

Assembly Bill No. 1017

Passed the Assembly August 29, 2008

Chief Clerk of the Assembly

Passed the Senate August 27, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 21151 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1017, Ma. California Environmental Quality Act: appeal to local lead agency's elected decisionmaking body.

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

CEQA provides that if a nonelected decisionmaking body of a local lead agency certifies an EIR, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to CEQA, that certification, approval, or determination may be appealed to the agency's elected decisionmaking body, if any.

This bill would require the elected decisionmaking body to set the matter for a hearing within 90 days of the filing of the appeal and to make a decision on the appeal within 30 days of a hearing, which may be extended by the elected decisionmaking body to 45 days, following the conclusion of the hearing. The bill would also provide that the time period for filing specified actions or proceedings commences on the date that the elected decisionmaking body acts on the appeal. The bill would provide that a notice of an approval or a determination to carry out a project subject to CEQA, or a notice of a determination that a project is not subject to CEQA, would be invalid if the approval of the project is appealed. The bill, following final action by the elected decisionmaking body on the appeal, would require the local lead

agency to file a notice of an approval or determination to carry out the project and would authorize, if applicable, the local lead agency to file a notice of a determination that the project is not subject to CEQA. The bill would require that, for a city and county, an appeal to an elected decisionmaking body be filed within 30 days of the first discretionary approval of a project. By increasing the duties of a local government with respect to these provisions, the bill would impose a state-mandated local program.

(2) 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 people of the State of California do enact as follows:

SECTION 1. Section 21151 of the Public Resources Code is amended to read:

21151. (a) All local agencies shall prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project that they intend to carry out or approve that may have a significant effect on the environment. When a report is required by Section 65402 of the Government Code, the environmental impact report may be submitted as a part of that report.

(b) For purposes of this section, a significant effect on the environment shall be limited to substantial, or potentially substantial, adverse changes in physical conditions that exist within the area as defined in Section 21060.5.

(c) (1) If a nonelected decisionmaking body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decisionmaking body, if any.

(2) (A) Upon the filing of an appeal, the decisionmaking body shall set the matter for hearing. The hearing shall be held within 90 days after the date the appeal is filed pursuant to this

subdivision. The decisionmaking body shall make a decision on the appeal within 30 days following the conclusion of the hearing.

(B) The elected decisionmaking body may extend the period for acting on appeals pursuant to subparagraph (A) to a maximum of 45 days following the conclusion of a hearing.

(3) An action or proceeding, pursuant to Section 21167, to attack, review, set aside, void, or annul an act or decision of the local lead agency, for which an appeal has been filed pursuant to paragraph (1), shall be commenced within the applicable time period specified in that section after the date that the elected decisionmaking body acts on the appeal filed pursuant to that paragraph.

(4) (A) A notice of an approval or determination filed pursuant to subdivision (a) or (b) of Section 21152 is set aside, and is, therefore, null and void if the approval or determination of the nonelected decisionmaking body has been appealed pursuant to paragraph (1).

(B) Following final action by the elected decisionmaking body on an appeal filed pursuant to paragraph (1), the local lead agency shall file a notice of an approval or determination pursuant to subdivision (a) of Section 21152, or may file a notice of an approval or determination pursuant to subdivision (b) of Section 21152, if applicable.

SEC. 2. For a city and county, an appeal pursuant to subdivision (c) of Section 21151 of the Public Resources Code shall be filed within 30 days of the first discretionary approval of a project.

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

Approved _____, 2008

Governor