of that responsible agency or public agency in connection with the proposed project and which, pursuant to the requirements of this division, shall be included in the environmental



impact report. The information shall be specified in writing and shall be communicated to the lead agency by certified mail or equivalent procedure not later than 30 days after the date of receipt of the notice of the lead agency's determination. The lead agency shall request similar guidance from appropriate federal agencies.

(b) To expedite the requirements of subdivision (a), the lead agency or any responsible agency or public agency having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California may request one or more meetings between representatives of those agencies for the purpose of assisting the lead agency to determine the scope and content of the environmental information that any of those responsible agencies or public agencies may require. In the case of a project described in subdivision (c) of Section 21065, the request may also be made by the project applicant. The meetings shall be convened by the lead agency as soon as possible, but not later than 30 days after the date that the meeting was requested.

(c) To expedite the requirements of subdivision (a), the Office of Planning and Research, upon request of a lead agency, shall assist the lead agency in determining the various responsible agencies, public agencies having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California, and any federal agencies that have responsibility for carrying out or approving a proposed project. In the case of a project described in subdivision (c) of Section 21065, such a request may also be made by the project applicant.

(d) If a state agency is a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California, subject to the requirements of subdivision (a), the Office of Planning and Research shall ensure that the information required by subdivision (a) is transmitted to the lead agency, and that affected agencies are notified regarding meetings to be held upon request pursuant to subdivision (b), within the required time period.

SEC. 2. Section 21080.14 of the Public Resources Code is amended to read:

21080.14. (a) Except as provided in subdivision (c), this division does not apply to any development project that consists of the construction, conversion, or use of residential housing consisting of not more than 100 units in an urbanized area that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, if the developer of the development project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least 15 years, or that is affordable to low- and moderate-income households, as defined in paragraph (2) of subdivision (h) of Section 65589.5 of the



Government Code, if the developer of the development project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for low- and moderate-income households at monthly housing costs as determined pursuant to paragraph (2) of subdivision (h) of Section 65589.5 of the Government Code, the developer provides sufficient legal commitments to ensure continued availability of units for the lower income households for 30 years as provided in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, and the development project meets all of the following requirements:

(1) The development project is consistent with the jurisdiction's general plan or any applicable specific plan or local coastal program as it existed on the date that the application was deemed complete.

(2) The development project is consistent with the zoning designation, as specified in the zoning ordinance as it existed on the date that the application was deemed complete, unless the zoning is inconsistent with the general plan because the local agency has not rezoned the property to bring it into conformity with the general plan.

(3) The project site is an infill site that has been previously developed for urban uses, or the immediately contiguous properties surrounding the project site are, or previously have been, developed for urban uses.

(4) The project site is not more than five acres in area.

(5) The project site can be adequately served by utilities.

(6) The project site has no value as a wildlife habitat.

(7) The project site is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

(8) The project site is subject to an assessment prepared by a California registered environmental assessor to determine the presence of hazardous contaminants on the site and the potential for exposure of site occupants to significant health hazards from nearby properties and activities. If hazardous contaminants on the site are found, the contaminants shall be removed or any significant effects of those contaminants shall be mitigated to a level of insignificance. If the potential for exposure to significant health hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance.

(9) The project will not involve the demolition of, or any substantial adverse change in, any district, landmark, object, building, structure, site, area, or place that is listed, or determined to be eligible for listing, in the California Register of Historical Resources.

(b) As used in subdivision (a), "urbanized area" means an area that has a population density of at least 1,000 persons per square mile.



(c) Notwithstanding subdivision (a), this division does apply to a development project described in subdivision (a) if there is a reasonable possibility that the development project would have a significant effect on the environment or the residents of the development project due to unusual circumstances or due to related or cumulative impacts of reasonably foreseeable projects in the vicinity of the development project.

SEC. 3. Section 21153 of the Public Resources Code is amended to read:

21153. (a) Prior to completing an environmental impact report, every local lead agency shall consult with, and obtain comments from, each responsible agency, any public agency that has jurisdiction by law with respect to the project, and any city or county that borders on a city or county within which the project is located unless otherwise designated annually by agreement between the local lead agency and the city or county, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the local lead agency shall, upon the request of the project applicant, provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The local lead agency may consult with persons identified by the project applicant that the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made written request to be consulted on the project. A request by the project applicant for early consultation shall be made not later than 30 days after the date that the determination required by Section 21080.1 was made with respect to the project. The local lead agency may charge and collect a fee from the project applicant in an amount that does not exceed the actual costs of the consultations.

(b) In the case of a project described in subdivision (a) of Section 21065, the lead agency may provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. At the request of the lead agency, the Office of Planning and Research shall ensure that each responsible agency, and any public agency that has jurisdiction by law with respect to the project, is notified regarding any early consultation.

(c) A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project that are within an area of expertise of the agency or that are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.

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