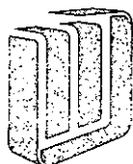


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**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

EXECUTIVE SECRETARY

8-12

March 31, 1992

To: Board of Directors (Executive Committee--Action)
(Special Committee on Legislation--Action)
(Water Problems Committee--Information)

From: General Manager

Subject: Amendment of Assembly Bill 3076 (Allen--Orange County)

Report

AB 3076 provides for a major "clean-up" and clarification of the California Environmental Quality Act (CEQA). Since CEQA was enacted in 1970, the Legislature has been responsive to suggestions that certain types of activities be exempted from CEQA when sound public policy considerations so suggest. Such an exemption was provided for in 1988 when the Water Code was amended to allow permittees or licensees holding appropriate rights water to change points of diversion, places of use, or purpose of use for "temporary" periods of less than one year due to a transfer or exchange of water or water rights. Section 1729 was added to the Water Code to exempt such activities from CEQA. Section 1727 required the State Water Resources Control Board (SWRCB) to determine that such temporary change would not unreasonably affect fish, wildlife, or other instream beneficial uses.

It would be desirable to amend AB 3076, or another suitable bill, to expand the current exemption from CEQA to include temporary transfers of water not subject to the permitting or licensing jurisdiction of the SWRCB. A mechanism would need to be included to provide assurance that such transfers do not unreasonably affect fish, wildlife and other instream beneficial uses.

Board Committee Assignments

This letter is referred to:

The Executive Committee for action because of its jurisdiction to study, advise and make recommendations with regard to legislation affecting the District, pursuant to Administrative Code Section 2417, subdivision (a);

The Special Committee on Legislation for action because of its jurisdiction to review and make recommendations based upon presentations of the General Manager regarding

March 31, 1992

proposals for state legislation and amendments thereto,
pursuant to Administrative Code Section 2581, subdivision (a);
and

The Water Problems Committee for information because
of its jurisdiction to study, advise and make recommendations
with regard to policies, sources and means of importing water
required by the District, pursuant to Administrative Code
Section 2481, subdivision (a).

Recommendation

**EXECUTIVE COMMITTEE AND SPECIAL COMMITTEE ON LEGISLATION FOR
ACTION.**

It is recommended that the General Manager be
authorized to seek an amendment to AB 3076, or other suitable
bill, to revise the existing statutory exemption from CEQA for
water transfers as proposed in this letter.


for Carl Boronkay

JO:gm
bdltr\AB3076.amd

Attachment

CALIFORNIA LEGISLATURE—1991-92 REGULAR SESSION

ASSEMBLY BILL**No. 3076**

Introduced by Assembly Member Allen

February 20, 1992

An act to amend Section 711.4 of the Fish and Game Code, to add Section 65302.2 to the Government Code, and to amend Sections 21002, 21003, 21003.1, 21005, 21061, 21061.1, 21065, 21068, 21080, 21080.2, 21080.3, 21080.4, 21080.5, 21080.7, 21080.18, 21081, 21082, 21082.1, 21083, 21090, 21091, 21092, 21092.1, 21092.3, 21094, 21100, 21104, 21104.2, 21151, 21151.2, 21151.5, 21152, 21153, 21166, 21166.1, 21167.4, 21167.6, 21167.8, 21168, 21168.5, and 21177 of, to add Sections 21002.2, 21006, 21080.095, 21082.5, 21097, 21165.5, and 21168.8 to, and to repeal Sections 21068.5, 21093, 21155, 21168.3, and 21172 of, the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 3076, as introduced, Allen. California Environmental Quality Act.

(1) Existing law requires the Department of Fish and Game to impose and collect a filing fee to defray the costs of managing and protecting fish and wildlife trust resources, including, but not limited to, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, and other prescribed activities for purposes of the California Environmental Quality Act. Only one fee is to be paid unless the project is tiered or phased. Notwithstanding provisions in that act, no project shall be operative, vested, or final until the filing fee is paid.

This bill would delete the provision that a project shall not be operative, vested, or final until the fee is paid. The bill would provide that tiering or phasing does not include

subsequent discretionary actions.

(2) Existing law requires a county general plan to contain a conservation element.

This bill would require counties and cities to establish by January 1, 1995, an implementation plan for the conservation element that identifies parcels comprising critical fish and wildlife habitats and ecosystems, as defined, that the county or city should acquire to ensure their preservation, thereby imposing a state-mandated local program. The bill would authorize the charging of fees to developers to be used to acquire those parcels as mitigation of significant environmental effects identified under the California Environmental Quality Act.

(3) The existing California Environmental Quality Act declares that it is intended to assist public agencies in identifying feasible alternatives or feasible mitigation measures.

This bill would declare that the act is intended to assist in identifying feasible alternatives and feasible mitigation measures. The bill would define or redefine terms, and specify what constitutes the identification of feasible alternatives.

The bill would require lead agencies to conduct a search among state and local agencies for long-range plans affecting environmental factors in order to identify and evaluate the feasibility of mitigation measures and alternatives to a project.

(4) The existing act declares that projects may be approved if specific economic, social, or other conditions make those alternatives or mitigation measures infeasible.

This bill would authorize the approval of projects when alternatives or mitigation measures are made infeasible by jurisdictional, legal, equitable, or technological factors.

(5) The existing act declares the legislative policy that a data base be developed to reduce delay and duplication in preparation of subsequent environmental impact reports.

This bill would, instead, declare the policy that the data base be relied upon in making subsequent or supplemental environmental determinations.

(6) The existing act declares the policy that information developed in environmental impact reports covering larger

geographical areas be used to contribute to specific environmental impact reports.

This bill would declare the policy that the information be incorporated by reference, rather than used, to contribute to specific environmental impact reports.

The bill would declare that it is the responsibility of persons and agencies involved in the environmental review process to conserve financial, governmental, physical, and social resources so that they may be applied toward mitigation of actual adverse environmental effects.

(7) The existing act declares the policy of the state regarding the expeditious reception and use by a lead agency, as defined, of comments from the public and agencies about a project.

This bill would declare the policy that responsible agencies comment in writing to the lead agency within 30 days of receipt of a specified notice.

(8) The existing act declares the policy of the state that noncompliance with the substantive requirements of the act may be a prejudicial abuse of discretion, as specified.

This bill would prohibit the invalidation of an action, inaction, or recommendation of a public body or official unless error was prejudicial and caused substantial injury, and a different result would have been probable without the error.

The bill would declare legislative intent regarding the consideration of benefits overriding unavoidable adverse environmental effects.

(9) The existing act provides certain exemptions to the requirement that an environmental impact report be prepared. The act requires a negative declaration to be prepared after an initial study is made if, among other things, there is no substantial evidence that the project may have a significant effect on the environment.

This bill would require the initial study to contain substantial evidence, and require that the determination that there is no substantial evidence that the project may have a significant effect on the environment be based on the initial study and any comments received.

The bill would require that an initial study be prepared by

the lead agency to document that a proposed project has already been addressed in a prior environmental impact report or negative declaration approved pursuant to the act.

The bill would prescribe procedures that are required to be followed if a lead agency determines that a project may be exempt from the act because an emergency exists.

The above requirements would impose a state-mandated local program.

The bill would limit the information required to be included in a project application, as specified.

The bill would exempt the placement of portable classrooms on an existing site, as specified, from the act.

(10) The existing act requires a lead agency to determine within a specified time period whether an environmental impact report is required in the case of activities involving the issuance of a lease, permit, license, certificate, or other entitlement for use by a public agency.

This bill would exempt the project from the act if the determination is not made within that period.

(11) The existing act requires the lead agency to notify other agencies if an environmental impact report is required for a project, and requires those agencies to respond, as specified.

This bill would deem the failure to respond is a statement that the agency has no comments to make. The bill would authorize the lead agency to consider late comments.

(12) The existing act authorizes a plan or other written document prepared for a regulatory program of a state agency, board, or commission to be used in lieu of an environmental impact report.

This bill would require the plan or document to be prepared only pursuant to specified provisions of the act, and would make related changes. The bill would also authorize a regulatory program of a local agency, board, or commission to be so used.

(13) The existing act provides that no environmental impact report or negative declaration is required for housing or neighborhood commercial construction if the project, among other specified conditions, is consistent with a specific plan or local coastal program.

This bill would not require any other environmental determination under those conditions, and would include other documents with which the project may be consistent.

(14) The existing act exempts from the act the closing of elementary and secondary schools, or the transfer of students, if the only physical changes involved are categorically exempt pursuant to guidelines prepared under the act.

This bill would exempt those closings or transfers without regard to that categorical exemption.

(15) The existing act prohibits a public agency from approving or carrying out a project for which an environmental impact report identifies significant effect unless the agency makes prescribed findings.

This bill would provide that new findings are not required if a subsequent or supplementary report is not required.

(16) The existing act requires an environmental impact report or negative declaration to be prepared by or under contract to a public agency, requires the lead agency to consult with and obtain comments from specified agencies and persons, and requires the agency to consider comments or other information which may be submitted in any form by any person.

This bill would require those comments or that information to be specific and substantive, would not require the agency to respond to comments that are so general as to require a speculative response, and would require agencies to limit comments to matters within their expertise.

The bill would delete requirements to obtain comments from, and consult with, specified persons.

The bill would also prescribe matters that are required to be addressed by the environmental impact report.

(17) Existing law requires the Office of Planning and Research to prepare guidelines for purposes of the act, including a criterion requiring a finding that a project may have a significant effect on the environment if its possible effects are cumulatively considerable, considering, among other things, the effects of probable future projects.

This bill would also apply that criterion to the effects of reasonably anticipated future projects. The bill would define terms and provide that the discussion in an environmental

impact report of cumulative impacts is not inadequate for failing to list in detail future projects whose scope is uncertain and which will be subject to their own environmental review.

(18) Existing law requires those guidelines to include criteria for public agencies to use in determining when a proposed project is of sufficient statewide, regional, or areawide environmental significance that it should be submitted to appropriate agencies for review and comment prior to completion of an environmental impact report or negative declaration.

This bill would require the submission of projects of statewide, regional, or areawide environmental significance, as defined, to appropriate state agencies for review and comment prior to completion of an environmental impact report or negative declaration, and require at least 3 project alternatives to be described in an environmental impact report, thereby imposing a state-mandated local program.

(19) The existing act deems all activities pursuant to or in furtherance of a redevelopment plan to be a single project.

This bill would provide that those activities are a single project only under specified conditions.

(20) The existing act provides that the public review period for a draft environmental impact report is 30 or 45 days, and for a negative declaration is 21 or 30 days, as specified.

This bill would limit the lead agency to consideration only of substantive comments raising significant environmental issues, or adding or changing proposed mitigation measures.

(21) The existing act requires public notice by a public agency that an environmental impact report or negative declaration is being prepared, as specified.

This bill would prescribe additional requisites of that notice and when, how, and by whom it is required to be given, thereby imposing a state-mandated local program. The bill would limit the circumstances under which further notice and consultation is required to occur when significant new information is added to an environmental impact report.

(22) The existing act requires that environmental impact reports be tiered, as defined, whenever feasible.

This bill would delete the provisions relative to tiering of

environmental impact reports.

(23) The existing act requires a state lead agency to consult with and obtain findings from the Department of Fish and Game in preparing an environmental impact report, as to the impact of the project on endangered or threatened species.

This bill would exempt from that requirement projects in an urbanized area, as defined.

The bill would require lead agencies to request long-range plans from state agencies, as specified, thereby imposing a state-mandated local program.

(24) The existing act prohibits the governing board of a school district from acquiring title to property for a new school site until a report of the planning commission is received.

This bill would prohibit that acquisition until receipt of that report, or 30 days after the planning commission has received a notice from the school district of its intent to make the acquisition, whichever is sooner. The bill would exempt placement of portable classrooms on an existing site from that prohibition.

(25) The existing act requires a local agency to establish time periods for completing and certifying environmental impact reports and negative declarations.

This bill would deem the project in compliance with the act if the time periods are not complied with, subject to mitigation measures, if those measures are in public circulation.

(26) The existing act requires a local agency to file specified notices of the approval of a project with the county clerk and requires the notices to be posted on a weekly basis.

This bill would require the notices to be posted within 24 hours of receipt, thereby imposing a state-mandated local program.

(27) The existing act requires the Secretary of the Resources Agency to develop an economic practices manual for use by local agencies.

This bill would delete that requirement.

(28) Existing law provides for the certification of an environmental impact report.

This bill would require that the certification be made by the

lead agency and not a department, division, or other unit within the lead agency, and would require certain findings to be made.

(29) The existing act prescribes conditions under which a subsequent or supplemental environmental impact report may be required.

This bill would prescribe additional criteria for that determination.

(30) Existing law requires the petitioner in a writ of mandate proceeding under the act to request a hearing within a specified period.

This bill would require the petitioner to document the request by filing it on all parties within 14 calendar days.

(31) Existing law requires the public agency, the petitioner, or the parties, as specified, to prepare, and the public agency to certify, the record of proceedings relating to the subject of an action under the act within 60 days after a request is filed, as specified.

This bill would authorize the court to impose sanctions, or to dismiss the action, as specified, for failure to comply with the time limit.

(32) Existing law requires the parties to litigation under the act to hold a settlement meeting according to prescribed procedures. The petitioner or plaintiff is required to serve on all parties a presettlement statement.

This bill would require the presettlement statement to include an offer of the position for which the petitioner or plaintiff would settle, and would authorize the dismissal of the action if the presettlement statement merely restates the causes of action in the petition or complaint.

(33) The existing act limits the inquiry in certain actions and proceedings under the act as to whether there was a prejudicial abuse of discretion, which is established if the agency has not proceeded according to law or the determination or decision is not supported by substantial evidence.

This bill would provide that there is an abuse of discretion if the determination or decision is not supported by substantial evidence in the record taken as a whole.

The bill would prohibit any act or omission of a public

agency from being set aside, voided, or annulled in an action or proceeding alleging that the act or omission does not comply with the act unless the record clearly shows that an objection was made by the petitioner during the public comment period.

(34) The bill would make related and conforming changes and other nonsubstantive technical changes.

(35) The bill would apply only to a project for which a specified determination has not been made on or before the operative date of the bill.

(36) 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, including the creation of a State Mandates Claim Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

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

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

1 SECTION 1. Section 711.4 of the Fish and Game Code
2 is amended to read:
3 711.4. (a) The department shall impose and collect a
4 filing fee in the amount prescribed in subdivision (d) to
5 defray the costs of managing and protecting fish and
6 wildlife trust resources, including, but not limited to,
7 consulting with other public agencies, reviewing
8 environmental documents, recommending mitigation
9 measures, developing monitoring requirements for
10 purposes of the California Environmental Quality Act
11 (Division 13 (commencing with Section 21000) of the
12 Public Resources Code), consulting pursuant to Section

1 21104.2 of the Public Resources Code, and other activities
2 protecting those trust resources identified in the review
3 pursuant to the California Environmental Quality Act.

4 (b) The filing fees shall be proportional to the cost
5 incurred by the department and shall be annually
6 reviewed and adjustments recommended to the
7 Legislature in an amount necessary to pay the full costs
8 of department programs as specified. Notwithstanding
9 adjustments made pursuant to statute, the department
10 shall annually adjust all filing fees in an amount calculated
11 pursuant to Section 713.

12 (c) All project applicants and public agencies subject
13 to the California Environmental Quality Act shall pay a
14 filing fee for each proposed project. For projects found by
15 the lead or certified regulatory program agency to be
16 categorically exempt, or found to be de minimis in their
17 effect on the environment, a filing fee shall be paid as
18 provided in subdivision (d). The filing fee shall be paid
19 at the time and in the amount specified in subdivision

20 (d). ~~Notwithstanding Section 21081 or 21080.5 of the~~
21 ~~Public Resources Code, no project shall be operative,~~
22 ~~vested, or final until the filing fees required pursuant to~~
23 ~~Section 711.4 are paid.~~

24 (d) The fees shall be in the following amounts:

25 (1) For a project which is statutorily or categorically
26 exempt from the California Environmental Quality Act,
27 including those certified regulatory programs which
28 incorporate statutory and categorical exemption, no
29 filing fee shall be paid.

30 (2) For a project for which a negative declaration is
31 prepared pursuant to subdivision (c) of Section 21080 of
32 the Public Resources Code, the filing fee is one thousand
33 two hundred fifty dollars (\$1,250). The filing fee shall be
34 paid to the county clerk at the time of filing a notice of
35 determination pursuant to Section 21152 of that code or
36 to the Office of Planning and Research at the time of
37 filing a notice of determination pursuant to Section 21108
38 of that code, as appropriate.

39 (3) For a project with an environmental impact report
40 prepared pursuant to the California Environmental

1 Quality Act, the filing fee is eight hundred fifty dollars
2 (\$850). The filing fee shall be paid to the county clerk at
3 the time of filing a notice of determination pursuant to
4 Section 21152 of the Public Resources Code or with the
5 Office of Planning and Research at the time of filing a
6 notice of determination pursuant to Section 21108 of that
7 code.

8 (4) For a project which is subject to a certified
9 regulatory program pursuant to Section 21080.5 of the
10 Public Resources Code, the filing fee is eight hundred
11 fifty dollars (\$850). The filing fee shall be paid to the
12 Secretary of the Resources Agency upon filing of the
13 notice of determination pursuant to Section 21080.5 of
14 that code.

15 (e) The county clerk may charge a documentary
16 handling fee of twenty-five dollars (\$25) per filing in
17 addition to the filing fee specified in subdivision (d).

18 (1) The county clerk of each county and the Office of
19 Planning and Research shall maintain a record of all
20 environmental documents received. The record shall
21 include, for each environmental document received, the
22 name of each applicant or lead agency, the document
23 filing number, and the filing date. The record shall be
24 made available for examination or audit by authorized
25 personnel of the department during normal business
26 hours.

27 (2) The filing fee imposed and collected pursuant to
28 subdivision (d) shall be remitted monthly to the
29 department within 30 days after the end of each month.
30 The amount of fees due shall be reported on forms
31 prescribed and provided by the department.

32 (3) The department shall assess a penalty of 10 percent
33 of the amount of fees due for any failure to remit the
34 amount payable when due. The department may pursue
35 collection of delinquent fees through the Controller's
36 office pursuant to Section 12419.5 of the Government
37 Code.

38 (f) Notwithstanding Section 12000, failure to pay the
39 fee under subdivision (d) is not a misdemeanor. All
40 unpaid fees are a statutory assessment subject to

1 collection under procedures as provided in the Revenue
2 and Taxation Code.

3 (g) Only one filing fee shall be paid for each project
4 unless the project is tiered or phased, and separate
5 environmental documents or review by the department
6 is required. *Tiering or phasing does not include*
7 *subsequent discretionary actions necessary to implement*
8 *the project.*

9 (h) This section does not preclude or modify the duty
10 of the department to recommend, require, permit, or
11 engage in mitigation activities pursuant to the California
12 Environmental Quality Act.

13 (i) The following programs of the following state
14 agencies are exempt from the payment of the filing fees
15 prescribed in paragraph (4) of subdivision (d):

16 (1) The regulatory activities of the Department of
17 Forestry and Fire Protection and the State Board of
18 Forestry relating to timber harvesting operations, as
19 certified pursuant to subdivision (a) of Section 15251 of
20 Title 14 of the California Code of Regulations, under both
21 of the following conditions:

22 (A) An initiative measure relating to timber
23 harvesting is adopted by the voters at the November 6,
24 1990, general election.

25 (B) Another statute, which becomes operative on or
26 before April 30, 1991, provides revenues to the
27 department from the persons engaged in timber
28 harvesting activities in an amount equal to the revenues
29 which would otherwise be derived in the absence of this
30 exemption, as determined by the department.

31 (2) The permit process of the California Coastal
32 Commission, as certified by the Secretary of the
33 Resources Agency, insofar as the permits are issued under
34 any of the following regulations:

35 (A) Subchapter 4 (commencing with Section 13136)
36 of Chapter 5 of Division 5.5 of Title 14 of the California
37 Code of Regulations.

38 (B) Subchapter 1 (commencing with Section 13200),
39 Subchapter 3 (commencing with Section 13213),
40 Subchapter 3.5 (commencing with Section 13214),

1 Subchapter 4 (commencing with Section 13215),
2 Subchapter 4.5 (commencing with Section 13238),
3 Subchapter 5 (commencing with Section 13240),
4 Subchapter 6 (commencing with Section 13250), and
5 Subchapter 8 (commencing with Section 13255) of
6 Chapter 6 of Division 5.5 of Title 14 of the California Code
7 of Regulations.

8 SEC. 2. Section 65302.2 is added to the Government
9 Code, to read:

10 65302.2. (a) By January 1, 1995, each county and city,
11 individually or in combination with other counties and
12 cities, shall establish an implementation plan for the
13 conservation element of the general plan that identifies
14 parcels that comprise critical fish and wildlife habitats
15 and ecosystems that the county or city should acquire by
16 the year 2020 to ensure their preservation. The
17 Department of Fish and Game shall cooperate with the
18 county or city in the identification of those habitats and
19 ecosystems. As used in this section, "critical fish and
20 wildlife habitats and ecosystems" are those specific or
21 cumulative aquatic or land areas or systems upon which
22 wildlife are dependent, and which provide support for a
23 given species, population, or community, including all
24 environmental features that comprise an area, such as air
25 quality, water quality, vegetation and soil characteristics,
26 and water supply, including both surface and
27 groundwater bank.

28 (b) (1) Those identified parcels shall constitute a
29 mitigation land bank.

30 (2) Fees may be charged to developers with respect to
31 projects in the county or city, and used to acquire parcels
32 in the mitigation land bank. Parcels in the mitigation land
33 bank may be owned by a public or private entity, and
34 parcels may be acquired by a public or private entity for
35 the purpose of inclusion in the mitigation land bank.

36 (3) The amount of those fees shall be based on the
37 extent to which the fee enables the acquisition of a parcel
38 for purposes of mitigation of significant environmental
39 effects, identified pursuant to the California
40 Environmental Quality Act (Division 13 (commencing

1 with Section 21000) of the Public Resources Code), of the
 2 project on which the fee is charged. Developers may,
 3 without regard to a specific project, purchase shares in
 4 the mitigation land bank for future use. The developer
 5 may elect to pay the fee in lieu of mitigation required
 6 under the California Environmental Quality Act.

7 (c) A county, city, or other governmental agency,
 8 acting individually or in combinations with other
 9 performing counties, cities, and governmental agencies,
 10 may establish the mitigation land bank on a regional
 11 basis, or may determine that, with respect to a particular
 12 project, mitigation is appropriate on a regional basis. In
 13 that event, fees collected with respect to projects in a
 14 county or city may be applied to the purchase of parcels
 15 in the regional land bank or on a regional basis which are
 16 not located in the county or city, the acquisition of which
 17 is in mitigation of the significant environmental effects of
 18 a project in the county or city.

19 SEC. 3. Section 21002 of the Public Resources Code is
 20 amended to read:

21 21002. (a) The Legislature finds and declares that it
 22 is the policy of the state that public agencies should not
 23 approve projects as proposed if there are feasible
 24 alternatives or feasible mitigation measures available
 25 which would substantially ~~lessen~~ reduce the significant
 26 environmental effects of ~~such~~ those projects, and that the
 27 procedures required by this division are intended to assist
 28 public agencies in systematically identifying both the
 29 significant effects of proposed projects and the feasible
 30 alternatives ~~or~~ and feasible mitigation measures which
 31 will avoid or substantially ~~lessen~~ ~~such~~ reduce those
 32 significant effects. The

33 (b) The Legislature further finds and declares that,
 34 in the event specific economic, social, *jurisdictional*,
 35 *legal, equitable, technological*, or other conditions make
 36 infeasible ~~such~~ those project alternatives or ~~such~~ those
 37 mitigation measures, individual projects may be
 38 approved in spite of one or more significant effects
 39 thereof. *Mitigation measures are measures that, when*
 40 *implemented, on or off the site of a project, and directly*

1 *or in kind, will actually result in reduction of the impact*
 2 *of the project on, or in replacement of, environmental*
 3 *resources.*

4 (c) *It is the policy of the state to encourage mitigation*
 5 *credit banking as a means of consolidating environmental*
 6 *resources. As used in this subdivision, "mitigation credit*
 7 *banking" means the establishment of credits through the*
 8 *payment of fees for the acquisition of parcels for, or the*
 9 *inclusion of parcels already owned in, a mitigation land*
 10 *bank as described in subdivision (a) of Section 65302.2 of*
 11 *the Government Code.*

12 SEC. 4. Section 21002.2 is added to the Public
 13 Resources Code, to read:

14 21002.2. The requirements of Sections 21002 and
 15 21002.1, with respect to the identification of feasible
 16 alternatives to a project, are met if the environmental
 17 impact report does all of the following:

18 (a) Considers a reasonable range of feasible
 19 alternatives to the project or to the location of the
 20 project, which mitigate or substantially lessen
 21 environmental impact. Alternative locations need not be
 22 considered as to projects which are not of statewide,
 23 regional, or areawide significance unless (1) mitigation
 24 measures have not been proposed that substantially
 25 lessen environmental impacts of the original project, (2)
 26 the alternative locations have less severe effects and the
 27 effects of the project are mitigated thereby, or (3) the
 28 project is a general plan amendment, local coastal plan,
 29 local coastal plan amendment, or general development
 30 plan for a state agency.

31 (b) Describes specifically which alternatives were
 32 found to be infeasible, and the reasons for eliminating
 33 those alternatives from detailed study on the basis of the
 34 administrative record. Alternatives may be found
 35 infeasible based on economic, equitable, legal, or
 36 planning continuity considerations. The basis for finding
 37 infeasibility need not be limited to those considerations.
 38 Findings in any comprehensive plan that has as its
 39 objective the delineation of land use or resource issues,
 40 including, but not limited to, an approved local coastal

1 plan, county or city general plan of the jurisdiction
2 making the determination, or other regional planning
3 document, or environmental impact statement that
4 substantially meets state requirements, are conclusive in
5 identifying and assessing the feasibility of project
6 alternatives.

7 (c) Discusses in detail the feasible alternatives.

8 (d) Evidence of the consideration of alternatives shall
9 be in writing, in the record, and available to the public
10 during the decisionmaking process. That evidence need
11 not be in the environmental impact report.

12 SEC. 5. Section 21003 of the Public Resources Code is
13 amended to read:

14 21003. The Legislature further finds and declares that
15 it is the policy of the state that:

16 (a) Local agencies integrate the requirements of this
17 division with planning and environmental review
18 procedures otherwise required by law or by local practice
19 so that all such procedures, to the maximum feasible
20 extent, run concurrently, rather than consecutively.

21 (b) Documents prepared pursuant to this division be
22 organized and written in such a manner that they will be
23 meaningful and useful to decisionmakers and to the
24 public.

25 (c) Environmental impact reports omit unnecessary
26 descriptions of projects and emphasize feasible
27 mitigation measures and alternatives to projects.

28 (d) Information developed in individual
29 environmental impact reports *and negative declarations*
30 be incorporated into a data base ~~which can be used to~~
31 ~~reduce delay and duplication and be relied upon by an~~
32 ~~agency in preparation the making of subsequent or and~~
33 ~~supplemental environmental impact reports~~
34 *determinations pursuant to Section 21166.*

35 (e) Information developed in environmental impact
36 reports covering larger geographical areas be ~~used~~
37 *incorporated by reference* to contribute to information
38 required in specific environmental impact reports.

39 (f) *It is the responsibility of all persons and agencies*
40 *involved in the environmental review process to carry*

1 *out the process in the most efficient, expeditious manner*
2 *in order to conserve the available financial,*
3 *governmental, physical, and social resources with the*
4 *objective that those resources are better applied toward*
5 *the mitigation of actual adverse environmental effects.*

6 SEC. 6. Section 21003.1 of the Public Resources Code
7 is amended to read:

8 21003.1. The Legislature further finds and declares it
9 is the policy of the state that:

10 (a) Comments from the public and public agencies on
11 the environmental effects of a project shall be made to
12 lead agencies as soon as possible in the review of
13 environmental documents, including, but not limited to,
14 draft environmental impact reports and negative
15 declarations, in order to allow the lead agencies to
16 identify, at the earliest possible time in the
17 environmental review process, potential significant
18 effects of a project, alternatives, and mitigation measures
19 which would substantially reduce the effects.

20 (b) Information relevant to the significant effects of a
21 project, alternatives, and mitigation measures which
22 substantially reduce the effects shall be made available as
23 soon as possible by lead agencies, other public agencies,
24 and interested persons and organizations.

25 (c) Nothing in subdivisions (a) or (b) reduces or
26 otherwise limits public review or comment periods
27 currently prescribed either by statute or in guidelines
28 prepared and adopted pursuant to Section 21083 for
29 environmental documents, including, but not limited to,
30 draft environmental impact reports and negative
31 declarations.

32 (d) *Responsible agencies shall comment in writing*
33 *within 30 days of receipt of a notice of preparation*
34 *pursuant to Section 21104. The lead agency may*
35 *disregard comments from a responsible agency provided*
36 *before the commencement or after the conclusion of the*
37 *notice of preparation period. The lead agency may*
38 *disregard verbal comments of a responsible agency made*
39 *in lieu of written comments during the notice of*
40 *preparation period.*

1 SEC. 7. Section 21005 of the Public Resources Code is
2 amended to read:

3 21005. (a) The Legislature finds and declares that it
4 is the policy of the state that noncompliance with the
5 information disclosure provisions of this division which
6 precludes relevant information from being presented to
7 the public agency, or with substantive requirements of
8 this division, may constitute a prejudicial abuse of
9 discretion within the meaning of Sections 21168 and
10 21168.5, regardless of whether a different outcome would
11 have resulted if the public agency had complied with
12 those provisions. *No action, inaction, or recommendation*
13 *by any legislative body, administrative body, or the*
14 *officials of any state or local agency under this division*
15 *shall be held void or invalid or be set aside by any court*
16 *on the ground of any error, irregularity, informality,*
17 *neglect, or omission (hereafter called "error") as to any*
18 *matter pertaining to notices, records, determinations,*
19 *publications, or any matters of procedure whatever,*
20 *unless after an examination of the entire case, including*
21 *evidence, the court shall be of the opinion that the error*
22 *complained of was prejudicial, and that by reason of the*
23 *error the party complaining or appealing sustained and*
24 *suffered substantial injury, and that a different result*
25 *would have been probable if the error had not occurred*
26 *or existed.*

27 (b) The Legislature further finds and declares that, in
28 undertaking judicial review pursuant to Sections 21168
29 and 21168.5, the courts shall continue to follow the
30 established principle that there is no presumption that
31 the error is prejudicial.

32 SEC. 8. Section 21006 is added to the Public Resources
33 Code, to read:

34 21006. It is the intent of this division that the
35 decisionmaker balance the benefits of a proposed project
36 against the unavoidable environmental risks in
37 determining whether to approve the project. Significant
38 public or environmental benefits that constitute
39 considerations overriding unavoidable adverse
40 environmental effects may include mitigation measures

1 in excess of adverse environmental impacts. Preexisting
2 zoning of a property on which a proposed project would
3 be located may be a consideration overriding the
4 environmental sensitivity of adjacent property to the
5 proposed use.

6 SEC. 9. Section 21061 of the Public Resources Code is
7 amended to read:

8 21061. (a) "Environmental impact report" means a
9 detailed statement of facts and analysis setting forth the
10 matters specified in Sections 21100 and 21100.1; provided
11 that information. Information or data which is relevant
12 to such a statement and is a matter of public record or
13 is generally available to the public need not be repeated
14 in its entirety in such the statement, but may be
15 specifically cited as the source for conclusions stated
16 therein; and provided further that such in the
17 environmental impact report. That information or data
18 shall be briefly described, that its relationship to the
19 environmental impact report shall be indicated, and that
20 the source thereof of the information or data shall be
21 reasonably available for inspection at a public place or
22 public building. An environmental impact report also
23 includes any comments which are obtained pursuant to
24 Section 21104 or 21153, or which are required to be
25 obtained pursuant to this division.

26 (b) An environmental impact report is an
27 informational document which, when its preparation is
28 required by this division, shall be considered by every
29 public agency prior to its approval or disapproval of a
30 project. The purpose of an environmental impact report
31 is to provide public agencies and the public in general
32 with detailed information about the effect which a
33 proposed project is likely to have on the environment; to
34 list ways in which the significant effects of such a
35 proposed project might be minimized; and to indicate
36 alternatives consistent with this division to such a
37 proposed project, sufficient to permit informed
38 decisionmaking and public participation.

39 (c) In order to facilitate the use of environmental
40 impact reports, public agencies shall require that such

1 the reports contain an index or table of contents and a
2 summary. Failure to include ~~such an~~ index, table of
3 contents, or summary shall not constitute a cause of
4 action pursuant to Section 21167.

5 SEC. 10. Section 21061.1 of the Public Resources Code
6 is amended to read:

7 21061.1. "Feasible" means capable of being
8 accomplished in a successful manner within a reasonable
9 period of time, taking into account economic,
10 environmental, *jurisdictional, equitable, legal, social,* and
11 technological factors. *An action may be considered*
12 *infeasible if it exposes the agency to legal challenge on a*
13 *state or federal constitutional basis.*

14 SEC. 11. Section 21065 of the Public Resources Code
15 is amended to read:

16 21065. (a) "Project" means any of the following:

17 ~~(a)~~

18 (1) Activities directly undertaken by any public
19 agency.

20 ~~(b)~~

21 (2) Activities undertaken by a person which are
22 supported, in whole or in part, through contracts, grants,
23 subsidies, loans, or other forms of assistance from one or
24 more public agencies.

25 ~~(c)~~

26 (3) Activities involving the issuance to a person of a
27 lease, permit, license, certificate, or other entitlement for
28 use by one or more public agencies.

29 (4) *An activity, program, or comprehensive plan*
30 *which is being approved and which may be subject to*
31 *several discretionary approvals by the lead agency and*
32 *other governmental agencies. The term "project" does*
33 *not mean each separate governmental approval.*

34 (b) *Except as otherwise provided in Section 21082, in*
35 *describing a project in an environmental impact report*
36 *pursuant to this division, the lead agency may choose to*
37 *describe several variations of the project in the topical*
38 *section of the report in order to more comprehensively*
39 *evaluate the most likely manifestations of the project.*

40 SEC. 12. Section 21068 of the Public Resources Code

1 is amended to read:

2 21068. "Significant effect on the environment" means
3 a substantial, or potentially substantial, adverse change in
4 the environment. *Economic and social impacts are not*
5 *included in this definition unless they result in significant*
6 *ascertainable physical environmental impacts.*

7 SEC. 13. Section 21068.5 of the Public Resources Code
8 is repealed.

9 21068.5. "Tiering" or "tier" means the coverage of
10 general matters and environmental effects in an
11 environmental impact report prepared for a policy, plan,
12 program or ordinance followed by narrower or
13 site-specific environmental impact reports which
14 incorporate by reference the discussion in any prior
15 environmental impact report and which concentrate on
16 the environmental effects which (a) are capable of being
17 mitigated, or (b) were not analyzed as significant effects
18 on the environment in the prior environmental impact
19 report.

20 SEC. 14. Section 21080 of the Public Resources Code
21 is amended to read:

22 21080. (a) Except as otherwise provided in this
23 division, this division ~~shall apply~~ *applies* to discretionary
24 projects proposed to be carried out or approved by public
25 agencies, including, but not limited to, the enactment
26 and amendment of zoning ordinances, the issuance of
27 zoning variances, the issuance of conditional use permits
28 and the approval of tentative subdivision maps (except
29 where the project is exempt from the preparation of an
30 environmental impact report pursuant to Section 21166).

31 (b) This division ~~shall~~ *does not apply to any of the*
32 following:

33 (1) Ministerial projects proposed to be carried out or
34 approved by public agencies.

35 (2) Emergency repairs to public service facilities
36 necessary to maintain service.

37 (3) Projects undertaken, carried out, or approved by a
38 public agency to maintain, repair, restore, demolish, or
39 replace property or facilities damaged or destroyed as a
40 result of a disaster in a disaster-stricken area in which a

1 state of emergency has been proclaimed by the Governor
2 pursuant to Chapter 7 (commencing with Section 8550)
3 of Division 1 of Title 2 of the Government Code.

4 (4) Specific actions necessary to prevent or mitigate
5 an emergency.

6 (5) Projects which a public agency rejects or
7 disapproves.

8 (6) Actions undertaken by a public agency relating to
9 any thermal powerplant site or facility, including the
10 expenditure, obligation, or encumbrance of funds by a
11 public agency for planning, engineering, or design
12 purposes, or for the conditional sale or purchase of
13 equipment, fuel, water (except groundwater), steam, or
14 power for a thermal powerplant, if the powerplant site
15 and related facility will be the subject of an
16 environmental impact report or negative declaration or
17 other document, ~~or documents~~, prepared pursuant to a
18 regulatory program certified pursuant to Section 21080.5,
19 which will be prepared by the State Energy Resources
20 Conservation and Development Commission, by the
21 Public Utilities Commission, or by the city or county in
22 which the powerplant and related facility would be
23 located; ~~provided that if~~ the environmental impact
24 report, negative declaration, or other document; ~~or~~
25 ~~documents~~, ~~shall include~~ *includes* the environmental
26 impact, if any, of the action described in this paragraph.

27 (7) Activities or approvals necessary to the bidding
28 for, hosting or staging of, and funding or carrying out of,
29 an Olympic games under the authority of the
30 International Olympic Committee, except for the
31 construction of facilities necessary for the Olympic
32 games.

33 (8) The establishment, modification, structuring,
34 restructuring, or approval of rates, tolls, fares, or other
35 charges by public agencies which the public agency finds
36 are for the purpose of (1) meeting operating expenses,
37 including employee wage rates and fringe benefits, (2)
38 purchasing or leasing supplies, equipment, or materials,
39 (3) meeting financial reserve needs and requirements,
40 (4) obtaining funds for capital projects necessary to

1 maintain service within existing service areas, or (5)
2 obtaining funds necessary to maintain those intracity
3 transfers as are authorized by city charter. The public
4 agency shall incorporate written findings in the record of
5 any proceeding in which an exemption under this
6 paragraph is claimed setting forth with specificity the
7 basis for the claim of exemption.

8 (9) Actions taken prior to January 1, 1982, by a public
9 agency to implement the transition from the property
10 taxation system in effect prior to June 1, 1978, to the
11 system provided for by Article XIII A of the California
12 Constitution. Those actions shall be limited to projects
13 defined in subdivision (a) or (b) of Section 21065 which
14 initiate or increase fees, rates, or charges charged for any
15 existing public service, program, or activity; reduce or
16 eliminate the availability of an existing public service,
17 program, or activity; close publicly owned or operated
18 facilities; or reduce or eliminate the availability of an
19 existing publicly owned transit service, program, or
20 activity.

21 (10) All classes of projects designated pursuant to
22 Section 21084.

23 (11) A project for the institution or increase of
24 passenger or commuter services on rail or highway
25 rights-of-way already in use, including modernization of
26 existing stations and parking facilities.

27 (12) A project for the institution or increase of
28 passenger or commuter service on high-occupancy
29 vehicle lanes already in use, including the modernization
30 of existing stations and parking facilities.

31 (13) Facility extensions not to exceed four miles in
32 length which are required for transfer of passengers from
33 or to exclusive public mass transit guideway or busway
34 public transit services.

35 (14) A project for the development of a regional
36 transportation improvement program or the state
37 transportation improvement program.

38 (15) Any project or portion thereof located in another
39 state which will be subject to environmental impact
40 review pursuant to the National Environmental Policy

1 Act of 1969 or similar state laws of that state. Any
2 emissions or discharges that would have a significant
3 effect on the environment in the State of California are
4 subject to this division.

5 (16) Projects undertaken by a local agency to
6 implement a rule or regulation imposed by a state
7 agency, board, or commission under a certified
8 regulatory program pursuant to Section 21080.5. Any
9 site-specific effect of the project which was not analyzed
10 as a significant effect in the plan or other written
11 documentation required by Section 21080.5 is subject to
12 this division.

13 (17) *The placement of portable classrooms on an*
14 *existing schoolsite where the cumulative total of the*
15 *student capacity of portable classrooms does not exceed*
16 *50 percent of the school's design capacity.*

17 (c) If a lead agency determines that a proposed
18 project, not otherwise exempt from the provisions of this
19 division, does not have a significant effect on the
20 environment, the lead agency shall adopt a negative
21 declaration to that effect. The negative declaration shall
22 be prepared for the proposed project in either of the
23 following circumstances:

24 ~~(1) There is no substantial evidence before the agency~~
25 ~~that the project may have a significant effect on the~~
26 ~~environment.~~

27 ~~(2) An if (1) an initial study by the lead agency,~~
28 ~~containing substantial evidence, identifies potentially~~
29 ~~significant effects on the environment, but ~~(i)~~ revisions~~
30 ~~in the project plans or proposals made by or agreed to by~~
31 ~~the applicant before the proposed negative declaration is~~
32 ~~released for public review would avoid the effects or~~
33 ~~mitigate the effects to a point where clearly no significant~~
34 ~~effects would occur, and ~~(ii)~~ or (2), based on the initial~~
35 ~~study and any comments received, there is no substantial~~
36 ~~evidence before the agency that the project, as revised,~~
37 ~~may would not have a significant effect on the~~
38 ~~environment.~~

39 (d) *If a lead agency determines that a proposed*
40 *project, not otherwise exempt from this division, has*

1 *already been addressed in a prior environmental impact*
2 *report or negative declaration approved pursuant to this*
3 *division, and if the prior compliance conforms to the*
4 *standards in Section 21166, the lead agency shall prepare*
5 *an initial study to document the conformance with*
6 *Section 21166. A statement of the lead agency's*
7 *determination shall be included in any notices or public*
8 *proceedings with respect to the underlying project. The*
9 *initial study may analyze the conformance with Section*
10 *21166 by reviewing the prior environmental impact*
11 *report section-by-section instead of using the checklist in*
12 *Appendix I of Section 15063 of Title 14 of the California*
13 *Code of Regulations.*

14 (e) *If a lead agency determines that a project may be*
15 *exempt from this division under paragraph (2), (3), or*
16 *(4) of subdivision (b) because the potential for an*
17 *emergency exists, it shall immediately identify*
18 *alternatives and mitigation measures which can assist in*
19 *meeting the emergency. At the time the agency makes*
20 *a finding that an actual emergency exists, the agency may*
21 *take any further action with respect to that emergency,*
22 *including making a determination that the project as*
23 *proposed, or any alternative, is exempt from this division.*
24 *The agency shall make findings as to whether those*
25 *alternatives and mitigation measures have been adopted.*

26 SEC. 15. Section 21080.095 is added to the Public
27 Resources Code, to read:

28 21080.095. (a) The information required to complete
29 the application for a project shall be limited to an
30 accurate and complete description of the nature of the
31 proposed project.

32 (b) The determination by a lead agency that a project
33 application is complete shall not be delayed on the basis
34 of the absence of information if that information would
35 more reasonably be included in the environmental
36 impact report than in the application, or if that
37 information would be likely to be included in that report,
38 including, but not limited to, information about the
39 environmental setting or potential impacts of the
40 proposed project.

1 SEC. 16. Section 21080.2 of the Public Resources Code
2 is amended to read:

3 21080.2. In the case of a project described in
4 subdivision (c) of Section 21065, the determination
5 required by Section 21080.1 shall be made within 30 days
6 from the date on which an application for a project has
7 been received and accepted as complete by the lead
8 agency. This period may be extended 15 days upon the
9 consent of the lead agency and the project applicant. *If*
10 *no determination is made by the lead agency within the*
11 *specified time period, the project shall be exempt from*
12 *this division.*

13 SEC. 17. Section 21080.3 of the Public Resources Code
14 is amended to read:

15 21080.3. (a) Prior to determining whether a negative
16 declaration or environmental impact report is required
17 for a project, the lead agency shall consult *informally*
18 with all responsible agencies and with any other public
19 agency which has jurisdiction by law over natural
20 resources affected by the project which are held in trust
21 for the people of the State of California.

22 (b) In order to expedite the requirements of
23 subdivision (a), the Office of Planning and Research,
24 upon request of a lead agency, shall assist ~~such~~ the lead
25 agency in determining the various responsible agencies
26 for a proposed project. In the case of a project described
27 in subdivision (c) of Section 21065, such a request may
28 also be made by the project applicant. *The*
29 *determination of the office as to agencies responsible for*
30 *a proposed project is conclusive, and no action pursuant*
31 *to this division shall be invalid for the failure to consult*
32 *pursuant to this section with any agency not identified by*
33 *the office.*

34 SEC. 18. Section 21080.4 of the Public Resources Code
35 is amended to read:

36 21080.4. (a) If a lead agency determines that an
37 environmental impact report is required for a project,
38 the lead agency shall immediately send notice of that
39 determination by certified mail or an equivalent
40 procedure to each responsible agency and to those public

1 agencies having jurisdiction by law over natural
2 resources affected by the project which are held in trust
3 for the people of the State of California. Upon receipt of
4 the notice, each responsible agency shall specify to the
5 lead agency the scope and content of the environmental
6 information which is germane to that responsible
7 agency's statutory responsibilities in connection with the
8 proposed project and which, pursuant to the
9 requirements of this division, shall be included in the
10 environmental impact report. The information shall be
11 specified in writing and shall be communicated to the
12 lead agency by certified mail or equivalent procedure not
13 later than 30 days after receipt of the notice of the lead
14 agency's determination. The lead agency shall request
15 similar guidance from appropriate federal agencies. *Any*
16 *failure of those agencies to respond during the time*
17 *period specified shall be deemed as a statement by the*
18 *agency that it has no comments to make. Late comments*
19 *may be considered in any manner determined by the*
20 *lead agency, but need not be reflected in the*
21 *environmental impact report. Late comments shall not*
22 *constitute a basis for litigation regarding the inadequacy*
23 *of an environmental document if the comments have*
24 *been considered in any form by the lead agency prior to*
25 *the agency's final decision on the project.*

26 (b) In order to expedite *meeting* the requirements of
27 subdivision (a), the lead agency or any responsible
28 agency or public agency having jurisdiction by law over
29 natural resources affected by the project which are held
30 in trust for the people of the State of California may
31 request one or more meetings between representatives
32 of those agencies for the purpose of assisting the lead
33 agency to determine the scope and content of the
34 environmental information any responsible agency may
35 require. In the case of a project described in subdivision
36 (c) of Section 21065, the request may also be made by the
37 project applicant. The meetings shall be convened by the
38 lead agency as soon as possible, but no later than 30 days,
39 after they have been requested.

40 (c) In order to expedite *meeting* the requirements of

1 subdivision (a), the Office of Planning and Research,
2 upon request of a lead agency, shall assist the lead agency
3 in determining the various responsible agencies and any
4 federal agencies which have responsibility for carrying
5 out or approving a proposed project. In the case of a
6 project described in subdivision (c) of Section 21065, such
7 a request may also be made by the project applicant.

8 (d) If a state agency is a responsible agency or a public
9 agency having jurisdiction by law over natural resources
10 affected by the project which are held in trust for the
11 people of the State of California, subject to the
12 requirements of subdivision (a), the Office of Planning
13 and Research shall ensure that the information required
14 by subdivision (a) is transmitted to the lead agency
15 within the required time period.

16 SEC. 19. Section 21080.5 of the Public Resources Code
17 is amended to read:

18 21080.5. (a) When the regulatory program of a state
19 or local agency, board, or commission requires a plan or
20 other written documentation, containing environmental
21 information and complying with the requirements of
22 paragraph (3) of subdivision (d), to be submitted in
23 support of any of the activities listed in subdivision (b),
24 the plan or other written documentation may be
25 submitted in lieu of the environmental impact report
26 required by this division; ~~provided, that if~~ the Secretary
27 of the Resources Agency has certified the regulatory
28 program pursuant to this section.

29 (b) This section ~~shall apply~~ *applies* only to regulatory
30 programs or portions thereof which involve either of the
31 following:

32 (1) The issuance to a person of a lease, permit, license,
33 certificate, or other entitlement for use.

34 (2) The adoption or approval of standards, rules,
35 regulations, or plans for use in the regulatory program.

36 (c) A regulatory program certified pursuant to this
37 section is exempt from ~~the provisions of~~ Chapter 3
38 (commencing with Section 21100) and Chapter 4
39 (commencing with Section 21150) and Section 21167 ~~and~~
40 ~~from Section 15111 of Title 14 of the California Code of~~

1 *Regulations.*

2 (d) In order to qualify for certification pursuant to this
3 section, a regulatory program shall require utilization of
4 an interdisciplinary approach which will ensure the
5 integrated use of the natural and social sciences in
6 decisionmaking and shall meet all of the following
7 criteria:

8 (1) The enabling legislation of the regulatory program
9 ~~shall~~ *does both of the following:*

10 ~~(i)~~

11 (A) Include protection of the environment among its
12 principal purposes.

13 ~~(ii)~~

14 (B) Contain authority for the administering agency to
15 ~~promulgate~~ *adopt* rules and regulations for the
16 protection of the environment, guided by standards set
17 forth in the enabling legislation *or by generally accepted*
18 *biological principles and fish and wildlife management*
19 *techniques that have been subjected to peer review. The*
20 *guidelines shall set forth examples of those principles and*
21 *techniques.*

22 (2) The rules and regulations adopted by the
23 administering agency ~~shall~~ *do all of the following:*

24 ~~(i)~~

25 (A) Require that an activity will not be approved or
26 adopted as proposed if there are feasible alternatives or
27 feasible mitigation measures available which would
28 substantially lessen any significant adverse impact which
29 the activity may have on the environment.

30 ~~(ii)~~

31 (B) Include guidelines for the orderly evaluation of
32 proposed activities and the preparation of the plan or
33 other written documentation in a manner consistent with
34 the environmental protection purposes of the regulatory
35 program.

36 ~~(iii)~~

37 (C) Require the administering agency to ~~consult with~~
38 *notify in writing* all public agencies which have
39 jurisdiction, by law, with respect to the proposed
40 activity, *and grant those agencies an opportunity to*

1 consult with the administering agency. The
2 administering agency shall consult with any public
3 agency which has jurisdiction by law with respect to the
4 proposed activity, if the public agency requests
5 consultation within 15 days of the date of the
6 administering agency notice.

7 ~~(iv)~~

8 (D) Require that final action on the proposed activity
9 include the written responses of the issuing authority to
10 significant environmental points raised during the
11 evaluation process.

12 ~~(v)~~

13 (E) Require the filing of a notice of the decision by
14 the administering agency on the proposed activity with
15 the Secretary of the Resources Agency. Those notices
16 shall be available for public inspection, and a list of the
17 notices shall be posted on a weekly basis in the Office of
18 the Resources Agency. Each list shall remain posted for
19 a period of 30 days.

20 ~~(vi)~~

21 (F) Require notice of the filing of the plan or other
22 written documentation to be made to the public and to
23 any person who requests, in writing, notification. The
24 notification shall be made in a manner that will provide
25 the public or any person requesting notification with
26 sufficient time to review and comment on the filing.

27 (3) The plan or other written documentation required
28 by the regulatory program shall:

29 ~~(i)~~

30 (A) Include a description of the proposed activity
31 with alternatives to the activity, and mitigation measures
32 to minimize any significant adverse environmental
33 impact.

34 ~~(ii)~~

35 (B) Be available for a reasonable time for review and
36 comment by other public agencies and the general
37 public.

38 (4) The plan or other written documentation required
39 by this section shall be prepared in accordance with this
40 section only and shall not be subject to any other statutes

1 or regulations, including, but not limited to, Section 15111
2 of Title 14 of the California Code of Regulations or the
3 specifications and standards applied to environmental
4 impact reports.

5 (e) The Secretary of the Resources Agency shall
6 certify a regulatory program which the secretary
7 determines meets all the qualifications for certification
8 set forth in this section, and withdraw certification on
9 determination that the regulatory program has been
10 altered so that it no longer meets those qualifications.
11 Certification and withdrawal of certification shall occur
12 only after compliance with Chapter 3.5 (commencing
13 with Section 11340) of Part 1 of Division 3 of Title 2 of the
14 Government Code.

15 In determining whether or not a regulatory program
16 meets the qualifications for certification set forth in this
17 section, the inquiry of the ~~Secretary of the Resources~~
18 ~~Agency secretary~~ shall extend only to the question of
19 whether the regulatory program meets the generic
20 requirements of subdivision (d). The inquiry shall not
21 extend to individual decisions to be reached under the
22 regulatory program, including the nature of specific
23 alternatives or mitigation measures which might be
24 proposed to lessen any significant adverse environmental
25 effects of the activity.

26 In the event that ~~If the Secretary of the Resources~~
27 ~~Agency secretary~~ determines that the regulatory
28 program submitted for certification does not meet the
29 qualifications for certification set forth in this section, the
30 secretary shall adopt findings setting forth the reasons for
31 the determination.

32 (f) After a regulatory program has been certified
33 pursuant to this section, any proposed change in the
34 program which could affect compliance with the
35 qualifications for certification specified in subdivision (d)
36 may be submitted to the ~~Secretary of the Resources~~
37 ~~Agency secretary~~ for review and comment. The scope of
38 the secretary's review shall extend only to the question of
39 whether the regulatory program meets the generic
40 requirements of subdivision (d). The review shall not

1 extend to individual decisions to be reached under the
 2 regulatory program, including specific alternatives or
 3 mitigation measures which might be proposed to lessen
 4 any significant adverse environmental effects of the
 5 activity. The secretary shall have 30 days after receipt of
 6 the proposed change to notify the state or local agency,
 7 board, or commission whether the proposed change will
 8 alter the regulatory program so that it no longer meets
 9 the qualification for certification established in this
 10 section and will result in a withdrawal of certification as
 11 provided in this section.

12 (g) Any action or proceeding to attack, review, set
 13 aside, void, or annul a determination or decision of a state
 14 agency, board, or commission approving or adopting a
 15 proposed activity under a regulatory program which has
 16 been certified pursuant to this section on the basis that
 17 the plan or other written documentation prepared
 18 pursuant to paragraph (3) of subdivision (d) does not
 19 comply with the provisions of this section shall be
 20 commenced no later than 30 days from the date of the
 21 filing of notice of the approval or adoption of the activity.

22 (h) Any action or proceeding to attack, review, set
 23 aside, void, or annul a determination of the ~~Secretary of~~
 24 ~~the Resources Agency secretary~~ to certify a regulatory
 25 program pursuant to this section on the basis that the
 26 regulatory program does not comply with the provisions
 27 of this section shall be commenced within 30 days after
 28 certification by the secretary.

29 In any action brought under this subdivision, the
 30 inquiry shall extend only to whether there was a
 31 prejudicial abuse of discretion by the ~~Secretary of the~~
 32 ~~Resources Agency secretary~~. Abuse of discretion is
 33 established if the secretary has not proceeded in a
 34 manner required by law or if the determination is not
 35 supported by substantial evidence.

36 (i) For purposes of this section, any county
 37 agricultural commissioner shall be considered a state
 38 agency.

39 (j) For purposes of this section, any air quality
 40 management district or air pollution control district shall

1 ~~be considered~~ is a state local agency, except that the
 2 approval, if any, by ~~the agency~~ such a district of a
 3 nonattainment area plan shall be is subject to this section
 4 only if, and to the extent that, the approval adopts or
 5 amends rules or regulations.

6 ~~(k) This section shall become operative on January 1,~~
 7 ~~1991.~~

8 SEC. 20. Section 21080.7 of the Public Resources Code
 9 is amended to read:

10 21080.7. (a) No environmental impact report ~~or~~,
 11 negative declaration, or other environmental
 12 determination under this division is required for any
 13 project involving the construction of housing or
 14 neighborhood commercial facilities in an urbanized area
 15 if the lead agency does all of the following:

16 (1) Finds, after giving notice pursuant to subdivision
 17 (b) or (c) of Section 21092 and following the procedure
 18 prescribed by law or regulation which would be
 19 necessary to make a determination pursuant to Section
 20 21080.1, all of the following:

21 ~~(i)~~
 22 (A) That the project is consistent with a *planned*
 23 *community development plan, detailed concept or area*
 24 *plan, specific plan, or other similar regulatory document*
 25 which has been adopted pursuant to Article 8
 26 (commencing with Section 65450) of Chapter 3 of Title
 27 7 of the Government Code or, in the coastal zone, a local
 28 coastal program certified pursuant to Article 2
 29 (commencing with Section 30510) of Chapter 6 of
 30 Division 20, or any other plan, program, policy, or
 31 procedure that regulates land use on the property.

32 ~~(ii)~~
 33 (B) That the plan or program was adopted pursuant
 34 to the procedure established by Article 8 (commencing
 35 with Section 65450) of Chapter 3 of Title 7 of the
 36 Government Code not more than five years prior to the
 37 finding made pursuant to this section.

38 ~~(iii)~~
 39 (C) That the plan or program has been the subject of
 40 an environmental impact report.

1 ~~(iv)~~
 2 (D) That the environmental impact report is
 3 sufficiently detailed so that the significant adverse effects
 4 of the project on the environment and measures
 5 necessary to mitigate or avoid any such effects can be
 6 determined, including significant physical effects on
 7 existing structures and neighborhoods of historical or
 8 aesthetic significance, if any, exist in the area covered by
 9 the plan or program, and measures necessary to mitigate
 10 those effects.

11 (2) Makes one or more of the findings as required
 12 pursuant to Section 21081.

13 (3) Files a notice of the decision on the proposed
 14 activity with the county clerk. Those notices shall be
 15 available for public inspection, and a list of the notices
 16 shall be posted on a weekly basis in the office of the
 17 county clerk. Each list shall remain posted for a period of
 18 30 days.

19 (b) As used in this section:

20 (1) "Neighborhood commercial facilities" means
 21 those commercial facilities which are an integral part of
 22 a project involving the construction of housing and which
 23 will serve the residents of the housing.

24 (2) "Urbanized area" means a central city or cities and
 25 surrounding closely settled territory, as defined by the
 26 United States Department of Commerce Bureau of the
 27 Census in the Federal Register, Volume 39, Number 85,
 28 for Wednesday, May 1, 1974, at pages 15202—15203 and as
 29 periodically updated.

30 SEC. 21. Section 21080.18 of the Public Resources
 31 Code is amended to read:

32 21080.18. This division does not apply to the closing of
 33 any public school in which kindergarten or any of grades
 34 1 through 12 is maintained or the transfer of students
 35 from that public school to another school if the only
 36 physical changes involved are categorically exempt
 37 under Chapter 3 (commencing with Section 15000) of
 38 Division 6 of Title 14 of the California Administrative
 39 Code.

40 SEC. 22. Section 21081 of the Public Resources Code

1 is amended to read:

2 21081. (a) Pursuant to the policy stated in Sections
 3 21002 and 21002.1, no public agency shall approve or carry
 4 out a project for which an environmental impact report
 5 has been completed which identifies one or more
 6 significant effects thereof unless ~~such~~ the public agency
 7 makes one; or more; of the following findings:

8 ~~(a)~~

9 (1) Changes or alterations have been required in, or
 10 incorporated into, ~~such~~ the project which mitigate or
 11 avoid the significant environmental effects thereof as
 12 identified in the completed environmental impact
 13 report.

14 ~~(b) Such~~

15 (2) The changes or alterations are within the
 16 responsibility and jurisdiction of another public agency
 17 and ~~such changes~~ have been adopted by ~~such~~ the other
 18 agency, or can and should be adopted by ~~such~~ the other
 19 agency.

20 ~~(c)~~

21 (3) Specific economic, *jurisdictional, equitable, legal,*
 22 *social, technological,* or other considerations make
 23 infeasible the mitigation measures or project alternatives
 24 identified in the environmental impact report.

25 (b) *When no subsequent or supplemental*
 26 *environmental impact report is required pursuant to*
 27 *Section 21166, the making of new findings pursuant to*
 28 *this section is not required.*

29 SEC. 23. Section 21082 of the Public Resources Code
 30 is amended to read:

31 21082. (a) All public agencies shall adopt by
 32 ordinance, resolution, rule, or regulation, objectives,
 33 criteria, and procedures for the evaluation of projects and
 34 the preparation of environmental impact reports and
 35 negative declarations pursuant to this division. A school
 36 district, or any other district, whose boundaries are
 37 coterminous with a city, county, or city and county, may
 38 utilize the objectives, criteria, and procedures of the city,
 39 county, or city and county, as may be applicable, in which
 40 case, the school district or other district need not adopt

1 objectives, criteria, and procedures of its own. The
 2 objectives, criteria, and procedures shall be consistent
 3 with the provisions of this division and with the
 4 guidelines adopted by the Secretary of the Resources
 5 Agency pursuant to Section 21083. Such The objectives,
 6 criteria, and procedures shall be adopted by each public
 7 agency no later than 60 days after the Secretary of the
 8 Resources Agency has adopted guidelines pursuant to
 9 Section 21083.

10 (b) A project of statewide, regional, or areawide
 11 environmental significance shall be submitted to
 12 appropriate state agencies for review and comment prior
 13 to completion of an environmental impact report or
 14 negative declaration thereon. If an environmental
 15 impact report is prepared thereon, it shall describe at
 16 least three project alternatives, including the option of no
 17 project, with equal detail to the preferred project. The
 18 lead agency shall determine that a proposed project is of
 19 statewide, regional, or areawide significance if the
 20 project is any of the following:

21 (1) A proposed local general plan, or element or
 22 amendment thereof, for which an environmental impact
 23 report was prepared. If a negative declaration was
 24 prepared for the plan, element, or amendment, the
 25 document need not be submitted for review.

26 (2) A project with the potential for causing significant
 27 effects on the environment extending beyond the city or
 28 county in which the project would be located. Examples
 29 of the effects include generating significant amounts of
 30 traffic or interfering with the attainment or maintenance
 31 of state or national air quality standards. Projects subject
 32 to this paragraph include:

33 (A) A proposed residential development of more than
 34 500 dwelling units.

35 (B) A proposed shopping center or business
 36 establishment employing more than 1,000 persons or
 37 encompassing more than 500,000 square feet of floor
 38 space.

39 (C) A proposed commercial office building with more
 40 than 1,000 employees or encompassing more than 250,000

1 square feet of floor space.

2 (D) A proposed hotel or motel development of more
 3 than 500 rooms.

4 (E) A proposed industrial, manufacturing, or
 5 processing plant, or industrial park planned to house
 6 more than 1,000 persons, occupying more than 40 acres of
 7 land, or encompassing more than 650,000 square feet of
 8 floor area.

9 (3) A project which would result in the cancellation of
 10 an open-space contract made pursuant to the California
 11 Land Conservation Act of 1965 (Williamson Act)
 12 (Chapter 7 (commencing with Section 51200) of Division
 13 1 of Title 5 of the Government Code) for any parcel of 100
 14 or more acres.

15 (4) A project for which an environmental impact
 16 report, and not a negative declaration, was prepared
 17 which would be located in, and would substantially
 18 impact, the following areas of critical environmental
 19 sensitivity:

20 (A) The Lake Tahoe Basin.

21 (B) The Santa Monica Mountains Zone as defined by
 22 Section 74663 of the Government Code.

23 (C) The California Coastal Zone as defined in, and
 24 mapped pursuant to, Section 30103.

25 (D) An area with one-fourth mile of a wild and scenic
 26 river as defined by Section 5093.5.

27 (E) The Sacramento-San Joaquin Delta, as defined in
 28 Section 12220 of the Water Code.

29 (F) The Suisun Marsh as defined in Section 29101.

30 (G) The jurisdiction of the San Francisco Bay
 31 Conservation and Development Commission as defined
 32 in Section 66610 of the Government Code.

33 (5) A project which would substantially affect
 34 sensitive wildlife habitats, including, but not limited to,
 35 riparian lands, wetlands, bays, estuaries, marshes, and
 36 habitats for rare and endangered species as defined by
 37 Section 903 of the Fish and Game Code.

38 (6) A project which would interfere with attainment
 39 of regional water quality standards as stated in the
 40 approved areawide waste treatment management plan.

1 (7) *A project which would provide housing, jobs, or*
 2 *occupancy for 500 or more people within 10 miles of a*
 3 *nuclear power plant.*

4 SEC. 24. Section 21082.1 of the Public Resources Code
 5 is amended to read:

6 21082.1. (a) Any draft environmental impact report,
 7 environmental impact report, or negative declaration
 8 prepared pursuant to the requirements of this division
 9 shall be prepared directly by, or under contract to, a
 10 public agency.

11 (b) This section is not intended to prohibit, and shall
 12 not be construed as prohibiting, any person from
 13 submitting information or other comments to the public
 14 agency responsible for preparing an environmental
 15 impact report, a draft environmental impact report, or a
 16 negative declaration. The information or other
 17 comments may be submitted in any format, shall be
 18 considered by the public agency, and may be included, in
 19 whole or in part, in any report or declaration.

20 (c) *Any information or comments required or*
 21 *authorized to be submitted pursuant to this division shall*
 22 *be specific and substantive in addressing the concerns of*
 23 *the submitter. Any response to a comment need not*
 24 *address in detail any matter concerning which the*
 25 *comment is so general that the response would be*
 26 *required to contain excessive speculation regarding the*
 27 *concerns of the submitter.*

28 (d) The lead agency shall do all of the following:

29 (1) Independently review and analyze any report or
 30 declaration required by this division.

31 (2) Circulate draft documents which reflect its
 32 independent judgment.

33 (3) As part of the adoption of a negative declaration or
 34 certification of an environmental impact report, find that
 35 the report or declaration reflects the independent
 36 judgment of the lead agency.

37 SEC. 25. Section 21082.5 is added to the Public
 38 Resources Code, to read:

39 21082.5. An environmental impact report shall
 40 address all phases, consequences, results, and effects of a

1 project, including, but not limited to, both of the
 2 following:

3 (a) Planning, acquisition, construction, development,
 4 and operation.

5 (b) Economic and social effects of a project, which
 6 shall not be considered as "significant effects" standing
 7 alone, but shall be considered as part of a series of effects
 8 which results ultimately in a significant effect.

9 SEC. 26. Section 21083 of the Public Resources Code
 10 is amended to read:

11 21083. (a) The Office of Planning and Research
 12 shall prepare and develop proposed guidelines for the
 13 implementation of this division by public agencies. The
 14 guidelines shall include objectives and criteria for the
 15 orderly evaluation of projects and the preparation of
 16 environmental impact reports and negative declarations
 17 in a manner consistent with this division.

18 (b) The guidelines shall specifically include criteria
 19 for public agencies to follow in determining whether or
 20 not a proposed project may have a "significant effect on
 21 the environment." The criteria shall require a finding
 22 that a project may have a "significant effect on the
 23 environment" if any of the following conditions exist:

24 ~~(a)~~

25 (1) A proposed project has the potential to degrade
 26 the quality of the environment, curtail the range of the
 27 environment, or to achieve short-term, to the
 28 disadvantage of long-term, environmental goals.

29 ~~(b)~~

30 (2) The possible effects of a project are individually
 31 limited but cumulatively considerable. As used in this
 32 subdivision, "cumulatively considerable" means that the
 33 incremental effects of an individual project are
 34 considerable when viewed in connection with the effects
 35 of past projects, the effects of other current projects, and
 36 the effects of probable or reasonably anticipated future
 37 projects. "Incremental effects" means the ratio or
 38 proportion of the effects of the proposed project when
 39 compared with other projects in a reasonably defined
 40 environment which may be a unit smaller than an air

1 basin. "Probable or reasonably anticipated future
2 projects" means only those other projects which have
3 received lead agency approval 15 days prior to the date
4 the project which is subject to this section enters formal
5 environmental review by the lead agency.

6 ~~(e)~~

7 (3) The environmental effects of a project will cause
8 substantial adverse effects on human beings, either
9 directly or indirectly.

10 (c) The guidelines shall also include procedures for
11 determining the lead agency pursuant to Section 21165.

12 (d) The guidelines shall also include criteria for public
13 agencies to use in determining when a proposed project
14 is of sufficient statewide, regional, or areawide
15 environmental significance that (1) it should be
16 submitted to appropriate state agencies for review and
17 comment prior to completion of an environmental
18 impact report or negative declaration thereon, and (2)
19 project alternatives capable of reducing impacts more
20 than the preferred project should be described with
21 equal detail to the preferred project in the
22 environmental impact report.

23 (e) The Office of Planning and Research shall develop
24 and prepare the proposed guidelines as soon as possible
25 and shall transmit them immediately to the Secretary of
26 the Resources Agency. The Secretary of the Resources
27 Agency shall certify and adopt the guidelines
28 pursuant to Chapter 3.5 (commencing with Section
29 11340) of Part 1 of Division 3 of Title 2 of the Government
30 Code, which shall become effective upon the filing
31 thereof. However, the guidelines shall not be adopted
32 without compliance with Sections 11346.4, 11346.5, and
33 11346.8 of the Government Code.

34 SEC. 27. Section 21090 of the Public Resources Code
35 is amended to read:

36 21090. For all purposes of this division, all public and
37 private activities or undertakings pursuant to, or in
38 furtherance of, a redevelopment plan shall be deemed a
39 single project if the redevelopment plan includes all
40 elements specified in Section 33352 of the Health and

1 Safety Code, an environmental impact report was
2 prepared, and none of the conditions specified in Section
3 21166 has occurred.

4 SEC. 28. Section 21091 of the Public Resources Code
5 is amended to read:

6 21091. (a) The public review period for a draft
7 environmental impact report shall not be less than 30
8 days. When the draft environmental impact report is
9 submitted to the State Clearinghouse for review, the
10 review period shall be at least 45 days.

11 (b) The public review period for a negative
12 declaration shall not be less than 21 days. When the
13 negative declaration is submitted to the State
14 Clearinghouse for review, the review period shall be at
15 least 30 days.

16 (c) When a draft environmental impact report or a
17 negative declaration is submitted to the State
18 Clearinghouse for review, the public review period
19 established by the lead agency shall be at least as long as
20 the period of review by the State Clearinghouse. The

21 (d) The lead agency shall consider any substantive
22 comments on a draft environmental impact report or
23 proposed negative declaration, raising significant
24 environmental issues, or proposing revisions to the
25 project consisting of additional mitigation measures or
26 changes to mitigation measures, which are received by
27 the State Clearinghouse within the public comment
28 period established by this section.

29 ~~(d)~~

30 (e) (1) Criteria for shorter review periods by the
31 State Clearinghouse for documents which ~~must~~ are
32 required to be submitted to the State Clearinghouse shall
33 be set forth in the written guidelines issued by the Office
34 of Planning and Research and made available to the
35 public.

36 (2) Those shortened review periods shall not be less
37 than 30 days for a draft environmental impact report and
38 21 days for a negative declaration.

39 (3) Any request for a shortened review period shall
40 only be made in writing by the decisionmaking body of

1 the lead agency to the Office of Planning and Research.
 2 The decisionmaking body may designate, by resolution
 3 or ordinance, a person authorized to request a shortened
 4 review. Any designated person shall notify the
 5 decisionmaking body of this request.

6 (4) Any request approved by the State Clearinghouse
 7 shall be consistent with the criteria set forth in the
 8 written guidelines of the Office of Planning and
 9 Research.

10 (5) A shortened review period shall not be approved
 11 by the Office of Planning and Research for any proposed
 12 project of statewide, regional, or areawide environmental
 13 significance as determined pursuant to Section 21083.

14 (6) Any approval of a shortened review period shall be
 15 given prior to, and reflected in, the public notice
 16 required pursuant to Section 21092.

17 SEC. 29. Section 21092 of the Public Resources Code
 18 is amended to read:

19 21092. (a) Any ~~public lead~~ agency which is
 20 preparing an environmental impact report or a negative
 21 declaration shall provide public notice of ~~that fact within~~
 22 ~~a reasonable period of time prior to final adoption by the~~
 23 ~~public agency the beginning of the public review period~~
 24 ~~immediately upon completion of the draft~~
 25 ~~environmental impact report or negative declaration.~~
 26 ~~The notice shall not be required for any determination~~
 27 ~~pursuant to Section 21166.~~

28 (b) (1) The notice shall specify the period during
 29 which comments will be received on the draft
 30 environmental report or negative declaration, and shall
 31 include the date, time, and place of any public meetings
 32 or hearings on the proposed project, a brief description
 33 of the proposed project and its location, ~~the principal~~
 34 ~~environmental effects, if any, anticipated as a result of the~~
 35 ~~project, and the address where copies of the draft~~
 36 ~~environmental impact report or negative declaration are~~
 37 ~~available for review. This~~

38 (2) This section shall not be construed in any manner
 39 which results in the invalidation of an action because of
 40 the alleged inadequacy of the notice content, provided

1 ~~that if~~ there has been substantial compliance with the
 2 notice content requirements of this section. The

3 (3) The notice required by this section shall be given
 4 by mail to the last known name and address of all
 5 organizations and individuals ~~who that~~ have previously
 6 requested notice as prescribed in Section 21092.2 and
 7 shall also be given by at least one of the following
 8 procedures:

9 ~~(1)~~

10 (A) Publication no fewer times than required by
 11 Section 6061 of the Government Code, by the public
 12 agency in a newspaper of general circulation in the area
 13 affected by the proposed project. *If more than one area*
 14 *will be affected, the notice shall be published in the*
 15 *newspaper of largest circulation from among the*
 16 *newspapers of general circulation in those areas.*

17 ~~(2)~~

18 (B) Posting of notice by the public agency on- and
 19 off-site in the area where the project is to be located.

20 ~~(3)~~

21 (C) Direct mailing to the owners and occupants of
 22 contiguous property shown on the latest equalized
 23 assessment roll.

24 ~~(b)~~

25 (c) For any project involving the burning of
 26 municipal wastes, hazardous waste, or refuse-derived
 27 fuel, including, but not limited to, tires, meeting the
 28 qualifications of subdivision ~~(e)~~ (d), notice shall be given
 29 to all organizations and individuals ~~who that~~ have
 30 previously requested notice and shall also be given by at
 31 least the procedures specified in paragraphs ~~(1)~~
 32 ~~subparagraphs (A), (2) (B), and (C) of paragraph (3)~~
 33 ~~of subdivision (a) (b).~~ In addition, notification shall be
 34 given by direct mailing to the owners and occupants of
 35 property within one-fourth of a mile of any parcel or
 36 parcels on which is located a project subject to this
 37 subdivision. This subdivision does not apply to any
 38 project for which notice has already been provided as of
 39 the effective date of Assembly Bill 58 of the 1989/90
 40 Regular Session July 14, 1989, in compliance with this

1 section as it existed prior to that effective date.

2 ~~(e)~~

3 ~~(d)~~ The notice requirements of subdivision ~~(b)~~ (c)
4 apply to both of the following:

5 (1) The construction of a new facility.

6 (2) The expansion of an existing facility which burns
7 hazardous waste which would increase its permitted
8 capacity by more than 10 percent. For purposes of this
9 paragraph, the amount of expansion of an existing facility
10 shall be calculated by comparing the proposed facility
11 capacity with whichever of the following is applicable:

12 (A) The facility capacity approved in the facility's
13 hazardous waste facilities permit pursuant to Section
14 25200 of the Health and Safety Code or its grant of
15 interim status pursuant to Section 25200.5 of the Health
16 and Safety Code, or the facility capacity authorized in any
17 state or local agency permit allowing the construction or
18 operation of a facility for the burning of hazardous waste,
19 granted before January 1, 1990.

20 (B) The facility capacity authorized in the facility's
21 original hazardous waste facilities permit, grant of
22 interim status, or any state or local agency permit
23 allowing the construction or operation of a facility for the
24 burning of hazardous waste, granted on or after January
25 1, 1990.

26 ~~(d)~~

27 (e) The notice requirements specified in subdivision
28 ~~(a)~~ or (b) or (c) shall not preclude a public agency from
29 providing additional notice by other means if the agency
30 so desires, or from providing the public notice required
31 by this section at the same time and in the same manner
32 as public notice otherwise required by law for the project.

33 SEC. 30. Section 21092.1 of the Public Resources Code
34 is amended to read:

35 21092.1. When significant new information which
36 significantly alters the conclusions in the environmental
37 impact report with respect to the significance of
38 environmental effects, or addresses significant effects not
39 previously examined in the environmental impact
40 report, is added to an environmental impact report after

1 notice has been given pursuant to Section 21092 and
2 consultation has occurred pursuant to Sections 21104 and
3 21153, but prior to certification, the public agency shall
4 give notice again pursuant to Section 21092; and consult
5 again pursuant to Sections 21104 and 21153 before
6 certifying the environmental impact report.

7 SEC. 31. Section 21092.3 of the Public Resources Code
8 is amended to read:

9 21092.3. The notices required pursuant to Sections
10 21080.4 and 21092 shall be posted in the office of the
11 county clerk of the each county or counties in which the
12 project will be located and shall remain posted for a
13 period of 30 days. *The county clerk shall post the notices*
14 *within 24 hours of receipt.*

15 SEC. 32. Section 21093 of the Public Resources Code
16 is repealed.

17 ~~21093.~~ (a) The Legislature finds and declares that
18 tiering of environmental impact reports will promote
19 construction of needed housing and other development
20 projects by (1) streamlining regulatory procedures; (2)
21 avoiding repetitive discussions of the same issues in
22 successive environmental impact reports; and (3)
23 ensuring that environmental impact reports prepared for
24 later projects which are consistent with a previously
25 approved policy, plan, program, or ordinance
26 concentrate upon environmental effects which may be
27 mitigated or avoided in connection with the decision on
28 each later project. The Legislature further finds and
29 declares that tiering is appropriate when it helps a public
30 agency to focus upon the issues ripe for decision at each
31 level of environmental review and in order to exclude
32 duplicative analysis of environmental effects examined in
33 previous environmental impact reports.

34 (b) To achieve this purpose, environmental impact
35 reports shall be tiered whenever feasible, as determined
36 by the lead agency.

37 SEC. 33. Section 21094 of the Public Resources Code
38 is amended to read:

39 21094. (a) Where a prior environmental impact
40 report has been prepared and certified for a program,

1 plan, policy, or ordinance, the lead agency for a later
 2 project that meets the requirements of this section shall
 3 examine significant effects of the later project upon the
 4 environment by using a tiered environmental impact
 5 report; except that the report on the for a later project
 6 need not examine those effects which the lead agency
 7 determines were either (1) mitigated or avoided
 8 pursuant to subdivision (a) of Section 21081 as a result of
 9 the prior environmental impact report, or (2) examined
 10 at a sufficient level of detail in the prior environmental
 11 impact report to enable those effects to be mitigated or
 12 avoided by site specific revisions, the imposition of
 13 conditions, or by other means in connection with the
 14 approval of the later project.

15 (b) This section applies only to a later project which
 16 the lead agency determines (1) is consistent with the
 17 program, plan, policy, or ordinance for which an
 18 environmental impact report has been prepared and
 19 certified, (2) is consistent with applicable local land use
 20 plans and zoning of the city, county, or city and county
 21 in which the later project would be located, and (3) is not
 22 subject to Section 21166.

23 (c) For purposes of compliance with this section, an
 24 initial study shall be prepared to assist the lead agency in
 25 making the determinations required by this section. The
 26 initial study shall analyze whether the later project may
 27 cause significant effects on the environment that were
 28 not examined in the prior environmental impact report.

29 (d) All public agencies which propose to carry out or
 30 approve the later project may utilize the prior
 31 environmental impact report and the environmental
 32 impact report on the later project to fulfill the
 33 requirements of Section 21081.

34 ~~(e) When tiering is used pursuant to this section, an
 35 environmental impact report prepared for a later project
 36 shall refer to the prior environmental impact report and
 37 state where a copy of the prior environmental impact
 38 report may be examined.~~

39 SEC. 34. Section 21097 is added to the Public
 40 Resources Code, to read:

1 21097. In order to identify and evaluate the feasibility
 2 of mitigation measures and alternatives to a project, the
 3 lead agency shall conduct a search, among all state and
 4 local agencies with authority or duties affecting the
 5 environmental factors involved in the project, for
 6 long-range plans which may contain that information.

7 SEC. 35. Section 21100 of the Public Resources Code
 8 is amended to read:

9 21100. (a) All state agencies, boards, and
 10 commissions shall prepare, or cause to be prepared by
 11 contract, and certify the completion of an environmental
 12 impact report on any project they propose to carry out or
 13 approve which may have a significant effect on the
 14 environment. Such a

15 (b) The report shall include a detailed statement
 16 setting forth all of the following:

17 ~~(a)~~

18 (1) The significant environmental effects of the
 19 proposed project.

20 ~~(b)~~

21 (2) Any significant environmental effects which
 22 cannot be avoided if the project is implemented.

23 ~~(c)~~

24 (3) Mitigation measures proposed to minimize the
 25 significant environmental effects, including, but not
 26 limited to, measures to reduce wasteful, inefficient, and
 27 unnecessary consumption of energy.

28 ~~(d)~~

29 (4) Alternatives to the proposed project.

30 ~~(e)~~

31 (5) The relationship between local short-term uses of
 32 man's environment and the maintenance and
 33 enhancement of long-term productivity.

34 ~~(f)~~

35 (6) Any significant irreversible environmental
 36 changes which would be involved in the proposed project
 37 should it be implemented.

38 ~~(g)~~

39 (7) The growth-inducing impact of the proposed
 40 project.

1 (c) The report shall also contain a statement briefly
2 indicating the reasons for determining that various
3 effects of a project are not significant and consequently
4 have not been discussed in detail in the environmental
5 impact report.

6 (d) For purposes of this section, any significant effect
7 on the environment shall be limited to substantial, or
8 potentially substantial, adverse changes in physical
9 conditions which exist within the area as defined in
10 Section 21060.5. *Economic and social impacts shall not be*
11 *included in environmental impact reports unless an*
12 *ascertainable physical environmental impact will result.*

13 SEC. 36. Section 21104 of the Public Resources Code
14 is amended to read:

15 21104. (a) Prior to completing an environmental
16 impact report, the state lead agency shall, *through a*
17 *notice of preparation*, consult with, and obtain comments
18 from, each responsible agency; *and* any public agency
19 which has jurisdiction by law with respect to the project;
20 *and any city or county which borders on a city or county*
21 *within which the project is located; and may consult with*
22 *any person who has special expertise with respect to any*
23 *environmental impact involved. In the case of a project*
24 *described in subdivision (c) of Section 21065, the state*
25 *lead agency shall, upon the request of the applicant,*
26 *provide for early consultation to identify the range of*
27 *actions, alternatives, mitigation measures, and significant*
28 *effects to be analyzed in depth in the environmental*
29 *impact report. The state lead agency may consult with*
30 *persons identified by the applicant which the applicant*
31 *believes will be concerned with the environmental*
32 *effects of the project and may consult with members of*
33 *the public who have made a written request to be*
34 *consulted on the project. A request by the applicant for*
35 *early consultation shall be made not later than 30 days*
36 *after the determination required by Section 21080.1 with*
37 *respect to the project.*

38 (b) The state lead agency shall consult with, and
39 obtain comments from, the State Air Resources Board in
40 preparing an environmental impact report on a highway

1 or freeway project, as to the air pollution impact of the
2 potential vehicular use of the highway or freeway. *The*
3 *timing of those comments shall be as established for a*
4 *responsible agency.*

5 (c) A responsible agency or other public agency shall
6 only make substantive comments regarding those
7 activities involved in a project which are within an area
8 of expertise of the agency or which are required to be
9 carried out or approved by the agency, *and shall limit*
10 *those comments to matters within the agency's area of*
11 *expertise.* Those comments shall be supported by specific
12 documentation.

13 SEC. 37. Section 21104.2 of the Public Resources Code
14 is amended to read:

15 21104.2. (a) The state lead agency shall consult with,
16 and obtain written findings from, the Department of Fish
17 and Game in preparing an environmental impact report
18 on a project, as to the impact of the project on the
19 continued existence of any endangered species or
20 threatened species pursuant to Article 4 (commencing
21 with Section 2090) of Chapter 1.5 of Division 3 of the Fish
22 and Game Code.

23 (b) *This section does not apply to a project which is*
24 *located within an urbanized area, as defined in paragraph*
25 *(2) of subdivision (b) of Section 21080.7, which is also a*
26 *heavily urbanized area, as defined in subdivision (d) of*
27 *Section 5621.*

28 SEC. 38. Section 21151 of the Public Resources Code
29 is amended to read:

30 21151. (a) All local agencies shall prepare, or cause
31 to be prepared by contract, and certify the completion of
32 an environmental impact report on any project they
33 intend to carry out or approve which may have a
34 significant effect on the environment. When a report is
35 required by Section 65402 of the Government Code, the
36 environmental impact report may be submitted as a part
37 of that report.

38 (b) For purposes of this section, any significant effect
39 on the environment shall be limited to substantial, or
40 potentially substantial, adverse changes in physical

1 environmental conditions which exist within the area as
 2 defined in Section 21060.5. *Economic and social impacts*
 3 *shall not be included in environmental impact reports*
 4 *unless an ascertainable physical environmental impact*
 5 *will result from those impacts.*

6 (c) *This section shall not be construed to require the*
 7 *preparation of any subsequent or supplemental*
 8 *environmental impact report when that subsequent or*
 9 *supplemental report would not be required under*
 10 *Section 21166.*

11 SEC. 39. Section 21151.2 of the Public Resources Code
 12 is amended to read:

13 21151.2. (a) To promote the safety of pupils and
 14 comprehensive community planning, the governing
 15 board of each school district, before acquiring title to
 16 property for a new school site schoolsite or for an
 17 addition to a present school site schoolsite, shall give the
 18 planning commission ~~having~~ of the local agency with
 19 general jurisdiction notice in writing of the proposed
 20 acquisition. *'Addition' does not include the placement of*
 21 *portable classrooms on an existing schoolsite.* The
 22 planning commission shall investigate the proposed site
 23 and, within 30 days after receipt of the notice, shall
 24 submit to the governing board a written report of the
 25 investigation and its recommendations concerning
 26 acquisition of the site.

27 (b) The governing board shall not acquire title to the
 28 property until the report of the planning commission has
 29 been received, *or 30 days after the planning commission*
 30 *has received the notice, whichever is sooner.* If the report
 31 does not favor the acquisition of the property for a school
 32 site schoolsite, or for an addition to a present school site
 33 schoolsite, the governing board of the school district shall
 34 not acquire title to the property until 30 days after the
 35 commission's report is received.

36 SEC. 40. Section 21151.5 of the Public Resources Code
 37 is amended to read:

38 21151.5. (a) Each local agency shall establish, by
 39 ordinance or resolution, time limits, not to exceed one
 40 year for completing and certifying environmental impact

1 reports, and 105 days for completing negative
 2 declarations, for projects described in subdivision (c) of
 3 Section 21065. These time limits shall apply only to those
 4 circumstances in which the local agency is the lead
 5 agency for a project. These ordinances or resolutions may
 6 establish different time limits for different types or
 7 classes of projects, but all limits shall be measured from
 8 the date on which an application requesting approval of
 9 the project is received and accepted as complete by the
 10 local agency. No application for a project may be deemed
 11 incomplete for lack of a waiver of time periods prescribed
 12 by local ordinance or resolution.

13 (b) The ordinances or resolutions required by this
 14 section may provide for a reasonable extension of the
 15 time period in the event that compelling circumstances
 16 justify additional time and the project applicant consents
 17 thereto.

18 (c) *If a local agency does not comply with those time*
 19 *periods, the project shall be deemed to comply with this*
 20 *division, subject to the mitigation measures specified in*
 21 *the environmental impact report or negative declaration,*
 22 *if those measures are in public circulation at the time of*
 23 *the expiration of the period set forth in this section.*

24 SEC. 41. Section 21152 of the Public Resources Code
 25 is amended to read:

26 21152. (a) Whenever a local agency approves or
 27 determines to carry out a project which is subject to this
 28 division, it shall file notice of the approval or the
 29 determination within five working days after the
 30 approval or determination becomes final with the county
 31 clerk of the each county, ~~or counties,~~ in which the
 32 project will be located. The notice shall indicate the
 33 determination of the local agency whether the project
 34 will, or will not, have a significant effect on the
 35 environment and shall indicate whether an
 36 environmental impact report has been prepared
 37 pursuant to this division. The notice shall also include
 38 certification that the final environmental impact report
 39 with comments and responses, if one was prepared, is
 40 available to the general public.

1 (b) Whenever a local agency determines that a
 2 project is not subject to this division pursuant to
 3 subdivision (b) of Section 21080 or pursuant to Section
 4 21085 or 21172, and it approves or determines to carry out
 5 the project, it, or the person specified in subdivision (b)
 6 or (c) of Section 21065, may file notice of the
 7 determination with the county clerk of ~~the each county~~;
 8 ~~or counties~~, in which the project will be located. Any
 9 notice filed pursuant to this subdivision by a person
 10 specified in subdivision (b) or (c) of Section 21065 shall
 11 have a certificate of determination attached to it issued
 12 by the local agency responsible for making the
 13 determination that a project is not subject to this division
 14 pursuant to subdivision (b) of Section 21080 or pursuant
 15 to Section 21085 or 21172. The certificate of
 16 determination may be in the form of a certified copy of
 17 an existing document or record of the local agency.

18 (c) All notices filed pursuant to this section shall be
 19 available for public inspection, and shall be posted ~~on a~~
 20 ~~weekly basis within 24 hours of receipt~~ in the office of the
 21 county clerk. Each notice shall remain posted for a period
 22 of 30 days; ~~and thereafter~~. *Thereafter*, the clerk shall
 23 return to the local agency the notice with a notation of
 24 the period it was posted. The local agency shall retain the
 25 notice for not less than nine months.

26 SEC. 42. Section 21153 of the Public Resources Code
 27 is amended to read:

28 21153. (a) Prior to completing an environmental
 29 impact report, every local lead agency shall consult with,
 30 and obtain comments from, each responsible agency, any
 31 public agency which has jurisdiction by law with respect
 32 to the project, and any city or county which borders on
 33 a city or county within which the project is located unless
 34 otherwise designated annually by agreement between
 35 the local lead agency and the city or county, and may
 36 consult with any person who has special expertise with
 37 respect to any environmental impact involved. In the
 38 case of a project described in subdivision (c) of Section
 39 21065, the local lead agency shall, upon the request of the
 40 applicant, provide for early consultation to identify the

1 range of actions, alternatives, mitigation measures, and
 2 significant effects to be analyzed in depth in the
 3 environmental impact report. The local lead agency may
 4 consult with persons identified by the applicant which
 5 the applicant believes will be concerned with the
 6 environmental effects of the project and may consult
 7 with members of the public who have made written
 8 request to be consulted on the project. A request by the
 9 applicant for early consultation shall be made not later
 10 than 30 days after the determination required by Section
 11 21080.1 with respect to the project. The local lead agency
 12 may charge and collect from the applicant a fee not to
 13 exceed the actual costs of the consultations.

14 (b) A responsible agency or other public agency shall
 15 only make substantive comments regarding those
 16 activities involved in a project which are within an area
 17 of expertise of the agency or which are required to be
 18 carried out or approved by the agency. Those comments
 19 shall be supported by specific documentation. *The*
 20 *responsible agency shall respond in writing within 30*
 21 *days of receipt of the notice of preparation, or it shall be*
 22 *deemed that the agency has no comments. The lead*
 23 *agency may disregard without explanation late*
 24 *comments of a responsible agency.*

25 SEC. 43. Section 21155 of the Public Resources Code
 26 is repealed.

27 ~~21155. The Secretary of the Resources Agency shall~~
 28 ~~develop an economic practices manual which may be~~
 29 ~~used by local agencies in assessing the economic~~
 30 ~~efficiency and fiscal impact of alternative land use~~
 31 ~~proposals by local agencies and as an aid in evaluating~~
 32 ~~private land use proposals.~~

33 *The manual shall present economic and fiscal criteria*
 34 *for local agencies to use in developing comprehensive*
 35 *and multidisciplinary programs and procedures for*
 36 *evaluating alternative land use policies and private land*
 37 *use proposals. The manual shall include a step/by/step*
 38 *program which local agencies may follow, including, but*
 39 *not limited to, sources of data, methods of summarizing*
 40 *and using the data, formulas for evaluating the economic*

1 efficiency and fiscal impact of land use decisions; a
2 guideline on how to prepare a simple statement of
3 results; and a means for equating economic factors with
4 social and environmental factors.

5 The Secretary of the Resources Agency may obtain
6 private counseling in the preparation of the manual. On
7 or before January 1, 1975, the Secretary of the Resources
8 Agency shall submit a proposed manual to the
9 Legislature for its review. It is the intent of the
10 Legislature hereby to permit the Legislature to review
11 the manual and to comment thereon prior to its final
12 adoption by the Secretary of the Resources Agency and
13 its distribution to local agencies.

14 SEC. 44. Section 21165.5 is added to the Public
15 Resources Code, to read:

16 21165.5. Only the lead agency, and not a department,
17 division, or other unit within the lead agency, may certify
18 an environmental impact report as completed. The lead
19 agency shall make specific findings as to whether the
20 project would have a significant effect on the
21 environment, and whether mitigation measures or
22 alternatives have been provided, and shall require a
23 supplemental environmental impact report if, on the
24 basis of those findings, that supplemental report would be
25 required by this division.

26 SEC. 45. Section 21166 of the Public Resources Code
27 is amended to read:

28 21166. (a) When an environmental impact report or
29 negative declaration has been prepared for a project
30 pursuant to this division, no subsequent or supplemental
31 environmental impact report shall be required by the
32 lead agency or by any responsible agency, unless one or
33 more of the following events occurs:

34 ~~(a)~~

35 (1) Substantial changes are proposed in the project
36 which will require major revisions of the environmental
37 impact report, or the preparation of an environmental
38 impact report if only a negative declaration was
39 previously prepared, due to the involvement of new
40 significant effects not previously considered.

1 ~~(b)~~

2 (2) Substantial changes occur with respect to the
3 circumstances under which the project is being
4 undertaken which will require major revisions in the
5 environmental impact report, or the preparation of an
6 environmental impact report if only a negative
7 declaration was previously prepared, due to the
8 involvement of new significant effects not previously
9 considered, except where the new impacts are the result
10 of activities, not directly related to the project, which
11 have themselves been subject to this division.

12 ~~(e)~~

13 (3) New information, which was not known and could
14 not have been known at the time the environmental
15 impact report was certified as complete, becomes
16 available and shows that impacts will be new or more
17 severe than previously anticipated, except where the
18 new impacts are the result of activities not directly
19 related to the project which have themselves been
20 subject to this division.

21 (b) A determination pursuant to this section shall be
22 made in an initial study designed to examine the later
23 project against the prior environmental impact report or
24 negative declaration. The determination of the lead
25 agency shall be included in all notices and public
26 proceedings on the later project. The initial study may
27 analyze the conformance with Section 21166 by
28 reviewing the prior environmental impact report
29 section-by-section instead of using the checklist in
30 Appendix I of Section 15063 of Title 14 of the California
31 Code of Regulations.

32 (c) Any changes in the project which result from an
33 agency's subsequent interpretation of, or assessment of
34 compliance with, conditions of a permit which has been
35 issued do not require a subsequent or supplemental
36 environmental impact report if the agency's
37 interpretation or assessment is reasonable and does not
38 impose any new significant effect not previously
39 considered.

40 SEC. 46. Section 21166.1 of the Public Resources Code

1 is amended to read:

2 21166.1. (a) The decision of a lead agency to
3 prepare an environmental impact report with respect to
4 environmental impacts within a geographic area or for a
5 group of projects shall not be a basis for determining that
6 an environmental document prepared for an individual
7 project within that area or group is inadequate.

8 (b) *The discussion of cumulative impacts in an*
9 *environmental impact report in relation to a project is*
10 *not inadequate for failing to specifically list or discuss in*
11 *detail future projects whose scope is uncertain and which*
12 *will be subject to their own environmental review.*

13 SEC. 47. Section 21167.4 of the Public Resources Code
14 is amended to read:

15 21167.4. In a writ of mandate proceeding alleging
16 noncompliance with this division, the petitioner shall
17 request a hearing within 90 days of filing the petition or
18 otherwise be subject to dismissal on the court's own
19 motion or on the motion of any party interested therein.
20 *The petitioner shall document the request by serving a*
21 *request for hearing on all parties within 14 calendar days*
22 *of filing.*

23 SEC. 48. Section 21167.6 of the Public Resources Code
24 is amended to read:

25 21167.6. Notwithstanding any other provision of law,
26 in all actions brought pursuant to Section 21167, except
27 those involving the Public Utilities Commission, *all of the*
28 *following apply:*

29 (a) At the time the action is filed, the petitioner shall
30 file a request that the respondent public agency prepare
31 the record of proceedings relating to the subject of the
32 action. The request, together with the petition, shall be
33 served upon the public agency not later than 10 business
34 days after the action is filed. *Failure to timely serve the*
35 *request within that time limit entitles the public agency*
36 *to move for sanctions, and the court may grant*
37 *appropriate sanctions.*

38 (b) (1) The public agency shall prepare and certify
39 the record of proceedings not later than 60 days after the
40 request specified in subdivision (a) is served upon the

1 public agency. The parties shall pay any costs or fees
2 imposed for the preparation of the record of proceedings
3 in conformance with any law or rule of court. ~~The~~

4 (2) *The petitioner may elect to prepare the record of*
5 *proceedings or the parties may agree to an alternative*
6 *method of preparation of the record of proceedings,*
7 *subject to certification of its accuracy by the public*
8 *agency, within the time limit specified in this subdivision.*

9 (3) *If the public agency fails to prepare and certify the*
10 *record within the time limit prescribed in paragraph (1),*
11 *or any continuances thereof, the petitioner may move for*
12 *sanctions, and the court may grant appropriate sanctions.*

13 (4) *If the petitioner fails to prepare the record within*
14 *that time limit because the petitioner elected to prepare*
15 *the record pursuant to paragraph (2), the action shall be*
16 *subject to dismissal on the court's own motion or on the*
17 *motion of any party interested therein.*

18 (c) The time limit established by subdivision (b) may
19 be extended only upon stipulation of all parties who have
20 been properly served in the action or upon order of the
21 court. Extensions shall be liberally granted by the court
22 when the size of the record of proceedings renders
23 infeasible compliance with the time limit specified in
24 subdivision (b). There is no limit on the number of
25 extensions which may be granted by the court, but no
26 single extension shall exceed 60 days unless the court
27 determines that a longer extension is in the public
28 interest.

29 (d) The clerk of the superior court shall prepare and
30 certify the clerk's transcript on appeal not later than 60
31 days after the notice designating the papers or records to
32 be included in the clerk's transcript is filed with the
33 superior court, ~~provided that~~ if the party or parties pay
34 any costs or fees for preparation of the clerk's transcript
35 imposed in conformance with any law or rules of court.
36 Nothing ~~contained~~ in this subdivision ~~shall preclude~~
37 ~~precludes~~ election to proceed pursuant to Rule 5.1 of the
38 California Rules of Court.

39 (e) Extensions of the period for the filing of any brief
40 on appeal may be allowed only by stipulation of the

1 parties or by order of the court for good cause shown.
 2 Extensions shall be limited to one 30-day extension for the
 3 preparation of an opening brief, and one 30-day extension
 4 for the preparation of a responding brief, except that the
 5 court may grant a longer extension or additional
 6 extensions if it determines that there is a substantial
 7 likelihood of settlement that would avoid the necessity of
 8 completing the appeal.

9 (f) At the completion of the filing of briefs, the
 10 appellant shall notify the court of completion of the filing
 11 of briefs, whereupon the clerk of the reviewing court
 12 shall set the appeal for hearing on the first available
 13 calendar date.

14 SEC. 49. Section 21167.8 of the Public Resources Code
 15 is amended to read:

16 21167.8. (a) Not later than 20 days after service upon
 17 a public agency of a petition or complaint brought to
 18 pursuant to Section 21167, the public agency shall file
 19 with the court a notice setting forth the time and place
 20 at which all parties shall meet and attempt to settle the
 21 litigation. The meeting shall be scheduled and held not
 22 later than 45 days after the date of service of the petition
 23 or complaint upon the public agency. The notice of the
 24 settlement meeting shall be served by mail upon the
 25 counsel for each party. If the public agency does not
 26 know the identity of counsel for any party, the notice
 27 shall be served by mail upon the party for whom counsel
 28 is not known.

29 (b) The petitioner or plaintiff shall serve by mail on all
 30 parties a presettlement statement not less than five days
 31 in advance of the meeting. *If the petitioner or plaintiff*
 32 *fails to serve the presettlement statement within that*
 33 *time limit, the action shall be subject to dismissal on the*
 34 *court's own motion or the motion of any party interested*
 35 *therein.* The statement shall include, but not be limited
 36 to, both of the following:

37 (1) A concise description of the case, including a brief
 38 procedural history, and all the facts material to
 39 consideration of the issues presented by the litigation.

40 (2) The anticipated issues to be raised in the litigation.

1 Counsel shall confer with their clients in advance
 2 regarding settlement and shall be prepared to negotiate
 3 a settlement whenever reasonably possible.

4 (c) At the time and place specified in the notice filed
 5 with the court, the parties shall meet and attempt in good
 6 faith to settle the litigation and the dispute which forms
 7 the basis of the litigation. The settlement meeting
 8 discussions shall be comprehensive in nature and shall
 9 focus on the legal issues raised by the parties concerning
 10 the project that is the subject of the litigation.

11 (d) The settlement meeting may be continued from
 12 time to time without postponing or otherwise delaying
 13 other applicable time limits in the litigation. The
 14 settlement meeting is intended to be conducted
 15 concurrently with any judicial proceedings.

16 (e) After the settlement procedure is completed, the
 17 parties shall jointly prepare, sign, and file with the court
 18 a settlement statement including, but not limited to, all
 19 of the following:

20 (1) The legal and factual contentions raised by each
 21 party.

22 (2) The contentions that were settled or otherwise
 23 agreed upon and the nature of that agreement.

24 (3) The efforts made by each party to settle the
 25 unresolved issues.

26 (4) The list of participants in the settlement
 27 proceedings.

28 (f) If the litigation is not settled, the court, in its
 29 discretion, may, or at the request of any party shall,
 30 schedule a further settlement conference before a judge
 31 of the superior court. If the petition or complaint is later
 32 heard on its merits, the judge hearing the matter shall not
 33 be the same judge conducting the settlement conference,
 34 except in counties with only one judge of the superior
 35 court.

36 (g) Failure of any party who was notified pursuant to
 37 subdivision (a) to participate in the process described in
 38 this section, without good cause, may result in an
 39 imposition of sanctions by the court. The failure of the
 40 petitioner or plaintiff to participate in the process

1 described in this section, without good cause, shall result
 2 in dismissal with prejudice of the action. A *presettlement*
 3 *statement pursuant to subdivision (b) shall include an*
 4 *offer of the position for which the petitioner or plaintiff*
 5 *would settle. If the presettlement statement merely*
 6 *restates the causes of action in the petition or complaint,*
 7 *the statement is inadequate, and the action may be*
 8 *dismissed on the court's own motion or on the motion of*
 9 *any party interested therein.*

10 SEC. 50. Section 21168 of the Public Resources Code
 11 is amended to read:

12 21168. (a) Any action or proceeding to attack,
 13 review, set aside, void or annul a determination, finding,
 14 or decision of a public agency, made as a result of a
 15 proceeding in which by law a hearing is required to be
 16 given, evidence is required to be taken and discretion in
 17 the determination of facts is vested in a public agency, on
 18 the grounds of noncompliance with the provisions of this
 19 division shall be in accordance with the provisions of
 20 *subject to the judicial standard of review established*
 21 *under Section 1094.5 of the Code of Civil Procedure. This*
 22 *section establishes a mandamus rule exclusively for the*
 23 *implementation of this division and shall apply regardless*
 24 *of the legislative or adjudicative nature of the*
 25 *determination, finding, or decision on the project which*
 26 *is the subject of compliance with this division.*

27 (b) In any such action, the court shall not exercise its
 28 independent judgment on the evidence, but shall only
 29 determine whether the act or decision is supported by
 30 substantial evidence in the light of the whole record. *The*
 31 *record of the proceedings of the public agency shall be*
 32 *limited to the evidence that was actually before the*
 33 *decisionmaker prior to or at the time of the*
 34 *determination, finding, or decision and shall include the*
 35 *pleadings, all notices and orders issued by the public*
 36 *agency, any proposed decision, exhibits admitted or*
 37 *rejected, written evidence, documents incorporated by*
 38 *reference, and any other papers, oral testimony, and oral*
 39 *or written public comment.*

40 SEC. 51. Section 21168.3 of the Public Resources Code

1 is repealed.

2 ~~21168.3. In all actions brought pursuant to Section~~
 3 ~~21167, including the hearing of any such action on appeal~~
 4 ~~from the decision of a lower court, all courts wherein such~~
 5 ~~actions are or may hereafter be pending, shall give such~~
 6 ~~actions preference over all other civil actions therein, in~~
 7 ~~the matter of setting the same for hearing or trial, and in~~
 8 ~~hearing the same, to the end that all such actions shall be~~
 9 ~~quickly heard and determined.~~

10 SEC. 52. Section 21168.5 of the Public Resources Code
 11 is amended to read:

12 21168.5. In any action or proceeding, other than an
 13 action or proceeding under Section 21168, to attack,
 14 review, set aside, void, or annul a determination, finding,
 15 or decision of a public agency on the grounds of
 16 noncompliance with this division, the inquiry shall
 17 extend only to whether there was a prejudicial abuse of
 18 discretion. Abuse of discretion is established if the agency
 19 has not proceeded in a manner required by law or if the
 20 determination or decision is not supported by substantial
 21 evidence *in the record taken as a whole.*

22 SEC. 53. Section 21168.8 is added to the Public
 23 Resources Code, to read:

24 21168.8. No act or omission of a public agency shall be
 25 set aside, voided, or annulled in an action or proceeding
 26 alleging that the act or omission does not comply with this
 27 division unless the record clearly shows that an objection
 28 was made during the public comment period.

29 SEC. 54. Section 21172 of the Public Resources Code
 30 is repealed.

31 ~~21172. This division shall not apply to any project~~
 32 ~~undertaken, carried out, or approved by a public agency~~
 33 ~~to maintain, repair, restore, demolish or replace property~~
 34 ~~or facilities damaged or destroyed as a result of a disaster~~
 35 ~~in a disaster stricken area in which a state of emergency~~
 36 ~~has been proclaimed by the Governor pursuant to~~
 37 ~~Chapter 7 (commencing with Section 8550) of Division 1,~~
 38 ~~Title 2 of the Government Code.~~

39 SEC. 55. Section 21177 of the Public Resources Code
 40 is amended to read:

1 21177. (a) No action may be brought pursuant to
2 Section 21167 unless the alleged grounds for
3 noncompliance with this division were presented to the
4 public agency orally or in writing by any person.

5 (b) No person shall maintain an action or proceeding
6 unless that person objected to the approval of the project
7 *for noncompliance with this division* orally or in writing.

8 (c) This section does not preclude any organization
9 formed after the approval of a project from maintaining
10 an action pursuant to Section 21167 if a member of that
11 organization has complied with subdivision (b).

12 (d) This section does not apply to the Attorney
13 General.

14 (e) This section does not apply when there was no
15 public hearing or other opportunity for members of the
16 public to raise objections prior to the approval of the
17 project or when the public agency failed to give the
18 notice required by law. *A public agency that gives notice*
19 *pursuant to this division, including, but not limited to,*
20 *Section 21092, is conclusively presumed to have provided*
21 *the opportunity for members of the public to raise*
22 *objections regarding the alleged grounds for*
23 *noncompliance with this division, regardless of the*
24 *contents of the notice. If no notice concerning the*
25 *compliance with this division is required, this*
26 *presumption applies if notice was given in any form for*
27 *the project itself which advised the public that a*
28 *determination regarding compliance with this division*
29 *was made.*

30 SEC. 56. This act applies only to a project for which
31 a determination regarding compliance with Division 13
32 (commencing with Section 21000) of the Public
33 Resources Code has not been made by a public agency on
34 or before the operative date of this act.

35 SEC. 57. No reimbursement shall be made from the
36 State Mandates Claims Fund pursuant to Part 7
37 (commencing with Section 17500) of Division 4 of Title
38 2 of the Government Code for costs mandated by the
39 state pursuant to this act. It is recognized, however, that
40 a local agency or school district may pursue any remedies

1 to obtain reimbursement available to it under Part 7
2 (commencing with Section 17500) and any other
3 provisions of law. Notwithstanding Section 17580 of the
4 Government Code, unless otherwise specified in this act,
5 the provisions of this act shall become operative on the
6 same date that the act takes effect pursuant to the
7 California Constitution.