

AMENDED IN SENATE APRIL 30, 2009

AMENDED IN SENATE APRIL 23, 2009

SENATE BILL

No. 476

Introduced by Senator Correa

February 26, 2009

An act to amend Section 21177 of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

SB 476, as amended, Correa. Environment: California Environmental Quality Act: noncompliance allegations: public comment.

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 for a public review period for the public to review a draft EIR, proposed negative declaration, or proposed mitigated negative declaration. CEQA requires a lead agency to evaluate and respond to comments on a draft EIR, proposed negative declaration, or proposed mitigated negative declaration made during the public review period and authorizes a lead agency to evaluate and respond to comments made on a draft EIR when the comments are submitted after the public review period. CEQA requires an action or proceeding

alleging noncompliance with its requirements to be based on grounds that were presented to the public agency orally or in writing by any person, *and prohibits a person from maintaining an action or proceeding unless the person objected to the approval of the project orally or in writing*, during the public comment period provided under CEQA or prior to the close of the public hearing on the project before the issuance of the notice of determination.

This bill instead would prohibit ~~an action or proceeding from being brought based on alleged grounds of noncompliance with CEQA unless the alleged grounds for noncompliance were presented to the public agency orally or in writing by any person~~ *these actions or proceedings unless the oral or written presentation or objection occurs during the public comment period provided under CEQA or prior to the close of the public hearing on the project before the filing, rather than issuance, of the notice of determination.*

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

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

- 1 SECTION 1. Section 21177 of the Public Resources Code is
- 2 amended to read:
- 3 21177. (a) An action or proceeding shall not be brought
- 4 pursuant to Section 21167 unless the alleged grounds for
- 5 noncompliance with this division were presented to the public
- 6 agency orally or in writing by any person during the public
- 7 comment period provided by this division or prior to the close of
- 8 the public hearing on the project before the filing of the notice of
- 9 determination pursuant to Sections 21108 and 21152.
- 10 (b) A person shall not maintain an action or proceeding unless
- 11 that person objected to the approval of the project orally or in
- 12 writing during the public comment period provided by this division
- 13 or prior to the close of the public hearing on the project before the
- 14 ~~issuance of the notice of determination.~~ *filing of the notice of*
- 15 *determination pursuant to Sections 21108 and 21152.*
- 16 (c) This section does not preclude an organization formed after
- 17 the approval of a project from maintaining an action pursuant to
- 18 Section 21167 if a member of that organization has complied with
- 19 subdivision (b).
- 20 (d) This section does not apply to the Attorney General.

1 (e) This section does not apply to any alleged grounds for
2 noncompliance with this division for which there was no public
3 hearing or other opportunity for members of the public to raise
4 those objections orally or in writing prior to the approval of the
5 project, or if the public agency failed to give the notice required
6 by law.

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