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AB-2965 California Environmental Quality Act: administrative and judicial procedures. (2021-2022)

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Assembly Bill No. 2965

CHAPTER 38

An act to amend Sections 21167 and 21167.8 of, and to repeal Sections 21168.6.5, 21168.6.6, 21170, and 21171 of, the Public Resources Code, relating to environmental quality.

[Approved by Governor June 21, 2022. Filed with Secretary of State June 21, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2965, Committee on Natural Resources. California Environmental Quality Act: administrative and judicial procedures.

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

Among other changes, this bill would repeal certain obsolete and duplicative provisions from CEQA and make nonsubstantive changes to certain other provisions.

CEQA establishes specified administrative and judicial review procedures for the administrative and judicial review of the EIR and approvals granted for a project related to the development of a specified football stadium and the modernization of the downtown convention center in the City of Los Angeles and for a project related to an entertainment and sports center in the City of Sacramento. CEQA requires the lead agency and applicant to implement specified measures as a condition of approval of those projects.

This bill would repeal those provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 21167 of the Public Resources Code is amended to read:

21167. An action or proceeding to attack, review, set aside, void, or annul the following acts or decisions of a public agency on the grounds of noncompliance with this division shall be commenced as follows:

(a) An action or proceeding alleging that a public agency is carrying out or has approved a project that may have a significant effect on the environment without having determined whether the project may have a significant effect on the environment shall

be commenced within 180 days from the date of the public agency's decision to carry out or approve the project, or, if a project is undertaken without a formal decision by the public agency, within 180 days from the date of commencement of the project.

(b) An action or proceeding alleging that a public agency has improperly determined whether a project may have a significant effect on the environment shall be commenced within 30 days from the date of the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152.

(c) An action or proceeding alleging that an environmental impact report does not comply with this division shall be commenced within 30 days from the date of the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152 by the lead agency.

(d) An action or proceeding alleging that a public agency has improperly determined that a project is not subject to this division pursuant to subdivision (b) of Section 21080 shall be commenced within 35 days from the date of the filing by the public agency, or person specified in subdivision (b) or (c) of Section 21065, of the notice authorized by subdivision (b) of Section 21108 or subdivision (b) of Section 21152. If the notice has not been filed, the action or proceeding shall be commenced within 180 days from the date of the public agency's decision to carry out or approve the project, or, if a project is undertaken without a formal decision by the public agency, within 180 days from the date of commencement of the project.

(e) An action or proceeding alleging that another act or omission of a public agency does not comply with this division shall be commenced within 30 days from the date of the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152.

(f) If a person has made a written request to the public agency for a copy of the notice specified in Section 21108 or 21152 before the date on which the agency approves or determines to carry out the project, then not later than five days from the date of the agency's action, the public agency shall deposit a written copy of the notice addressed to that person in the United States mail, first class postage prepaid. The date upon which this notice is mailed shall not affect the time periods specified in subdivisions (b), (c), (d), and (e).

SEC. 2. Section 21167.8 of the Public Resources Code is amended to read:

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

(b) At the time and place specified in the notice filed with the court, the parties shall meet and confer regarding anticipated issues to be raised in the litigation and shall attempt in good faith to settle the litigation and the dispute that forms the basis of the litigation. The settlement meeting discussions shall be comprehensive in nature and shall focus on the legal issues raised by the parties concerning the project that is the subject of the litigation.

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

(d) If the litigation is not settled, the court, in its discretion, may, or at the request of any party, shall, schedule a further settlement conference before a judge of the superior court. If the petition or complaint is later heard on its merits, the judge hearing the matter shall not be the same judge conducting the settlement conference, except in counties that have only one judge of the superior court.

(e) The failure of any party, who was notified pursuant to subdivision (a), to participate in the litigation settlement process, without good cause, may result in an imposition of sanctions by the court.

(f) Not later than 30 days from the date that notice of certification of the record of proceedings was filed and served in accordance with Section 21167.6, the petitioner or plaintiff shall file and serve on all other parties a statement of issues that the petitioner or plaintiff intends to raise in any brief or at any hearing or trial. Not later than 10 days from the date on which the respondent or real party in interest has been served with the statement of issues from the petitioner or plaintiff, each respondent and real party in interest shall file and serve on all other parties a statement of issues which that party intends to raise in any brief or at any hearing or trial.

SEC. 3. Section 21168.6.5 of the Public Resources Code is repealed.

SEC. 4. Section 21168.6.6 of the Public Resources Code is repealed.

SEC. 5. Section 21170 of the Public Resources Code is repealed.

SEC. 6. Section 21171 of the Public Resources Code is repealed.