

Introduced by Senator KuehlFebruary 7, 2008

An act to amend Section 6254 of the Government Code, and to amend Sections 21082.1, 21166, and 21167.1 of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1165, as introduced, Kuehl. Environment: environmental impact report.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, 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 does not prohibit a person from submitting information or other comments to a public agency responsible for preparing an environmental impact report (EIR), draft EIR, negative declaration, or mitigated negative declaration.

This bill would require communications between the project applicant and the public agency or the preparers of the EIR to be in writing, or recorded in writing. The bill would authorize the public agency to make available to members of the public preliminary drafts of its EIR, negative declaration, or mitigated negative declarations that are circulated among the project applicant and any public agencies prior to their official release for public comments.

(2) CEQA does not require, except for under specified circumstances, a lead agency or a responsible agency to prepare a subsequent or supplemental EIR when an EIR has been prepared for a project.

This bill would, instead, require, except for under specified circumstances, a lead agency or a responsible agency to prepare a subsequent or a supplemental EIR for a project if the certification of the prior EIR for the project is more than 5 years old. The public agency would be prohibited from relying on an EIR the certification of which is more than 5 years old and would be required to treat the EIR as an uncertified, draft EIR that must be recirculated for public review and comment and recertified by the public agency. By requiring a lead agency or a responsible agency, which includes a local agency, to recirculate an EIR whose certification is more than 5 years old for public review and comment, and recertification, this bill would increase the level of service provided by a local agency, thereby imposing a state-mandated local program.

(3) CEQA requires superior courts in counties with a population of more than 200,000 to designate one or more judges to develop expertise in CEQA and other related laws, so that those judges will be available to hear and quickly resolve an action or proceeding brought under CEQA.

This bill would authorize a party to an action or proceeding brought pursuant to CEQA filed in these superior courts to request the presiding judge to assign or reassign the action or proceedings to the designated judges. Except for certain specified circumstances, upon the filing of a request for assignment or reassignment, the presiding judge would be required to use his or her best efforts to promptly assign or reassign the action or proceeding to one of the designated judges

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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 6254 of the Government Code is amended
- 2 to read:
- 3 6254. Except as provided in Sections 6254.7 and 6254.13,
- 4 nothing in this chapter shall be construed to require disclosure of
- 5 records that are any of the following:

1 (a) Preliminary drafts, notes, or interagency or intra-agency
2 memoranda that are not retained by the public agency in the
3 ordinary course of business, if the public interest in withholding
4 those records clearly outweighs the public interest in disclosure.
5 *This subdivision does not apply to a preliminary draft of*
6 *environmental documentation that is circulated among the project*
7 *applicant and public agency prior to the official release of the*
8 *draft for public comments and any other comments on the draft.*

9 (b) Records pertaining to pending litigation to which the public
10 agency is a party, or to claims made pursuant to Division 3.6
11 (commencing with Section 810), until the pending litigation or
12 claim has been finally adjudicated or otherwise settled.

13 (c) Personnel, medical, or similar files, the disclosure of which
14 would constitute an unwarranted invasion of personal privacy.

15 (d) Contained in or related to any of the following:

16 (1) Applications filed with any state agency responsible for the
17 regulation or supervision of the issuance of securities or of financial
18 institutions, including, but not limited to, banks, savings and loan
19 associations, industrial loan companies, credit unions, and
20 insurance companies.

21 (2) Examination, operating, or condition reports prepared by,
22 on behalf of, or for the use of, any state agency referred to in
23 paragraph (1).

24 (3) Preliminary drafts, notes, or interagency or intra-agency
25 communications prepared by, on behalf of, or for the use of, any
26 state agency referred to in paragraph (1).

27 (4) Information received in confidence by any state agency
28 referred to in paragraph (1).

29 (e) Geological and geophysical data, plant production data, and
30 similar information relating to utility systems development, or
31 market or crop reports, that are obtained in confidence from any
32 person.

33 (f) Records of complaints to, or investigations conducted by,
34 or records of intelligence information or security procedures of,
35 the office of the Attorney General and the Department of Justice,
36 and any state or local police agency, or any investigatory or security
37 files compiled by any other state or local police agency, or any
38 investigatory or security files compiled by any other state or local
39 agency for correctional, law enforcement, or licensing purposes.
40 However, state and local law enforcement agencies shall disclose

1 the names and addresses of persons involved in, or witnesses other
2 than confidential informants to, the incident, the description of
3 any property involved, the date, time, and location of the incident,
4 all diagrams, statements of the parties involved in the incident, the
5 statements of all witnesses, other than confidential informants, to
6 the victims of an incident, or an authorized representative thereof,
7 an insurance carrier against which a claim has been or might be
8 made, and any person suffering bodily injury or property damage
9 or loss, as the result of the incident caused by arson, burglary, fire,
10 explosion, larceny, robbery, carjacking, vandalism, vehicle theft,
11 or a crime as defined by subdivision (b) of Section 13951, unless
12 the disclosure would endanger the safety of a witness or other
13 person involved in the investigation, or unless disclosure would
14 endanger the successful completion of the investigation or a related
15 investigation. However, nothing in this division shall require the
16 disclosure of that portion of those investigative files that reflects
17 the analysis or conclusions of the investigating officer.

18 Customer lists provided to a state or local police agency by an
19 alarm or security company at the request of the agency shall be
20 construed to be records subject to this subdivision.

21 Notwithstanding any other provision of this subdivision, state
22 and local law enforcement agencies shall make public the following
23 information, except to the extent that disclosure of a particular
24 item of information would endanger the safety of a person involved
25 in an investigation or would endanger the successful completion
26 of the investigation or a related investigation:

27 (1) The full name and occupation of every individual arrested
28 by the agency, the individual's physical description including date
29 of birth, color of eyes and hair, sex, height and weight, the time
30 and date of arrest, the time and date of booking, the location of
31 the arrest, the factual circumstances surrounding the arrest, the
32 amount of bail set, the time and manner of release or the location
33 where the individual is currently being held, and all charges the
34 individual is being held upon, including any outstanding warrants
35 from other jurisdictions and parole or probation holds.

36 (2) Subject to the restrictions imposed by Section 841.5 of the
37 Penal Code, the time, substance, and location of all complaints or
38 requests for assistance received by the agency and the time and
39 nature of the response thereto, including, to the extent the
40 information regarding crimes alleged or committed or any other

1 incident investigated is recorded, the time, date, and location of
2 occurrence, the time and date of the report, the name and age of
3 the victim, the factual circumstances surrounding the crime or
4 incident, and a general description of any injuries, property, or
5 weapons involved. The name of a victim of any crime defined by
6 Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b,
7 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286,
8 288, 288a, 288.2, ~~288.3 (as added by Chapter 337 of the Statutes~~
9 ~~of 2006)~~, ~~288.3 (as added by Section 6 of Proposition 83 of the~~
10 ~~November 7, 2006, statewide general election)~~, 288.5, 288.7, 289,
11 422.6, 422.7, 422.75, 646.9 or 647.6 of the Penal Code may be
12 withheld at the victim's request, or at the request of the victim's
13 parent or guardian if the victim is a minor. When a person is the
14 victim of more than one crime, information disclosing that the
15 person is a victim of a crime defined in any of the sections of the
16 Penal Code set forth in this subdivision may be deleted at the
17 request of the victim, or the victim's parent or guardian if the
18 victim is a minor, in making the report of the crime, or of any
19 crime or incident accompanying the crime, available to the public
20 in compliance with the requirements of this paragraph.

21 (3) Subject to the restrictions of Section 841.5 of the Penal Code
22 and this subdivision, the current address of every individual
23 arrested by the agency and the current address of the victim of a
24 crime, where the requester declares under penalty of perjury that
25 the request is made for a scholarly, journalistic, political, or
26 governmental purpose, or that the request is made for investigation
27 purposes by a licensed private investigator as described in Chapter
28 11.3 (commencing with Section 7512) of Division 3 of the Business
29 and Professions Code. However, the address of the victim of any
30 crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265,
31 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d,
32 273.5, 285, 286, 288, 288a, 288.2, ~~288.3 (as added by Chapter 337~~
33 ~~of the Statutes of 2006)~~, ~~288.3 (as added by Section 6 of~~
34 ~~Proposition 83 of the November 7, 2006, statewide general~~
35 ~~election)~~, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6
36 of the Penal Code shall remain confidential. Address information
37 obtained pursuant to this paragraph may not be used directly or
38 indirectly, or furnished to another, to sell a product or service to
39 any individual or group of individuals, and the requester shall
40 execute a declaration to that effect under penalty of perjury.

1 Nothing in this paragraph shall be construed to prohibit or limit a
2 scholarly, journalistic, political, or government use of address
3 information obtained pursuant to this paragraph.

4 (g) Test questions, scoring keys, and other examination data
5 used to administer a licensing examination, examination for
6 employment, or academic examination, except as provided for in
7 Chapter 3 (commencing with Section 99150) of Part 65 of Division
8 14 of Title 3 of the Education Code.

9 (h) The contents of real estate appraisals or engineering or
10 feasibility estimates and evaluations made for or by the state or
11 local agency relative to the acquisition of property, or to
12 prospective public supply and construction contracts, until all of
13 the property has been acquired or all of the contract agreement
14 obtained. However, the law of eminent domain shall not be affected
15 by this provision.

16 (i) Information required from any taxpayer in connection with
17 the collection of local taxes that is received in confidence and the
18 disclosure of the information to other persons would result in unfair
19 competitive disadvantage to the person supplying the information.

20 (j) Library circulation records kept for the purpose of identifying
21 the borrower of items available in libraries, and library and museum
22 materials made or acquired and presented solely for reference or
23 exhibition purposes. The exemption in this subdivision shall not
24 apply to records of fines imposed on the borrowers.

25 (k) Records, the disclosure of which is exempted or prohibited
26 pursuant to federal or state law, including, but not limited to,
27 provisions of the Evidence Code relating to privilege.

28 (l) Correspondence of and to the Governor or employees of the
29 Governor's office or in the custody of or maintained by the
30 Governor's Legal Affairs Secretary. However, public records shall
31 not be transferred to the custody of the Governor's Legal Affairs
32 Secretary to evade the disclosure provisions of this chapter.

33 (m) In the custody of or maintained by the Legislative Counsel,
34 except those records in the public database maintained by the
35 Legislative Counsel that are described in Section 10248.

36 (n) Statements of personal worth or personal financial data
37 required by a licensing agency and filed by an applicant with the
38 licensing agency to establish his or her personal qualification for
39 the license, certificate, or permit applied for.

1 (o) Financial data contained in applications for financing under
2 Division 27 (commencing with Section 44500) of the Health and
3 Safety Code, where an authorized officer of the California Pollution
4 Control Financing Authority determines that disclosure of the
5 financial data would be competitively injurious to the applicant
6 and the data is required in order to obtain guarantees from the
7 United States Small Business Administration. The California
8 Pollution Control Financing Authority shall adopt rules for review
9 of individual requests for confidentiality under this section and for
10 making available to the public those portions of an application that
11 are subject to disclosure under this chapter.

12 (p) Records of state agencies related to activities governed by
13 Chapter 10.3 (commencing with Section 3512), Chapter 10.5
14 (commencing with Section 3525), and Chapter 12 (commencing
15 with Section 3560) of Division 4, that reveal a state agency's
16 deliberative processes, impressions, evaluations, opinions,
17 recommendations, meeting minutes, research, work products,
18 theories, or strategy, or that provide instruction, advice, or training
19 to employees who do not have full collective bargaining and
20 representation rights under these chapters. Nothing in this
21 subdivision shall be construed to limit the disclosure duties of a
22 state agency with respect to any other records relating to the
23 activities governed by the employee relations acts referred to in
24 this subdivision.

25 (q) Records of state agencies related to activities governed by
26 Article 2.6 (commencing with Section 14081), Article 2.8
27 (commencing with Section 14087.5), and Article 2.91
28 (commencing with Section 14089) of Chapter 7 of Part 3 of
29 Division 9 of the Welfare and Institutions Code, that reveal the
30 special negotiator's deliberative processes, discussions,
31 communications, or any other portion of the negotiations with
32 providers of health care services, impressions, opinions,
33 recommendations, meeting minutes, research, work product,
34 theories, or strategy, or that provide instruction, advice, or training
35 to employees.

36 Except for the portion of a contract containing the rates of
37 payment, contracts for inpatient services entered into pursuant to
38 these articles, on or after April 1, 1984, shall be open to inspection
39 one year after they are fully executed. If a contract for inpatient
40 services that is entered into prior to April 1, 1984, is amended on

1 or after April 1, 1984, the amendment, except for any portion
2 containing the rates of payment, shall be open to inspection one
3 year after it is fully executed. If the California Medical Assistance
4 Commission enters into contracts with health care providers for
5 other than inpatient hospital services, those contracts shall be open
6 to inspection one year after they are fully executed.

7 Three years after a contract or amendment is open to inspection
8 under this subdivision, the portion of the contract or amendment
9 containing the rates of payment shall be open to inspection.

10 Notwithstanding any other provision of law, the entire contract
11 or amendment shall be open to inspection by the Joint Legislative
12 Audit Committee and the Legislative Analyst's Office. The
13 committee and that office shall maintain the confidentiality of the
14 contracts and amendments until the time a contract or amendment
15 is fully open to inspection by the public.

16 (r) Records of Native American graves, cemeteries, and sacred
17 places and records of Native American places, features, and objects
18 described in Sections 5097.9 and 5097.993 of the Public Resources
19 Code maintained by, or in the possession of, the Native American
20 Heritage Commission, another state agency, or a local agency.

21 (s) A final accreditation report of the Joint Commission on
22 Accreditation of Hospitals that has been transmitted to the State
23 Department of Health Care Services pursuant to subdivision (b)
24 of Section 1282 of the Health and Safety Code.

25 (t) Records of a local hospital district, formed pursuant to
26 Division 23 (commencing with Section 32000) of the Health and
27 Safety Code, or the records of a municipal hospital, formed
28 pursuant to Article 7 (commencing with Section 37600) or Article
29 8 (commencing with Section 37650) of Chapter 5 of Part 2 of
30 Division 3 of Title 4 of this code, that relate to any contract with
31 an insurer or nonprofit hospital service plan for inpatient or
32 outpatient services for alternative rates pursuant to Section 10133
33 of the Insurance Code. However, the record shall be open to
34 inspection within one year after the contract is fully executed.

35 (u) (1) Information contained in applications for licenses to
36 carry firearms issued pursuant to Section 12050 of the Penal Code
37 by the sheriff of a county or the chief or other head of a municipal
38 police department that indicates when or where the applicant is
39 vulnerable to attack or that concerns the applicant's medical or
40 psychological history or that of members of his or her family.

1 (2) The home address and telephone number of peace officers,
2 judges, court commissioners, and magistrates that are set forth in
3 applications for licenses to carry firearms issued pursuant to
4 Section 12050 of the Penal Code by the sheriff of a county or the
5 chief or other head of a municipal police department.

6 (3) The home address and telephone number of peace officers,
7 judges, court commissioners, and magistrates that are set forth in
8 licenses to carry firearms issued pursuant to Section 12050 of the
9 Penal Code by the sheriff of a county or the chief or other head of
10 a municipal police department.

11 (v) (1) Records of the Managed Risk Medical Insurance Board
12 related to activities governed by Part 6.3 (commencing with Section
13 12695) and Part 6.5 (commencing with Section 12700) of Division
14 2 of the Insurance Code, and that reveal the deliberative processes,
15 discussions, communications, or any other portion of the
16 negotiations with entities contracting or seeking to contract with
17 the board, or the impressions, opinions, recommendations, meeting
18 minutes, research, work product, theories, or strategy of the board
19 or its staff, or records that provide instructions, advice, or training
20 to employees.

21 (2) (A) Except for the portion of a contract that contains the
22 rates of payment, contracts for health coverage entered into
23 pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5
24 (commencing with Section 12700) of Division 2 of the Insurance
25 Code, on or after July 1, 1991, shall be open to inspection one year
26 after their effective dates.

27 (B) If a contract that is entered into prior to July 1, 1991, is
28 amended on or after July 1, 1991, the amendment, except for any
29 portion containing the rates of payment, shall be open to inspection
30 one year after the amendment has been fully executed.

31 (3) Three years after a contract or amendment is open to
32 inspection pursuant to this subdivision, the portion of the contract
33 or amendment containing the rates of payment shall be open to
34 inspection.

35 (4) Notwithstanding any other provision of law, the entire
36 contract or amendments to a contract shall be open to inspection
37 by the Joint Legislative Audit Committee. The committee shall
38 maintain the confidentiality of the contracts and amendments
39 thereto, until the contract or amendments to a contract is open to
40 inspection pursuant to paragraph (3).

1 (w) (1) Records of the Managed Risk Medical Insurance Board
2 related to activities governed by Chapter 8 (commencing with
3 Section 10700) of Part 2 of Division 2 of the Insurance Code, and
4 that reveal the deliberative processes, discussions, communications,
5 or any other portion of the negotiations with health plans, or the
6 impressions, opinions, recommendations, meeting minutes,
7 research, work product, theories, or strategy of the board or its
8 staff, or records that provide instructions, advice, or training to
9 employees.

10 (2) Except for the portion of a contract that contains the rates
11 of payment, contracts for health coverage entered into pursuant to
12 Chapter 8 (commencing with Section 10700) of Part 2 of Division
13 2 of the Insurance Code, on or after January 1, 1993, shall be open
14 to inspection one year after they have been fully executed.

15 (3) Notwithstanding any other provision of law, the entire
16 contract or amendments to a contract shall be open to inspection
17 by the Joint Legislative Audit Committee. The committee shall
18 maintain the confidentiality of the contracts and amendments
19 thereto, until the contract or amendments to a contract is open to
20 inspection pursuant to paragraph (2).

21 (x) Financial data contained in applications for registration, or
22 registration renewal, as a service contractor filed with the Director
23 of Consumer Affairs pursuant to Chapter 20 (commencing with
24 Section 9800) of Division 3 of the Business and Professions Code,
25 for the purpose of establishing the service contractor's net worth,
26 or financial data regarding the funded accounts held in escrow for
27 service contracts held in force in this state by a service contractor.

28 (y) (1) Records of the Managed Risk Medical Insurance Board
29 related to activities governed by Part 6.2 (commencing with Section
30 12693) or Part 6.4 (commencing with Section 12699.50) of
31 Division 2 of the Insurance Code, and that reveal the deliberative
32 processes, discussions, communications, or any other portion of
33 the negotiations with entities contracting or seeking to contract
34 with the board, or the impressions, opinions, recommendations,
35 meeting minutes, research, work product, theories, or strategy of
36 the board or its staff, or records that provide instructions, advice,
37 or training to employees.

38 (2) (A) Except for the portion of a contract that contains the
39 rates of payment, contracts entered into pursuant to Part 6.2
40 (commencing with Section 12693) or Part 6.4 (commencing with

1 Section 12699.50) of Division 2 of the Insurance Code, on or after
2 January 1, 1998, shall be open to inspection one year after their
3 effective dates.

4 (B) If a contract entered into pursuant to Part 6.2 (commencing
5 with Section 12693) or Part 6.4 (commencing with Section
6 12699.50) of Division 2 of the Insurance Code is amended, the
7 amendment shall be open to inspection one year after the
8 amendment has been fully executed.

9 (3) Three years after a contract or amendment is open to
10 inspection pursuant to this subdivision, the portion of the contract
11 or amendment containing the rates of payment shall be open to
12 inspection.

13 (4) Notwithstanding any other provision of law, the entire
14 contract or amendments to a contract shall be open to inspection
15 by the Joint Legislative Audit Committee. The committee shall
16 maintain the confidentiality of the contracts and amendments
17 thereto until the contract or amendments to a contract are open to
18 inspection pursuant to paragraph (2) or (3).

19 (5) The exemption from disclosure provided pursuant to this
20 subdivision for the contracts, deliberative processes, discussions,
21 communications, negotiations, impressions, opinions,
22 recommendations, meeting minutes, research, work product,
23 theories, or strategy of the board or its staff shall also apply to the
24 contracts, deliberative processes, discussions, communications,
25 negotiations, impressions, opinions, recommendations, meeting
26 minutes, research, work product, theories, or strategy of applicants
27 pursuant to Part 6.4 (commencing with Section 12699.50) of
28 Division 2 of the Insurance Code.

29 (z) Records obtained pursuant to paragraph (2) of subdivision
30 ~~(e)~~ (f) of Section 2891.1 of the Public Utilities Code.

31 (aa) A document prepared by or for a state or local agency that
32 assesses its vulnerability to terrorist attack or other criminal acts
33 intended to disrupt the public agency's operations and that is for
34 distribution or consideration in a closed session.

35 (ab) Critical infrastructure information, as defined in Section
36 131(3) of Title 6 of the United States Code, that is voluntarily
37 submitted to the California Office of Homeland Security for use
38 by that office, including the identity of the person who or entity
39 that voluntarily submitted the information. As used in this
40 subdivision, "voluntarily submitted" means submitted in the

1 absence of the office exercising any legal authority to compel
2 access to or submission of critical infrastructure information. This
3 subdivision shall not affect the status of information in the
4 possession of any other state or local governmental agency.

5 (ac) All information provided to the Secretary of State by a
6 person for the purpose of registration in the Advance Health Care
7 Directive Registry, except that those records shall be released at
8 the request of a health care provider, a public guardian, or the
9 registrant’s legal representative.

10 Nothing in this section prevents any agency from opening its
11 records concerning the administration of the agency to public
12 inspection, unless disclosure is otherwise prohibited by law.

13 Nothing in this section prevents any health facility from
14 disclosing to a certified bargaining agent relevant financing
15 information pursuant to Section 8 of the National Labor Relations
16 Act (29 U.S.C. Sec. 158).

17 SEC. 2. Section 21082.1 of the Public Resources Code is
18 amended to read:

19 21082.1. (a) ~~Any~~—A draft environmental impact report,
20 environmental impact report, negative declaration, or mitigated
21 negative declaration prepared pursuant to the requirements of this
22 division shall be prepared directly by, or under contract to, a public
23 agency.

24 (b) This section is not intended to prohibit, and shall not be
25 construed as prohibiting, ~~any~~ a person from submitting information
26 or other comments to the public agency responsible for preparing
27 an environmental impact report, draft environmental impact report,
28 negative declaration, or mitigated negative declaration. The
29 information or other comments may be submitted in any format,
30 *except that all communications between the project applicant and*
31 *the public agency or the preparers of the environmental impact*
32 *report regarding the environmental review documents shall be in*
33 *writing, or recorded in writing. All information or comments*
34 *submitted to the public agency regarding the project or its potential*
35 *environmental effects shall be considered and retained by the*
36 *public agency, and may be included, in whole or in part, in any*
37 *report or declaration.*

38 (c) *The public agency may make preliminary drafts of its*
39 *environmental impact reports, negative declarations, or mitigated*
40 *negative declarations that are circulated among the project*

1 *applicant and public agencies, prior to the official release of the*
2 *drafts for public comments available to members of the public.*
3 *The agency shall provide public notice of the availability of a*
4 *preliminary draft of an environmental document, and the*
5 *opportunity to comment on the draft, in the same manner as*
6 *provided pursuant to Section 21092.*

7 ~~(e)~~

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

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

11 (2) Circulate draft documents that reflect its independent
12 judgment.

13 (3) As part of the adoption of a negative declaration or a
14 mitigated negative declaration, or certification of an environmental
15 impact report, find that the report or declaration reflects the
16 independent judgment of the lead agency.

17 (4) Submit a sufficient number of copies of the draft
18 environmental impact report, proposed negative declaration, or
19 proposed mitigated negative declaration, and a copy of the report
20 or declaration in an electronic form as required by the guidelines
21 adopted pursuant to Section 21083, to the State Clearinghouse for
22 review and comment by state agencies, if any of the following
23 apply:

24 (A) A state agency is any of the following:

25 (i) The lead agency.

26 (ii) A responsible agency.

27 (iii) A trustee agency.

28 (B) A state agency otherwise has jurisdiction by law with respect
29 to the project.

30 (C) The proposed project is of sufficient statewide, regional, or
31 areawide environmental significance as determined pursuant to
32 the guidelines certified and adopted pursuant to Section 21083.

33 SEC. 3. Section 21166 of the Public Resources Code is
34 amended to read:

35 21166. (a) When an environmental impact report has been
36 ~~prepared~~ *certified* for a project pursuant to this division *within the*
37 *past five years*, no subsequent or supplemental environmental
38 impact report shall be required by the lead agency or by ~~any~~ *a*
39 responsible agency, unless one or more of the following events
40 occurs:

1 ~~(a)~~
 2 (1) Substantial changes are proposed in the project which will
 3 require major revisions of the environmental impact report.

4 ~~(b)~~
 5 (2) Substantial changes occur with respect to the circumstances
 6 under which the project is being undertaken which will require
 7 major revisions in the environmental impact report.

8 ~~(e)~~
 9 (3) New information, which was not known and could not have
 10 been known at the time the environmental impact report was
 11 certified as complete, becomes available.

12 ***(b) A public agency shall not rely on an environmental impact
 13 report the certification of which is more than five years old. Such
 14 an environmental impact report shall be treated as an uncertified,
 15 draft environmental impact report under this division by the
 16 agency, circulated for public review and comment, and recertified
 17 by the public agency pursuant to this division before the agency
 18 takes an action in reliance on the environmental impact report's
 19 analysis or conclusions.***

20 SEC. 4. Section 21167.1 of the Public Resources Code is
 21 amended to read:

22 21167.1. (a) In all actions or proceedings brought pursuant to
 23 Sections 21167, 21168, and 21168.5, including the hearing of an
 24 action or proceeding on appeal from a decision of a lower court,
 25 all courts in which the action or proceeding is pending shall give
 26 the action or proceeding preference over all other civil actions, in
 27 the matter of setting the action or proceeding for hearing or trial,
 28 and in hearing or trying the action or proceeding, so that the action
 29 or proceeding shall be quickly heard and determined. The court
 30 shall regulate the briefing schedule so that, to the extent feasible,
 31 the court shall commence hearings on an appeal within one year
 32 of the date of the filing of the appeal.

33 (b) *(1) To ensure that actions or proceedings brought pursuant
 34 to Sections 21167, 21168, and 21168.5 may be quickly heard and
 35 determined in the lower courts, the superior courts in all counties
 36 with a population of more than 200,000 shall designate one or
 37 more judges to develop expertise in this division and related land
 38 use and environmental laws, so that those judges will be available
 39 to hear, and quickly resolve, actions or proceedings brought
 40 pursuant to Sections 21167, 21168, and 21168.5.*

1 (2) *If an action or proceeding brought pursuant to Sections*
2 *21167, 21168, and 21168.5 is filed in a court that has designated*
3 *one or more judges pursuant to this subdivision but the case is*
4 *assigned to another judge of this court or the court has not made*
5 *an assignment, a party may request the presiding judge of the court*
6 *to assign or reassign the action or proceeding to a judge who has*
7 *been designated pursuant to this subdivision.*

8 (3) *A request for reassignment under paragraph (2) is not a*
9 *peremptory challenge made under Section 170.6 of the Code of*
10 *Civil Procedures, but shall be filed by the requesting party within*
11 *the time limits established by that section.*

12 (4) *Upon the filing of a request under paragraph (2), the*
13 *presiding judge shall use his or her best efforts to promptly assign*
14 *or reassign the case to a judge designated pursuant to this*
15 *subdivision, except that an assignment shall not be made to a judge*
16 *who has been the subject of a prior peremptory challenge in the*
17 *case or who has otherwise previously recused him or herself from*
18 *the matter.*

19 (c) In an action or proceeding filed pursuant to this chapter that
20 is joined with any other cause of action, the court, upon a motion
21 by any party, may grant severance of the actions. In determining
22 whether to grant severance, the court shall consider such matters
23 as judicial economy, administrative economy, and prejudice to
24 any party.

25 SEC. 5. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 a local agency or school district has the authority to levy service
28 charges, fees, or assessments sufficient to pay for the program or
29 level of service mandated by this act, within the meaning of Section
30 17556 of the Government Code.