

Case No. S207173

SUPREME COURT
FILED

MAR 12 2013

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

Frank A. McGuire Clerk

Deputy

TUOLUMNE JOBS & SMALL BUSINESS ALLIANCE,

Petitioner,

v.

THE SUPERIOR COURT OF TUOLUMNE COUNTY,

Respondent,

WAL-MART STORES, INC.; JAMES GRINNELL,

Real Parties in Interest.

After a Decision by the Court of Appeal
Fifth Appellate District
Case No. F063849

**REAL PARTY IN INTEREST JAMES GRINNELL'S MOTION FOR
JUDICIAL NOTICE**

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JAMES GRINNELL

MOTION REQUESTING JUDICIAL NOTICE

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE
JUSTICES OF THE CALIFORNIA SUPREME COURT, AND TO ALL
PARTIES AND THEIR COUNSEL OF RECORD:

Pursuant to California Rules of Court (“CRC”), Rules 8.252(a) and 8.520(g), as well as Evidence Code sections 459 and 452, Real Party in Interest James Grinnell (“Grinnell”) respectfully requests the Court take judicial notice of the documents described below, which consist primarily of legislative history materials related to the California Legislature’s consideration of various proposed bills to amend the Elections Code provisions related to voter-sponsored initiatives. Significantly, the legislative history materials attached to this motion were previously discussed and analyzed by this Court in connection with its decision in *DeVita v. County of Napa* (1995) 9 Cal.4th 763. True and correct copies of such documents are attached hereto, as follows:

- A. Assembly Bill No. 2202 (1987-1988 Regular Session), as introduced on March 6, 1987, and as Chaptered, Stats. 1987, Ch. 767. (Exhibit “A”.)
- B. Assembly Bill No. 4678 (1987-1988 Regular Session), as introduced on March 1, 1988. (Exhibit “B”.)
- C. Assembly Bill No. 628 (1989-1990 Regular Session) , as introduced Feb. 14, 1989. (Exhibit “C”.)

D. An official publication of the Governor’s Office of Planning and Research, entitled “Circulation and Notice Under the California Environmental Quality Act,” 2001. (Exhibit “D”.)

1. **Why the Matter to be Noticed is Relevant to the Appeal and Why the Matter is Subject to Judicial Notice**

Pursuant to Evidence Code section 459, a “reviewing court may take judicial notice of any matter specified in Section 452.” Evidence Code section 452, in turn, provides that judicial notice may be taken of “[o]fficial acts of the legislative” department “of any state of the United States.” (Evid. Code § 452(c).) Moreover, this Court has regularly taken judicial notice of legislative history materials, where such materials are relevant to a material issue in a case. (*See, e.g., Intel Corp. v. Hamidi* (2003) 30 Cal. 4th 1342, 1350, n.3 [“We grant both parties’ requests for notice of legislative history materials relating to California laws . . .”]; *Doe v. City of Los Angeles* (2007) 42 Cal. 4th 531, 544, n.4 [granting judicial notice of the legislative history of a senate bill]; *Elsner v. Uveges* (2004) 34 Cal. 4th 915, 934, n.19 [“we have routinely found enrolled bill reports, prepared by a responsible agency contemporaneous with passage and before signing, instructive on matters of legislative intent”].)

The legal issue before the Court in this case is whether a city council’s adoption of a voter-sponsored initiative pursuant to Elections

Code section 9214 is subject to the California Environmental Quality Act (“CEQA”) (Public Resources Code §§ 21000 *et. seq.*). Accordingly, this case turns on the interpretation and application of Elections Code section 9214, and legislative materials evidencing the intent of the Legislature in adopting and amending the statutory scheme in which section 9214 (and its predecessor) is found are relevant to the issues before the Court. (*People v. Goodloe* (1995) 37 Cal.App.4th 485, 491.) In fact, this Court previously discussed each of the attached legislative documents the last time it addressed the issue of whether CEQA applies to a voter-sponsored initiative, in *DeVita v. County of Napa* (1995) 9 Cal.4th 763.

In *DeVita*, this Court held that CEQA did not apply to a voter-sponsored county initiative that was placed on the ballot and adopted by the voters, in part based upon the Court’s analysis of legislative intent demonstrated by the legislative history of Assembly Bills 2202, 4678, 628. (*Id.* at 793-795.) The *DeVita* Court’s discussion of that legislative history is equally applicable to the question before the Court in the present case (whether CEQA applies where a city council adopts a voter-sponsored initiative instead of placing it on the ballot), and thus, these same legislative history materials are again relevant and should be judicially noticed by the Court.

In addition, the official publication of the Governor’s Office of Planning and Research, entitled “Circulation and Notice Under the

California Environmental Quality Act” (“OPR Memorandum”) is an official publication of the executive branch of the State of California. As such, this official report is subject to judicial notice pursuant to Evidence Code section 452(c). (*Western Oil & Gas Ass’n v. Monterey Bay Unified Air Pollution Control Dist.* (1989) 49 Cal.3d 408, 414 n. 8 [granting request for judicial notice of state Air Resources Board report]; *Harris v. Alcoholic Beverage Control Appeals Board* (1965) 62 Cal.2d 589, 595 [bulletin from state agency was subject to judicial notice as an official act]; *Truta v. Avis Rent a Car System, Inc.* (1987) 193 Cal.App.3d 802, 810 n. 6 [governmental agency memoranda subject to judicial notice]; *People v. French* (1978) 77 Cal.App.3d 511, 521 [memorandum prepared by agency legal counsel subject to judicial notice].)

2. Whether the Matter Was Presented to the Trial Court and Whether the Matter Relates to Proceedings Occurring After the Order or Judgment That is the Subject of the Appeal

The attached legislative materials and the OPR Memorandum were not presented to the trial court for judicial notice, and do not relate to proceedings occurring after the judgment that is the subject of Grinnell’s Petition for Review. (*See* CRC Rule 8.252(a)(2) [motion for judicial notice must state whether the matter to be noticed was presented to the trial court and whether the matter relates to proceedings occurring after the judgment].) Nonetheless, as noted above, they are proper subjects for

judicial review pursuant to Evidence Code section 452(c) as official acts of the legislative department, and indeed, consist of legislative history materials and an agency memorandum, categories of documents that are regularly judicially noticed by this Court and the Courts of Appeal. (*See, e.g., Intel Corp. v. Hamidi*, 30 Cal. 4th at 1350, n.3 [“We grant both parties’ requests for notice of legislative history materials relating to California laws . . .”]; *Canister v. Emergency Ambulance Service, Inc.* (2008) 160 Cal.App.4th 388, 401 n.6 [taking judicial notice of “legislative history materials” related to a statute]; *Belio v. Panorama Optics* (1995) 33 Cal.App.4th 1096, 1104 [same].) Accordingly, Grinnell respectfully requests that this Court take judicial notice of each of the above-referenced documents.

Dated: March 11, 2013

RUTAN & TUCKER, LLP
JOHN A. RAMIREZ
ROBERT S. BOWER
PETER J. HOWELL

By: 

John A. Ramirez
Attorneys for Real Party In
Interest JAMES GRINNELL

[PROPOSED] ORDER

Good cause appearing therefor, Real Party in Interest James
Grinnell's motion for judicial notice is hereby GRANTED.

Dated: _____

Justice of the California
Supreme Court

Exhibit A

ASSEMBLY BILL

No. 2202

Introduced by Assembly Member Chacon

March 6, 1987

An act to amend Sections 4002, 4005, and 4006 of, to add Sections 4002.5 and 4009.5 to, and to repeal Sections 4003 and 4004 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2202, as introduced, Chacon.

General Subject: Municipal initiative petitions.

Existing law requires a proponent of a municipal initiative petition, before circulating the petition, to publish a notice of intention to do so including a statement of up to 500 words on the reasons for the proposed petition which is signed by up to 3 proponents.

This bill would require instead that the notice of intent be filed with the clerk of the legislative body, and would repeal related provisions pertaining to publication of the notice of intent.

This bill would require a proponent to file with the clerk a copy of the proposed measure with a request for a ballot title. It would impose a state-mandated local program by requiring the clerk to submit a copy of the measure to the city attorney, who would be required to provide a ballot title for the proposed measure.

This bill would revise existing procedures to permit circulation of the petition for signatures 10 days after the notice of intent is filed with the clerk, and would require the person filing the proposed measure with the clerk to pay a \$200 fee which is refundable if the measure qualifies for the ballot within a stated time period.

This bill would authorize the city council, before enacting



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a proposed measure or calling a special election, to refer an initiative petition which is a land use measure to the planning agency for a report, within 45 days, on the effect of the proposed measure upon the city's general plan, among other matters.

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 Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be made from the State Mandates Claims Fund.

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 4002 of the Elections Code is
2 amended to read:

3 4002. Before circulating an initiative petition in any
4 city, the proponents of the matter shall ~~publish~~ *file with*
5 *the clerk* a notice of intention so to do, which notice shall
6 be accompanied by a written statement not in excess of
7 500 words, setting forth the reasons for the proposed
8 petition. The notice shall be signed by at least one, but
9 not more than three, proponents and shall be in
10 substantially the following form:

11
12 Notice of Intent to Circulate Petition

13
14 Notice is here by given of the intention of the persons
15 whose names appear hereon of their intention to
16 circulate the petition within the City of _____ for the
17 purpose of _____. A statement of the reasons of the



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1 proposed action as contemplated in the petition is as
2 follows:

3 SEC. 2. Section 4002.5 is added to the Elections Code,
4 to read:

5 4002.5. (a) Any person who is interested in any
6 proposed measure shall file a copy of the proposed
7 measure with the clerk with a request that a ballot title
8 be prepared. This request shall be accompanied by the
9 address of the person proposing the measure. The clerk
10 shall immediately transmit a copy of the proposed
11 measure to the city attorney. Within 15 days after the
12 proposed measure is filed, the city attorney shall provide
13 and return to the city clerk a ballot title for the proposed
14 measure. The ballot title may differ from the other title
15 of the proposed measure and shall express in 100 words
16 or less the purpose of the proposed measure. In providing
17 the ballot title, the city attorney shall give a true and
18 impartial statement of the purpose of the proposed
19 measure in such language that the ballot title shall
20 neither be an argument, nor be likely to create prejudice,
21 for or against the proposed measure.

22 (b) The clerk shall furnish a copy of the ballot title to
23 the person filing the proposed measure. The person
24 proposing the measure shall, prior to its circulation, place
25 upon each section of the petition, above the text of the
26 proposed measure and across the top of each page of the
27 petition on which signatures are to appear, in roman
28 boldface type not smaller than 12-point, the ballot title
29 prepared by the city attorney.

30 The heading of the proposed measure shall be in
31 substantially the following form:

32 Initiative Measure to Be Submitted Directly to the
33 Voters

34
35 The city attorney has prepared the following title and
36 summary of the chief purpose and points of the proposed
37 measure:

38 (Here set forth the title and summary prepared by the
39 city attorney. This title and summary must also be
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1 printed across the top of each page of the petition
 2 whereon signatures are to appear.)
 3 SEC. 3. Section 4003 of the Elections Code is
 4 repealed.
 5 ~~4003. A notice of intention and statement as referred~~
 6 ~~to in Section 4002, shall be published or posted or both as~~
 7 ~~follows:~~

8 ~~(a) If there is a newspaper of general circulation, as~~
 9 ~~described in Section 6000 et seq. of the Government~~
 10 ~~Code, adjudicated as such, said notice and statement shall~~
 11 ~~be published therein at least once; or~~
 12 ~~(b) If the petition is to be circulated in a city in which~~
 13 ~~there is no adjudicated newspaper of general circulation;~~
 14 ~~said notice and statement shall be published at least once;~~
 15 ~~in a newspaper circulated within the city and adjudicated~~
 16 ~~as being of general circulation within the county in which~~
 17 ~~the city is located and said notice and statement shall be~~
 18 ~~posted in three (3) public places within the city; which~~
 19 ~~public places shall be those utilized for the purpose of~~
 20 ~~posting ordinances as required in Section 36933 of the~~
 21 ~~Government Code; or~~

22 ~~(c) If the petition is to be circulated in a city in which~~
 23 ~~there is no adjudicated newspaper of general circulation;~~
 24 ~~and there is no newspaper of general circulation~~
 25 ~~adjudicated as such within the county; circulated within~~
 26 ~~the city; then the said notice and statement shall be~~
 27 ~~posted in the manner described in subdivision (b) of this~~
 28 ~~section.~~

29 SEC. 4. Section 4004 of the Elections Code is
 30 repealed.

31 ~~4004. Within 10 days after the date of publication or~~
 32 ~~posting, or both, of the notice of intention and statement,~~
 33 ~~the proponents shall file a copy of the notice and~~
 34 ~~statement as published or posted, or both, together with~~
 35 ~~an affidavit made by a representative of the newspaper~~
 36 ~~in which the notice was published or, if the notice was~~
 37 ~~posted, by a voter of the city, certifying to the fact of~~
 38 ~~publication or posting.~~

39 Such affidavit, together with a copy of the notice of
 40 intention and statement, shall be filed with the clerk of



1 the legislative body of the city.
 2 SEC. 5. Section 4005 of the Elections Code is
 3 amended to read:

4 ~~4005. Twenty-five~~ Ten days after the publication or
 5 ~~posting or both of the notice of intention and statement~~
 6 ~~notice of intent to circulate a petition is filed with the~~
 7 ~~clerk, the petition may be circulated among the voters of~~
 8 ~~the city for signatures by any registered voter of the city.~~
 9 ~~Each section of the petition shall bear a copy of the notice~~
 10 ~~of intention and statement.~~

11 SEC. 6. Section 4006 of the Elections Code is
 12 amended to read:

13 ~~4006. Signatures upon petitions and sections of~~
 14 ~~petitions shall be secured, and the petition, together with~~
 15 ~~all sections of the petition, shall be filed within 180 days~~
 16 ~~from the date of publication or posting, or both, filing of~~
 17 ~~the notice of intention and statement. If the petitions are~~
 18 ~~not filed within the time permitted by this section, the~~
 19 ~~petitions shall be void for all purposes.~~

20 ~~Any person filing a measure with the clerk shall pay a~~
 21 ~~fee of two hundred dollars (\$200) to be refunded to the~~
 22 ~~person if, within one year of the date, the summary is~~
 23 ~~furnished to the person filing the measure, the measure~~
 24 ~~qualifies for the ballot.~~

25 SEC. 7. Section 4009.5 is added to the Elections Code,
 26 to read:

27 ~~4009.5. If the initiative petition is a land use measure,~~
 28 ~~before taking either action described in subdivisions (a)~~
 29 ~~and (b) of Section 4010, the council may refer the~~
 30 ~~petition to the planning agency for a report on the~~
 31 ~~measure's effect on the internal consistency of the city's~~
 32 ~~general and specific plans including the housing element,~~
 33 ~~the consistency between planning and zoning, the~~
 34 ~~limitation on city actions under Section 65008 of the~~
 35 ~~Government Code, and Chapters 4.2 (commencing with~~
 36 ~~Section 65913) and 4.3 (commencing with Section 65915)~~
 37 ~~of Division 1 of Title 7 of the Government Code, and any~~
 38 ~~other matters the council requests the planning agency~~
 39 ~~to consider.~~

40 The planning agency shall present its report to the
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1 council within 45 calendar days after referral by the city
2 council.
3 SEC. 8. Notwithstanding Section 17610 of the
4 Government Code, if the Commission on State Mandates
5 determines that this act contains costs mandated by the
6 state, reimbursement to local agencies and school
7 districts for those costs shall be made pursuant to Part 7
8 (commencing with Section 17500) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the
10 claim for reimbursement does not exceed five hundred
11 thousand dollars (\$500,000), reimbursement shall be
12 made from the State Mandates Claims Fund.

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CHAPTER 767

An act to amend Sections 3702, 3703, 3705, 4002, 4003, and 4006 of, to add Sections 3702.5, 3702.7, 3705.5, 4002.5, 4002.7, and 4009.5 to, to repeal Section 4004 of, and to repeal and add Sections 3704 and 4005 of, the Elections Code, relating to elections.

[Approved by Governor September 18, 1987. Filed with Secretary of State September 18, 1987.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2202, Chacon. County and municipal initiative petitions. Existing law requires a proponent of a municipal initiative petition, before circulating the petition, to publish a notice of intention to do so including a statement of up to 500 words on the reasons for the proposed petition which is signed by up to 3 proponents.

This bill would require instead that the notice of intent, along with the written text of the initiative, be filed with the clerk of the legislative body, and would revise related provisions pertaining to publication of the notice of intent. It would require a person filing a notice of intent to pay a refundable fee of up to \$200.

This bill would require a proponent to file with the clerk a copy of the proposed measure with a request for a ballot title. It would impose a state-mandated local program by requiring the clerk to submit a copy of the measure to the city attorney, who would be required to provide a ballot title and summary for the proposed measure. It would authorize the proponent to seek an expedited hearing for a writ of mandate in order to have the ballot title or summary amended on specified grounds.

This bill would revise existing procedures to permit circulation of the petition after publication of the title and summary prepared by the city attorney and within a specified time period.

This bill would authorize the city council, during the circulation of the petition and before enacting a proposed measure or calling a special election, or submitting it to the voters at a regular municipal election, to refer an initiative measure to any city agency for a report, within 45 days, on the effect of the proposed measure upon the city's general plan, among other matters.

This bill would impose a state-mandated local program by making parallel revisions to the statutory procedure for the enactment of county initiative measures.

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 Claims

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and to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be made from the State Mandates Claims Fund.

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

SECTION 1. Section 3702 of the Elections Code is amended to read:

3702. (a) Before circulating any initiative petition in a county, or any petition relating to the annexation of territory by a county, the consolidation of counties, or the dissolution of a county, its proponents shall file with the clerk a notice of intention to do so. The notice shall be accompanied by the written text of the initiative and may be accompanied by a printed statement, not exceeding 500 words in length, stating the reasons for the proposed petition.

(b) The notice prescribed in subdivision (a), and a title and summary of the proposed measure prepared by the county counsel, shall be published at least once in a newspaper of general circulation published in that county.

(c) The notice shall be in substantially the following form:

Notice of Intention to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of _____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

(d) Any person filing a notice of intent with the county clerk shall pay a fee to be established by the board of supervisors not to exceed two hundred dollars (\$200) to be refunded to the filer if, within one year of the date of filing the notice of intent, the county clerk certifies the sufficiency of the petition.

SEC. 2. Section 3702.5 is added to the Elections Code, to read: 3702.5. (a) Any person who is interested in any proposed measure shall file a copy of the proposed measure with the county clerk with a request that a ballot title and summary be prepared. This request shall be accompanied by the address of the person proposing the measure. The county clerk shall immediately transmit a copy of the proposed measure to the county counsel. Within 15 days after the proposed measure is filed, the county counsel shall provide and return to the county clerk a ballot title and summary for the proposed measure. The ballot title may differ from any other title of the proposed measure and shall express in 500 words or less the



LEGISLATIVE INTENT SERVICE

purpose of the proposed measure. In providing the ballot title, the county counsel shall give a true and impartial statement of the purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure.

(b) The county clerk shall furnish a copy of the ballot title to the person filing the proposed measure. The person proposing the measure shall, prior to its circulation, place upon each section of the petition, above the text of the proposed measure and across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 12-point, the ballot title prepared by the county counsel.

The heading of the proposed measure shall be in substantially the following form:

Initiative Measure to Be Submitted Directly to the Voters

The county counsel has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the county counsel. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

SEC. 3. Section 3702.7 is added to the Elections Code, to read: 3702.7. The proponent may seek a writ of mandate requiring the ballot title or summary prepared by the county counsel to be amended. The court shall expedite hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 3702.5.

SEC. 3.5. Section 3703 of the Elections Code is amended to read: 3703. The county clerk shall ascertain the number of signatures required to sign the petition by obtaining the number of votes cast within the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate the initiative petition.

SEC. 4. Section 3704 of the Elections Code is repealed.

SEC. 5. Section 3704 is added to the Elections Code, to read: 3704. The proponents may commence to circulate the petitions among the voters of the county for signatures by any registered voter of the county after publication of the title and summary prepared by the county counsel. Each section of the petition shall bear a copy of the notice of intention and the title and summary prepared by the county counsel.

SEC. 6. Section 3705 of the Elections Code is amended to read: 3705. Signatures shall be secured and the petition shall be presented to the county clerk for filing within 180 days from the date of receipt of the title and summary, or after termination of any action for a writ of mandate pursuant to Section 3702.7 and, if applicable, (800) 666-1917

after receipt of an amended title or summary or both, whichever occurs later.

SEC. 7. Section 3705.5 is added to the Elections Code, to read: 3705.5. (a) During the circulation of the petition or before taking either action described in subdivisions (a) and (b) of Section 3709, or Section 3711, the board of supervisors may refer the proposed initiative measure to any county agency or agencies for a report on any or all of the following:

- (1) Its fiscal impact.
- (2) Its effect on the internal consistency of the county's general and specific plans including the housing element, the consistency between planning and zoning, the limitations on county actions under Section 65008 of the Government Code, and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
- (3) Any other matters the board of supervisors request to be in the report.


(b) The report shall be presented to the board of supervisors within the time prescribed by the board of supervisors but no later than 45 days after the clerk certifies to the board of supervisors the sufficiency of the petition.

SEC. 8. Section 4002 of the Elections Code is amended to read: 4002. (a) Before circulating an initiative petition in any city, the proponents of the matter shall file with the clerk a notice of intention to do so, which shall be accompanied by the written text of the initiative and may be accompanied by a written statement not in excess of 500 words, setting forth the reasons for the proposed petition. The notice shall be signed by at least one, but not more than three, proponents and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of _____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

(b) Any person filing a notice of intent with the clerk shall pay a fee to be established by the legislative body not to exceed two hundred dollars (\$200) to be refunded to the filer if, within one year of the date of filing the notice of intent, the clerk certifies the sufficiency of the petition.

SEC. 9. Section 4002.5 is added to the Elections Code, to read: 4002.5. (a) Any person who is interested in any proposed measure shall file a copy of the proposed measure with the clerk with a request that a ballot title and summary be prepared. This request shall be accompanied by the address of the person proposing the measure. The clerk shall immediately transmit a copy of the proposed measure to the city attorney.  15 days after the

LEGISLATIVE INTENT SERVICE

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proposed measure is filed, the city attorney shall provide and return to the city clerk a ballot title for and summary of the proposed measure. The ballot title may differ from any other title of the proposed measure and shall express in 500 words or less the purpose of the proposed measure. In providing the ballot title, the city attorney shall give a true and impartial statement of the purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure.

(b) The clerk shall furnish a copy of the ballot title and summary to the person filing the proposed measure. The person proposing the measure shall, prior to its circulation, place upon each section of the petition, above the text of the proposed measure and across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 12-point, the ballot title prepared by the city attorney.

The heading of the proposed measure shall be in substantially the following form:

Initiative Measure to Be Submitted Directly to the Voters

The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the city attorney. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

SEC. 10. Section 4002.7 is added to the Elections Code, to read: 4002.7. The proponent may seek a writ of mandate requiring the ballot title or summary prepared by the city attorney to be amended. The court shall expedite hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 4002.5.

SEC. 10.5. Section 4003 of the Elections Code is amended to read: 4003. A notice of intention and the title and summary of the proposed measure shall be published or posted or both as follows:

(a) If there is a newspaper of general circulation, as described in Section 6000 et seq. of the Government Code, adjudicated as such, the notice, title, and summary shall be published therein at least once.

(b) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, the notice, title, and summary shall be published at least once, in a newspaper circulated within the city and adjudicated as being of general circulation within the county in which the city is located and the notice, title, and summary shall be posted in three (3) public places within the city, which public places shall be those utilized for the purpose of posting ordinances as required in Section 36933 of the Government Code.

(c) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, and there is no newspaper of general circulation adjudicated as such within the county, circulated within the city, then the notice, title, and summary shall be posted in the manner described in subdivision (b).

SEC. 11. Section 4004 of the Elections Code is repealed.

SEC. 12. Section 4005 of the Elections Code is repealed.

SEC. 13. Section 4005 is added to the Elections Code, to read: 4005. The proponents may commence to circulate the petitions among the voters of the city for signatures by any registered voter of the city after publication of the title and summary prepared by the city attorney. Each section of the petition shall bear a copy of the notice of intention and the title and summary prepared by the city attorney.

SEC. 14. Section 4006 of the Elections Code is amended to read: 4006. Signatures upon petitions and sections of petitions shall be secured, and the petition, together with all sections of the petition, shall be filed within 180 days from the date of receipt of the title and summary, or after termination of any action for a writ of mandate pursuant to Section 4002.7, and, if applicable, after receipt of an amended title or summary or both, whichever occurs later. Petitions and sections thereof shall be filed in the office of the clerk during normal office hours as posted. If the petitions are not filed within the time permitted by this section, the petitions shall be void for all purposes.

SEC. 15. Section 4009.5 is added to the Elections Code, to read: 4009.5. (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 4010, or Section 4011, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the city's general and specific plans including the housing element, the consistency between planning and zoning, the limitations on city actions under Section 65008 of the Government Code, Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Any other matters the council requests to be in the report.

(b) The report shall be presented to the legislative body within the time prescribed by the legislative body but no later than 45 days after the clerk certifies to the legislative body the sufficiency of the petition.

SEC. 16. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2

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of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), reimbursement shall be made from the State Mandates Claims Fund.

Exhibit B

ASSEMBLY BILL

No. 4678

Introduced by Assembly Member Chacon

March 1, 1988

An act to amend Sections 3716, 4013, and 5159 of the Elections Code, relating to initiatives.

LEGISLATIVE COUNSEL'S DIGEST

AB 4678, as introduced, Chacon. Initiatives.

Existing law provides a procedure for the enactment of initiatives at the county, municipal, and district level. Generally, an initiative ordinance is considered as adopted upon the date a majority vote by the voters on the proposed ordinance is declared by the governing board, and goes into effect 10 days after that date.

This bill would provide that if the subject of an ordinance is a "project" for purposes of the California Environmental Quality Act, the effective date of the initiative shall be the day following the filing of a notice required by specified provisions of that act.

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

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

- 1 SECTION 1. Section 3716 of the Elections Code is
- 2 amended to read:
- 3 3716. If a majority of the voters voting on a proposed
- 4 ordinance vote in its favor, the ordinance shall become a
- 5 valid and binding ordinance of the county. The ordinance
- 6 shall be considered as adopted upon the date the vote is
- 7 declared by the board of supervisors, and shall go into
- 8 effect 10 days after that date.

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1 *If the subject of an ordinance is a "project" for purposes*
2 *of Section 21065 of the Public Resources Code, the*
3 *effective date of the initiative shall be the day following*
4 *the filing of the notice required by subdivision (a) of*
5 *Section 21152 of the Public Resources Code.*

6 SEC. 2. Section 4013 of the Elections Code is
7 amended to read:

8 4013. If a majority of the voters voting on a proposed
9 ordinance vote in its favor, the ordinance shall become a
10 valid and binding ordinance of the city. The ordinance
11 shall be considered as adopted upon the date that the
12 vote is declared by the legislative body, and shall go into
13 effect 10 days after that date. No ordinance proposed by
14 initiative petition and adopted by the vote of the
15 legislative body of the city without submission to the
16 voters, or adopted by the voters, shall be repealed or
17 amended except by a vote of the people, unless provision
18 is otherwise made in the original ordinance.

19 *If the subject of an ordinance is a "project" for purposes*
20 *of Section 21065 of the Public Resources Code, the*
21 *effective date of the initiative shall be the day following*
22 *the filing of the notice required by subdivision (a) of*
23 *Section 21152 of the Public Resources Code.*

24 SEC. 3. Section 5159 of the Elections Code is
25 amended to read:

26 5159. If a majority of the voters voting on a proposed
27 ordinance vote in its favor, the ordinance shall become a
28 valid and binding ordinance of the district. The
29 ordinance shall be considered as adopted upon the date
30 the vote is declared by the district board, and shall go into
31 effect 10 days after that date.

32 *If the subject of an ordinance is a "project" for purposes*
33 *of Section 21065 of the Public Resources Code, the*
34 *effective date of the initiative shall be the day following*
35 *the filing of the notice required by subdivision (a) of*
36 *Section 21152 of the Public Resources Code.*

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AMENDED IN ASSEMBLY APRIL 4, 1988

CALIFORNIA LEGISLATURE—1987-88 REGULAR SESSION

ASSEMBLY BILL

No. 4678

Introduced by Assembly Member Chacon

March 1, 1988

An act to amend Sections 3716, 3709, 3711, 3716, 4010, 4011, 4013, and 5159 of the Elections Code, relating to initiatives.

LEGISLATIVE COUNSEL'S DIGEST

AB 4678, as amended, Chacon. Initiatives.

Existing law provides a procedure for the enactment of initiatives at the county, municipal, and district level.

Generally, it provides that if a petition is signed by not less than 20% of the voters, as specified, for county initiatives, and not less than 15% of the voters, as specified, for city initiatives, the board of supervisors or the legislative body, respectively, shall either introduce and adopt the ordinance or immediately order a special election on the ordinance.

This bill would provide that the board of supervisors and the legislative body of the city may also order a report on the effect of the proposed measure, as specified, and shall either adopt the ordinance within 10 days after presentation of the report, or order a special election on the ordinance.

Existing law provides that if the petition is signed by not less than 10% of the voters of the county or the city, as specified, the ordinance, under specified circumstances, must be submitted to the county voters at the next statewide election, or to the city voters at the next regular municipal election, as specified.

This bill would provide that the proposed ordinance may be submitted to the voters after the board of supervisors or the legislative body of the city is presented with a report on the



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LEGISLATIVE INTENT SERVICE

effects of the proposed measure.

Under existing law, an initiative ordinance generally is considered as adopted upon the date a majority vote by the voters on the proposed ordinance is declared by the governing board, and goes into effect 10 days after that date.

This bill would provide that if the subject of an ordinance is a "project" for purposes of the California Environmental Quality Act, the effective date of the initiative shall be the day following the filing of a notice required by specified provisions of that act.

This bill would provide that if the subject of the ordinance is a "project" as defined by provisions of the California Environmental Quality Act and is not excepted from the act, the provisions of that act relating to environmental impact reports and negative declarations would apply to the ordinance. The adoption and effective date of the measure would be made dependent upon the applicability of those provisions, as specified.

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

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

1 SECTION 1. Section 3709 of the Elections Code is
2 amended to read:

3 3709. If the initiative petition is signed by voters not
4 less in number than 20 percent of the entire vote cast
5 within the county for all candidates for Governor at the
6 last gubernatorial election preceding the publication of
7 the notice of intention to circulate an initiative petition,
8 and contains a request that the ordinance be submitted
9 immediately to a vote of the people at a special election,
10 the board of supervisors shall either:

11 (a) Pass the ordinance without alteration either at the
12 regular meeting at which it is presented or within 10 days
13 after it is presented.

14 (b) Immediately call a special election at which the
15 ordinance, without alteration, shall be submitted to a vote
16 of the voters of the county.

17 (c) Order a report pursuant to Section 3705.5 at the



1 regular meeting at which the ordinance is presented.
2 When the report is presented to the board of supervisors,
3 it shall either adopt the ordinance within 10 days or order
4 an election pursuant to subdivision (b).

5 SEC. 2. Section 3711 of the Elections Code is
6 amended to read:

7 3711. If the initiative petition is signed by voters not
8 less in number than 10 percent of the entire vote cast in
9 the county for all candidates for Governor at the last
10 gubernatorial election preceding the publication of the
11 notice of intention to circulate an initiative petition, and
12 the ordinance petitioned for is not required to be, or for
13 any reason is not, submitted to the voters at a special
14 election, and is not passed without change by the board
15 of supervisors, the ordinance, without alteration, shall be
16 submitted by the board to the voters at the next statewide
17 election occurring not less than 88 days after the date of
18 the order, or after the board of supervisors is presented
19 with a report prepared pursuant to Section 3705.5.

20 SEC. 3. Section 3716 of the Elections Code is
21 amended to read:

22 3716. (a) If a majority of the voters voting on a
23 proposed ordinance vote in its favor, the ordinance shall
24 become a valid and binding ordinance of the county. ~~The~~
25 ~~Except as provided in subdivision (b), the ordinance shall~~
26 ~~be considered as adopted upon the date the vote is~~
27 ~~declared by the board of supervisors, and shall go into~~
28 ~~effect 10 days after that date.~~

29 ~~If the subject of an ordinance is a "project" for purposes~~
30 ~~of Section 21065 of the Public Resources Code, the~~
31 ~~effective date of the initiative shall be the day following~~
32 ~~the filing of the notice required by subdivision (a) of~~
33 ~~Section 21152 of the Public Resources Code.~~

34 (b) If the subject of the ordinance is a "project" as
35 defined by Section 21065 of the Public Resources Code,
36 that is not excepted from the California Environmental
37 Quality Act (Division 13 (commencing with Section
38 21000) of the Public Resources Code) the provisions of
39 the act relating to environmental impact reports and
40 negative declarations shall apply to the ordinance.

1 (1) If an environmental impact report or a negative
2 declaration is not required, the ordinance shall be
3 considered adopted and shall become effective as
4 provided in subdivision (a).

5 (2) If an environmental impact report or a negative
6 declaration is required, the ordinance shall be considered
7 as adopted on the date the board of supervisors files the
8 notice required by subdivision (a) of Section 21152 of the
9 Public Resources Code, and shall go into effect 10 days
10 after that date. The board of supervisors shall file the
11 notice required by subdivision (a) of Section 21152 of the
12 Public Resources Code within five days of certification of
13 the environmental impact report or completion of the
14 negative declaration. The time limits in Section 21151.5 of
15 the Public Resources Code shall apply to the certification
16 of the environmental impact report, or the completion of
17 the negative declaration, and shall be measured from the
18 date the vote is declared by the board of supervisors.

19 SEC. 2.
20 SEC. 4. Section 4010 of the Elections Code is
21 amended to read:

22 4010. If the initiative petition is signed by not less than
23 15 percent of the voters of the city according to the last
24 report of registration by the county clerk to the Secretary
25 of State pursuant to Section 607 effective at the time the
26 notice specified in Section 4002 was published, or in a city
27 with 1,000 or less registered voters the signatures of 25
28 percent of the voters or 100 voters of the city, whichever
29 is the lesser number, and contains a request that the
30 ordinance be submitted immediately to a vote of the
31 people at a special election, the legislative body shall
32 either:

33 (a) Introduce the ordinance without alteration at the
34 regular meeting at which it is presented and adopt the
35 ordinance within 10 days after it is presented; or

36 (b) Immediately order a special election, to be held
37 not less than 88 nor more than 103 days after the date of
38 the order, at which the ordinance, without alteration,
39 shall be submitted to a vote of the voters of the city.

40 (c) Order a report pursuant to Section 4009.5 at the



1 regular meeting at which the ordinance is presented.
2 When the report is presented to the legislative body, the
3 legislative body shall either adopt the ordinance within
4 10 days or order an election pursuant to subdivision (b).
5 SEC. 5. Section 4011 of the Elections Code is
6 amended to read:

7 4011. If the initiative petition is signed by not less than
8 10 percent of the voters of the city according to the last
9 report of registration by the county clerk to the Secretary
10 of State pursuant to Section 607 effective at the time the
11 notice specified in Section 4002 was published, or in a city
12 with 1,000 or less registered voters by the signatures of 25
13 percent of the voters or 100 voters of the city, whichever
14 is the lesser number, and the ordinance petitioned for is
15 not required to be, or for any reason is not, submitted to
16 the voters at a special election, and is not passed without
17 change by the legislative body, then the ordinance,
18 without alteration, shall be submitted by the legislative
19 body to the voters at the next regular municipal election
20 occurring not less than 88 days after the order of the
21 legislative body, or after the legislative body is presented
22 with a report prepared pursuant to Section 4009.5.
23 SEC. 6. Section 4013 of the Elections Code is
24 amended to read:

25 4013. If a majority of the voters voting on a proposed
26 ordinance vote in its favor, the ordinance shall become a
27 valid and binding ordinance of the city. The ordinance
28 shall be considered as adopted upon the date that the
29 vote is declared by the legislative body, and shall go into
30 effect 10 days after that date. No ordinance proposed by
31 initiative petition and adopted by the vote of the
32 legislative body of the city without submission to the
33 voters, or adopted by the voters, shall be repealed or
34 amended except by a vote of the people, unless provision
35 is otherwise made in the original ordinance.

36 If the subject of an ordinance is a "project" for purposes
37 of Section 21065 of the Public Resources Code, the
38 effective date of the initiative shall be the day following
39 the filing of the notice required by subdivision (a) of
40 Section 21152 of the Public Resources Code.

1 (b) If the subject of the ordinance is a "project" as
 2 defined by Section 21065 of the Public Resources Code,
 3 that is not excepted from the California Environmental
 4 Quality Act (Division 13 (commencing with Section
 5 21000) of the Public Resources Code) the provisions of
 6 the act relating to environmental impact reports and
 7 negative declarations shall apply to the ordinance.

8 (1) If an environmental impact report or a negative
 9 declaration is not required, the ordinance shall be
 10 considered adopted and shall become effective as
 11 provided in subdivision (a).

12 (2) If an environmental impact report or a negative
 13 declaration is required, the ordinance shall be considered
 14 as adopted on the date the legislative body files the notice
 15 required by subdivision (a) of Section 21152 of the Public
 16 Resources Code, and shall go into effect 10 days after that
 17 date. The legislative body shall file the notice required by
 18 subdivision (a) of Section 21152 of the Public Resources
 19 Code within five days of certification of the
 20 environmental impact report or completion of the
 21 negative declaration. The time limits in Section 21151.5 of
 22 the Public Resources Code shall apply to the certification
 23 of the environmental impact report, or the completion of
 24 the negative declaration, and shall be measured from the
 25 date the vote is declared by the legislative body.

26 SEC. 6.

27 SEC. 7. Section 5159 of the Elections Code is
 28 amended to read:

29 5159. If a majority of the voters voting on a proposed
 30 ordinance vote in its favor, the ordinance shall become a
 31 valid and binding ordinance of the district. The
 32 ordinance shall be considered as adopted upon the date
 33 the vote is declared by the district board, and shall go into
 34 effect 10 days after that date.

35 If the subject of an ordinance is a "project" for purposes
 36 of Section 21065 of the Public Resources Code, the
 37 effective date of the initiative shall be the day following
 38 the filing of the notice required by subdivision (a) of
 39 Section 21152 of the Public Resources Code:

40 (b) If the subject of the ordinance is a "project" as



1 defined by Section 21065 of the Public Resources Code
 2 that is not excepted from the California Environmental
 3 Quality Act (Division 13 (commencing with Section
 4 21000) of the Public Resources Code) the provisions of
 5 the act relating to environmental impact reports and
 6 negative declarations shall apply to the ordinance.

7 (1) If an environmental impact report or a negative
 8 declaration is not required, the ordinance shall be
 9 considered adopted and shall become effective as
 10 provided in subdivision (a).

11 (2) If an environmental impact report or a negative
 12 declaration is required, the ordinance shall be considered
 13 as adopted on the date the district board files the notice
 14 required by subdivision (a) of Section 21152 of the Public
 15 Resources Code, and shall go into effect 10 days after that
 16 date. The district board shall file the notice required by
 17 subdivision (a) of Section 21152 of the Public Resources
 18 Code within five days of certification of the
 19 environmental impact report or completion of the
 20 negative declaration. The time limits in Section 21151.5 of
 21 the Public Resources Code shall apply to the certification
 22 of the environmental impact report, or the completion of
 23 the negative declaration, and shall be measured from the
 24 date the vote is declared by the district board.

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Exhibit C

Introduced by Assembly Member Kelley

February 14, 1989

An act to add Chapter 4.5 (commencing with Section 5230) to Division 5 of the Elections Code, relating to initiative measures.

LEGISLATIVE COUNSEL'S DIGEST

AB 628, as introduced, Kelley. Local land use initiative measures.

Existing law specifies the procedures applicable to the circulation and adoption of initiative measures in counties, municipalities, and districts.

This bill would impose a state-mandated local program by prescribing a procedure applicable to local initiative measures in cities, counties, cities and counties, and chartered cities and counties, which directly affect the local agency's land use ordinances, policies, and regulations, or residential or commercial construction within the local agency.

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 Claims 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, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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1 agency, and it is desirable to have these possible effects
2 systematically analyzed and discussed.

3 (g) Those measures may inhibit or facilitate the
4 implementation of the local agency's general and specific
5 plans and the impact that those measures may have on
6 those plans should be explored and discussed.

7 (h) All parties should be given an opportunity to be
8 heard on how those measures might affect them and to
9 propose alternatives in the form of measure amendments
10 which might be put to the electorate and which could
11 ameliorate harsh consequences not foreseen by the
12 proponents.

13 (i) Participatory democracy is best served if the
14 electorate has before it the widest possible choice of
15 alternatives and the broadest possible fund of
16 information.

17 5231. This chapter shall apply to all local agency land
18 use initiative measures, including those of charter cities.
19 5232. Unless the context otherwise requires, the
20 definitions in this section govern the construction of this
21 article:

22 (a) "Local agency" means a city, county, or city and
23 county, including charter cities and counties.

24 (b) "Measure" means a local initiative petition which
25 will directly affect the local agency's land use ordinances,
26 policies, and regulations, or residential or commercial
27 construction within the local agency.

28 (c) "Filing of a measure" means the filing of an
29 initiative petition which is subject to this chapter with the
30 clerk or elections official for examination of signatures
31 pursuant to Section 3707 or 4008.

32 (d) "Certification date" means the date that the clerk
33 or elections official certifies to the legislative body of the
34 local agency pursuant to Section 3707, 3708, or 4009 that
35 the petition is sufficient.

36 (e) "Proponents" means the proponents of the
37 measure.

38 (f) "Office" means the Governor's Office of Planning
39 and Research.

40 (g) "Assessment" means a written report prepared by

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. Chapter 4.5 (commencing with Section
2 5230) is added to Division 5 of the Elections Code, to read:

3
4 CHAPTER 4.5. LOCAL INITIATIVES

5
6 5230. The Legislature finds and declares as follows:

7 (a) Local land use initiative measures are not matters
8 of purely local concern. They are matters in which there
9 is statewide interest and matters which may have effects
10 beyond the jurisdictional limits of the local agency.

11 (b) Those measures may affect the health, safety, and
12 general welfare of residents within and outside the
13 jurisdictional limits of the local agency.

14 (c) Those measures may impact the environment,
15 which is an asset of all the people of California and which
16 is a matter of statewide concern consistent with the
17 legislative intent expressed in Chapter 1 (commencing
18 with Section 21000) of Division 13 of the Public Resources
19 Code.

20 (d) An environmental assessment of local land use
21 initiative measures is necessary to safeguard the
22 environment and to inform the proponents and the
23 electorate of their possible consequences and also to
24 ensure the widest possible community participation and
25 input in the public discussion of those measures.

26 (e) Those measures may impact the economy of the
27 entire state and affect the availability of decent housing
28 and of jobs for all its citizens, and it is desirable to have
29 these possible consequences systematically examined and
30 discussed.

31 (f) Those measures may affect the revenues necessary
32 for the provision and maintenance of educational, social,
33 and health care services and the provision and
34 maintenance of necessary infrastructure which may have
35 effects beyond the jurisdictional limits of the local



1 the office which analyzes the potential impact of the
2 measure on all of the following:

3 (4) Revenues necessary to provide and maintain
4 educational, social, and health care services,
5 infrastructure, and other necessary and vital
6 governmental functions.

7 (2) Availability and cost of housing.

8 (3) Production of jobs.

9 (4) Environment.

10 (5) Internal consistency of the local agency's general
11 and specific plans including the housing element, the
12 consistency between planning and zoning, the limitations
13 on the local agency's action under Section 65008 of the
14 Government Code, and Chapters 4.2 (commencing with
15 Section 65913) and 4.3 (commencing with Section 65915)
16 of Division 1 of Title 7 of the Government Code.

17 (6) General economy of the area.

18 (7) Local agency's ability to meet its fair share of
19 regional housing needs.

20 5233. (a) Upon the filing of a measure, the office shall
21 begin preparation of an assessment and complete it
22 within 90 days.

23 (b) No measure may be adopted without a hearing as
24 provided in Section 5234 and no hearing may be held
25 before an assessment is completed pursuant to
26 subdivision (a).

27 5234. (a) If the measure has a certification date, then
28 within 30 days from the completion of the assessment the
29 measure shall be presented to the legislative body at a
30 noticed public hearing. If the assessment is completed
31 prior to the certification date of the measure, the public
32 hearing shall be held within 30 days of the certification
33 date of the measure.

34 (b) Action on the measure at the close of the public
35 hearing shall be pursuant to subdivisions (a) and (b) of
36 Section 3709, Section 3710, and Section 3711, if applicable,
37 or pursuant to subdivisions (a) and (b) of Section 4010
38 and Section 4011, if applicable.

39 (c) If the legislative body orders the measure
40 submitted to a vote of the voters of the local agency it

1 may propose as separate items amendments to the
2 measure. The amendments shall appear on the ballot
3 with the measure as separate proposals and shall bear the
4 same number or letter as the measure, followed by a
5 lower case Roman numeral in parenthesis.

6 5235. Appearing with the arguments on the measure
7 shall be a 500-word summary of the assessment prepared
8 by the county counsel or the city attorney. If there is no
9 county counsel or city attorney, the summary shall be
10 prepared by the district attorney.

11 5236. Copies of the assessment shall be made available
12 to the public at every public library within the
13 jurisdiction of the local agency, at the office of the clerk
14 of every court sitting within the jurisdictional limits of the
15 local agency, and at the office of the clerk of the
16 legislative body of the local agency.

17 5237. To the extent not inconsistent with or
18 superseded by this chapter, all provisions of this code and
19 all local ordinances and local charter provisions
20 governing measures proposed by the voters of a local
21 agency shall apply to local land use initiative measures.

22 SEC. 2. Notwithstanding Section 17610 of the
23 Government Code, if the Commission on State Mandates
24 determines that this act contains costs mandated by the
25 state, reimbursement to local agencies and school
26 districts for those costs shall be made pursuant to Part 7
27 (commencing with Section 17500) of Division 4 of Title
28 2 of the Government Code. If the statewide cost of the
29 claim for reimbursement does not exceed one million
30 dollars (\$1,000,000), reimbursement shall be made from
31 the State Mandates Claims Fund. Notwithstanding
32 Section 17580 of the Government Code, unless otherwise
33 specified in this act, the provisions of this act shall become
34 operative on the same date that the act takes effect
35 pursuant to the California Constitution.

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Exhibit D

Governor Gray Davis

Circulation and Notice Under the California Environmental Quality Act

CEQA Technical Advice Series



Governor's Office of Planning and Research
1400 Tenth Street
P.O. Box 3044
Sacramento, CA 95812-3044
(916) 445-0613

Steven A. Nissen, *Director*

Terry Roberts, *Manager, State Clearinghouse*

Brian Grattidge, *Associate Planner*

July 2001

The **CEQA Technical Advice Series** is intended to offer CEQA practitioners, particularly at the local government level, concise information about some aspect of the California Environmental Quality Act. This series of occasional papers is part of OPR's public education and training program for planners, developers, and others. This advice is intended to supplement, but not to amend or revise the *California Environmental Quality Act Guidelines*.

Acknowledgement: The 2001 edition of *Circulation and Notice Under the California Environmental Quality Act* is based on the 1998 publication by Antero Rivasplata and Gregg McKenzie.

INTRODUCTION



The California Environmental Quality Act (CEQA) is, in many ways, a procedural statute. One of the challenges facing the CEQA practitioner is to keep track of all the required and suggested notice, consultation, and review periods promulgated by CEQA and the CEQA Guidelines. In addition, revisions are made to the statute and the Guidelines through legislation and changes promulgated by the Secretary of the Resources Agency. The purpose of this brief paper is to provide an overview of those requirements.

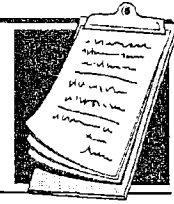
The reader is assumed to have a working knowledge of CEQA. This advisory focuses on notice,

consultation, and review without delving into the other substantive requirements of the Act. For a more complete discussion of this complex law, please refer to the books listed in the bibliography.

The terms "must," "requires," and "may" are used carefully in the following advisory. "Must," or "requires" denotes a mandatory action required by CEQA or the CEQA Guidelines. "May" denotes a suggested, but not mandatory action.

In the event there are inconsistencies between the CEQA statute and the CEQA Guidelines, it is important to remember that the Act prevails over the Guidelines where clear conflict exists.

CIRCULATION AND NOTICE UNDER CEQA



"Public participation is an essential part of the CEQA process."

Guidelines Section 15201

CEQA's Guiding Policy

Two of the basic purposes of CEQA are to inform governmental decisionmakers and the public about the potential significant effects, if any, of proposed activities and to provide opportunities for other agencies and the public to review and comment on draft environmental documents. The latter is crucial to the effectiveness of the former. Along these lines, CEQA and the CEQA Guidelines establish a number of specific points during the review and consideration of a project when the lead agency must inform other agencies and the public of the project and its potential environmental consequences.

Depending upon the characteristics of a project and its potential for significant environmental effects, CEQA review may pursue one of three basic directions: (1) an exemption (statutory or categorical); (2) a negative declaration (including a mitigated negative declaration); or (3) an environmental impact report (EIR). Requirements for review, comment, and notice vary according to the complexity of the environmental review. A project that is exempt from CEQA has fewer requirements than a project subject to an EIR. In the following sections, we will examine in detail the relative requirements for each level of environmental review.

Exempt Projects

CEQA exempts a number of specific types of projects from its provisions. For example, emergency repairs to public service facilities and specific actions necessary to prevent or mitigate an emergency are statutorily exempt from CEQA pursuant to Public Resources Code (PRC) Section 21080(b). In addition, the Secretary of the

Resources Agency has identified 32 classes of project which are normally exempt from the Act. Exemptions cannot be used for projects which have cumulative impacts, when there is a reasonable possibility that there may be a significant impact due to unusual circumstances, or when there would be an adverse impact on historical resources, for example. Possible exemptions include, but are not limited to, the operation, repair, or minor alteration of existing facilities, replacement or reconstruction of existing structures, and construction or replacement of accessory structures (Guidelines Section 15301, 15302, and 15311, respectively).

- **Notice of Exemption:** PRC Sections 21108 and 21152, and Guidelines Section 15062 provide that after approving a project for which an exemption was employed, the lead agency (or the applicant) *may* file a Notice of Exemption with the county clerk. If a state agency files this notice, it must be filed with the Office of Planning and Research (OPR). Appendix E of the CEQA Guidelines contains a suggested format for the Notice of Exemption.
- **Statute of Limitations:** Filing a Notice of Exemption triggers a 35-day statute of limitations for litigation on CEQA grounds. If a Notice of Exemption is not filed, the statute of limitations becomes 180 days from either the date the decision is made to carry out or approve a project, or where no formal decision is required, 180 days from the date the project is commenced. (PRC Section 21167 and Guidelines Section 15112).

There are no other notice requirements for CEQA exemptions.

Initial Study

The decision whether to prepare a negative declaration or an EIR is based on findings supported by the lead agency's initial study. CEQA and the Guidelines contain a number of consultation suggestions and requirements which are applicable at this stage of the environmental process. Comments received during the initial study consultation allow the lead agency to identify responsible, trustee, and other interested agencies and their specific concerns. Further, the initial study provides the analyses necessary to determine whether an EIR will be required or a negative declaration may be adopted. This determination is based upon whether it can be fairly argued, based on substantial evidence in light of the whole record, that a project may or may not have a significant effect on the environment. Even if a fair argument can be raised that a project will not have a significant effect on the environment, it will be outweighed where, at the same time, a fair argument can be raised that it will have a significant effect on the environment (Guidelines Section 15064 and *No Oil v. City of Los Angeles* (1975) 13 Cal.3d 68).

- **Preapplication Consultation:** PRC Section 21080.1 *requires* that the lead agency, upon the request of a potential applicant, provide for consultation prior to the filing of the application. This consultation may be formal or informal, and between only the applicant and the lead agency regarding the range of actions, potential alternatives, mitigation measures, and any potential and significant effects on the environment that the proposed project may have.
- **Preconsultation:** PRC Section 21080.3 provides that the lead agency *may* informally contact a public agency before doing the required consultation.
- **Agency Consultation:** PRC Section 21080.3 *requires* the lead agency to consult with responsible and trustee agencies regarding the project before determining if a negative declaration or an EIR is required.

- **Applicant Consultation:** Guidelines Section 15063(g) provides that the lead agency *may* consult with the applicant to determine whether the applicant would be willing to revise the project to reduce or avoid potential significant effects identified in the Initial Study.

The Lead Agency *shall* determine within 30 days after accepting an application as complete whether it intends to prepare an EIR or a negative declaration or use a previously prepared EIR or negative declaration. The 30 day period may be extended 15 days upon the consent of the lead agency and the project applicant (PRC Section 21080.2).

Negative Declaration

A negative declaration may be prepared when, based upon substantial evidence in light of the whole record, the project will not have a significant effect on the environment. In situations where a potential significant effect is identified, but revisions or mitigation measures are included in the project with the applicant's approval to avoid or reduce the effect to a level of insignificance, a negative declaration may also be prepared. The following sections summarize the consultation and notice requirements which are applicable at the time the initial study is completed and the decision is made to prepare a negative declaration (including subsequent negative declarations as provided under Guidelines Section 15162). Please refer to the cited sections of CEQA and the Guidelines for additional information.

A negative declaration circulated for public review *must* include (Guidelines Section 15071) a brief description of the project, including a commonly used name for the project, if any; the location of the project, preferably shown on a map, and the name of the project proponent; a proposed finding that the project will not have a significant effect on the environment; an attached copy of the initial study documenting reasons to support the finding; and mitigation measures, if any, included in the project to avoid potentially significant effect.

- **Notice of Intent to Adopt a Negative Declaration:** PRC Section 21092 and Guidelines Section 15072 *require* the lead agency to provide public notice of its intent to adopt a negative declaration. Section 21092 establishes the means by which notice is to be given, as well as the contents of that notice.
- **Posting of Notice of Intent:** PRC Section 21092.3 *requires* notice to be posted for 20 days in the office of the county clerk of each county in which the project will be located (30 days if the negative declaration has been sent to the State Clearinghouse).
- **Notice to Individuals:** PRC Section 21092.2 also *requires* notice of the availability of a draft negative declaration to be mailed to any person who has filed a written request for notification with the lead agency.
- **Agency Consultation on Draft Negative Declaration:** Guidelines Section 15073 *requires* that the proposed negative declaration and its initial study be attached to the Notice of Intent and sent to every responsible and trustee agency concerned with the project and every other public agency with jurisdiction by law over resources affected by the project.
- **Consultation with Public Agencies, Transportation Planning Agencies:** PRC Section 21092.4 further *requires* the lead agency for a project which would have statewide, regional, or areawide significance to consult with the regional transportation planning agency and public agencies that have transportation facilities which could be affected. Statewide, regional or areawide significance is defined in Guidelines Section 15206.
- **Review and Consultation Period:** The preceding notice and consultation opportunities are intended to occur simultaneously. Pursuant to PRC Section 21091 and Guidelines Section 15073, agencies and the public *must* be afforded at least 20 days to review and comment on the negative declaration. When the lead agency is a state agency, when one or more of the responsible or trustee agencies is a state agency or when a project is of statewide, regional, or areawide environmental significance, as defined in Guidelines Section 15206, the negative declaration *must* be sent to the State Clearinghouse, and *should* be sent to the appropriate metropolitan area council of governments. In these situations, the public review period *shall* be at least as long as the review period established by the State Clearinghouse (normally 30 days).
- **Comments:** When considering whether to approve a project, the lead agency *must* consider the comments received during its consultation and review periods together with the negative declaration (PRC Section 21091(d)(1) and Guidelines Section 15074(b)). However, unlike with an EIR, these comments are not required to be attached to the negative declaration, nor must the lead agency make specific written responses to public agencies. However, the lead agency must notify in writing any public agency which comments on a proposed negative declaration of any public hearing for the project for which the document was prepared (PRC Section 21092.5 and CEQA Guidelines Section 15073 (e)).
- **Substitution of Mitigation Measures:** PRC Section 21080(f) and CEQA Guidelines Section 15074.1 provide that the lead agency may, prior to project approval, delete mitigation measures from a mitigated negative declaration and substitute for them other measures which the lead agency determines are equivalent or more effective. The lead agency is *required* to hold a public hearing on the matter and adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment. If a public hearing is already being held to consider the project approval, no separate hearing is required.
- **Local Agency Notice of Determination:** A local agency which approves or determines to carry out a project for which a negative decla-

ration was adopted *must* file a Notice of Determination with the county clerk within five working days of its action (PRC Section 21152 and Guidelines Section 15075). The notice must be posted by the clerk within 24 hours of receipt, remain posted for 30 days, and, when the posting period is over, returned to the local agency with certification of its posting. If the project also requires discretionary approval from a state agency, the notice must also be filed with the Office of Planning and Research (Guidelines Section 15075(d)).

- **State Agency Notice of Determination:** A state agency which approves or determines to carry out a project for which a negative declaration was adopted *must* file a Notice of Determination with the Office of Planning and Research (PRC Section 21108 and Guidelines Section 15075(c)). A list of these notices shall be posted weekly by OPR and each list shall remain posted for at least 30 days (PRC Section 21108(c)).
- **Statute of Limitations:** Filing a Notice of Determination triggers a 30-day statute of limitations for CEQA litigation. If the notice is not filed with the County Clerk or OPR, the statute of limitations becomes 180 days from the date the decision is made to carry out or approve a project, or where no formal decision is required, 180 days from the date the project is commenced (PRC Section 21167 and Guidelines Section 15112).
- **Completion/Adoption of the Negative Declaration:** For private projects involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the negative declaration *must* be completed and adopted within 180 days from the date the lead agency accepted the application as complete (PRC Section 21151.5 and Guidelines Section 151107).

Environmental Impact Report (EIR)

An EIR is prepared when substantial evidence exists, based upon the whole record, that a project may have a significant adverse effect on the environment.

The following summarizes the consultation and notice requirements for EIRs in chronological order. Please refer to the cited sections of CEQA and the CEQA Guidelines for details about the requirements. This list discusses notice and consultation requirements after completion of the initial study and the decision to prepare an EIR.

- **Notice of Preparation:** PRC Section 21080.4 and Guidelines Section 15082 *require* that the lead agency immediately send notice of its determination to prepare an EIR to all responsible agencies, trustee agencies, and OPR. These agencies have 30 days to specify the scope and content of the environmental information germane to their area of statutory responsibility which must be included in the EIR. PRC Section 21080.4 further provides that the lead agency *must* convene a scoping meeting to discuss these issues upon the request of any responsible agency, trustee agency or the project applicant. Upon request of a lead agency, OPR shall assist the scoping effort by identifying the various responsible and trustee agencies. The NOP must be sent by certified mail or equivalent procedure.
- **Early Public Consultation:** Prior to completing the draft EIR, Guidelines Section 15083 provides that the lead agency *may* also consult with other persons or organizations which may be concerned with the environmental effects of the project. PRC Sections 21104 and 21153 *require* the lead agency to consult with responsible and trustee agencies and with adjoining cities and counties. Early consultation, also called scoping, provides the opportunity to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report.

- **Consultation with Water Agencies:** Projects affecting water agencies and meeting the criteria established under Guidelines Section 15083.5 are *required* to send the Notice of Preparation to each public water system which serves or would serve the proposed project. These agencies have 30 days to submit a water supply assessment addressing the adequacy of the supply to support the demand created by the project. The lead agency *shall* include in the EIR the information provided by the water agency (up to ten pages) and *must* determine whether projected water supplies will be sufficient to meet the demand of the project, in addition to existing and planned future uses.
- **Agency Consultation:** When a draft EIR is completed, Guidelines Section 15086 *requires* the lead agency to consult with the affected responsible and trustee agencies, as well as any city or county which borders the city or county within which the project is proposed. The lead agency must request comments from these agencies on the draft EIR.
- **Additional Agency Consultation:** PRC Section 21092.4 further *requires* the lead agency for a project which would have statewide, regional, or areawide significance to consult with the regional transportation planning agency and public agencies that have transportation facilities which would be affected.
- **Caltrans Scoping Meeting:** PRC Section 21083.9 specifies that when so requested by Caltrans, a lead agency *must* call at least one scoping meeting to discuss any proposed project which may affect highways or other Caltrans facilities.
- **Department of Fish and Game:** PRC Section 21104.2 *requires* state lead agencies to consult, and obtain written findings from, the Department regarding the potential impacts of a project on state-listed endangered or threatened species.
- **Review and Consultation Period:** Pursuant to Guidelines Section 15105, the period for public and agency review of and consultation on a draft EIR *shall* not be less than 30 days, nor *should* it be longer than 60 days except under unusual circumstances. When a draft EIR is submitted to the State Clearinghouse, the review period *shall* not be less than 45 days, unless a shorter period of not less than 30 days is approved by the State Clearinghouse.

Draft EIRs which must be submitted to the State Clearinghouse for review include: EIRs prepared by a state agency; those prepared by a public agency where a state agency is a responsible or trustee agency; those prepared for a project of statewide, regional, or areawide environmental significance; and draft EISs and environmental assessments prepared pursuant
- **Notice of Completion:** PRC Section 21161 and Guidelines Section 15085 *require* the lead agency to file a Notice of Completion with OPR as soon as a draft EIR is completed. Where the draft EIR will be reviewed through the State Clearinghouse, the Notice of Completion requirement can be satisfied by submitting the cover form required by the State Clearinghouse.
- **Public Review of Draft EIR:** Guidelines Section 15087 *requires* that the lead agency give public notice of the availability of a draft EIR by one of several methods at the same time that it submits the Notice of Completion to OPR. Notice *must* also be sent to affected responsible, trustee, and federal agencies. The method and contents of this notice are prescribed by Section 15087 and PRC Section 21092. PRC Section 21092 requires additional notice for waste burning projects.
- **Posting of Notice:** PRC Section 21092.3 and Guidelines Section 15087(c) *require* the notice of availability of a draft EIR to be posted for 30 days in the office of the county clerk of each county in which the project will be located.
- **Notice to Individuals:** PRC Section 21092.2 *requires* notice of the availability of a draft EIR to be mailed to any person who has filed a written request for notification with the lead agency.

to NEPA. Projects of statewide, regional, or areawide significance are defined in Guidelines Section 15206.

- **Comments on Draft EIR:** PRC Section 21091 *requires* the lead agency to include in the final EIR responses to comments which describe the disposition of any significant effects identified by commenters. PRC Section 21092.5 further requires that written responses to the comments submitted by public agencies be provided to those agencies at least 10 days prior to certification of the final EIR (this requirement can be satisfied by providing a copy of the Final EIR).
- **Recirculation:** PRC Section 21092.1 and Guidelines Section 15088.5 *require* an EIR to be recirculated to responsible and trustee agencies for consultation and new public notice given whenever significant new information has been added to the EIR after the draft has been available for review, but prior to certification of the final EIR. The review and consultation period is the same as for a draft EIR. “Significant new information” is defined in Guidelines Section 15088.5.
- **Local Agency Notice of Determination:** A local agency which approves or determines to carry out a project for which an EIR was certified *must* file a Notice of Determination with the county clerk within five working days of its action (PRC Section 21152 and Guidelines Section 15094). The notice must be posted by the clerk within 24 hours of receipt, remain posted for 30 days, and, when the posting period is over, returned to the local agency with certification of its posting. If the project also requires discretionary approval from a state agency, the notice must also be filed with the Office of Planning and Research (Guidelines Section 15094).
- **State Agency Notice of Determination:** A state agency which approves or determines to carry out a project for which an EIR was certified *must* file a Notice of Determination with the Office of Planning and Research (PRC Sec-

tion 21108 and Guidelines Section 15094). A list of these notices must be posted weekly by OPR and each list shall remain posted for at least 30 days.

- **Statute of Limitations:** Filing a Notice of Determination triggers a 30-day statute of limitations for CEQA litigation. If the notice is not filed with the County Clerk or OPR, the statute of limitations becomes 180 days from the date the decision is made to carry out or approve a project, or where no formal decision is required, 180 days from the date the project is commenced (PRC Section 21167 and Guidelines Section 15112).
- **Copy of Final EIR:** Guidelines Section 15095 *requires* the lead agency to file a copy of the final EIR with the planning agency of any city or county where significant environmental effects may occur. In addition, the applicant must be required to provide a copy of the certified final EIR to each responsible agency (PRC Section 21092.5(a)).
- **Completion/Certification of the EIR:** For private projects involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the EIR *must* be completed and certified within one year from the date when the lead agency accepted the application as complete. The one year limit may be extended once for a period of not more than 90 days upon consent of the applicant and the lead agency (PRC Section 21151.5 and Guidelines Section 15108).

Mailing of Notices

If a person has made a written request to the lead agency for a copy of the Notice of Determination or Notice of Exemption prior to the date on which the agency approves or determines to carry out the project, the lead agency *shall* mail a copy of the notice, first-class postage prepaid, not later than five days from the date of the agency’s action (PRC Section 21167(f)).

Public Meetings

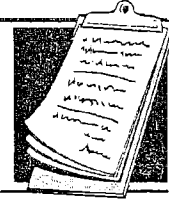
CEQA does not require formal hearings at any stage of the environmental review process. However, agencies are *encouraged* to include environmental review as a topic when the agency holds a hearing on its decision to carry out or approve a project. A public hearing on the environmental impact of a project *should* be held if the Lead Agency determines it would facilitate the purpose and goals of CEQA. A draft EIR or negative declaration *should* be used as a basis for discussion at a public hearing (Guidelines Section 15202).

The Internet

Public agencies are *encouraged* to make copies of Notices of Determination, Notices of Exemption, and Notices of Completion available on the Internet. Such electronic notices are in addition to those required by the Guidelines and the Public Resources Code (Guidelines Sections 15062, 15075 and 15085). Public agencies are also *encouraged* to post notices of all public hearings on the Internet (Guidelines Section 15202).

OPR is *required* to make all Notices of Exemption, Notices of Preparation, Notices of Determination, and Notices of Completion provided to the office available on the Internet (PRC Section 21159.9). These notices are available at www.ceqanet.ca.gov.

SUMMARY LIST



Exempt Projects

- No consultation or public notice required by CEQA.
- Filing of a Notice of Exemption is optional.

Initial Study

- Preconsultation with responsible and trustee agencies is optional.
- Consultation with responsible and trustee agencies is required.
- Consult with the applicant over mitigation or avoidance of potentially significant effects where pertinent.

Negative Declaration

Consultation requirements of the Initial Study apply, plus the following:

- Public notice of the availability of the draft negative declaration is required.
 - Publish and mail notices.
 - Post notice with the County Clerk.
 - Provide notice to responsible, trustee, and other agencies.
 - Provide notice to individuals upon request.
- Consultation on draft negative declaration.
 - Consult with responsible and trustee agencies.
 - Consult with transportation agencies (for projects of statewide, regional, or areawide significance).
- A public hearing must be held on any proposed changes to mitigation measures.
- A Notice of Determination must be filed after approving a project for which a negative declaration was adopted.

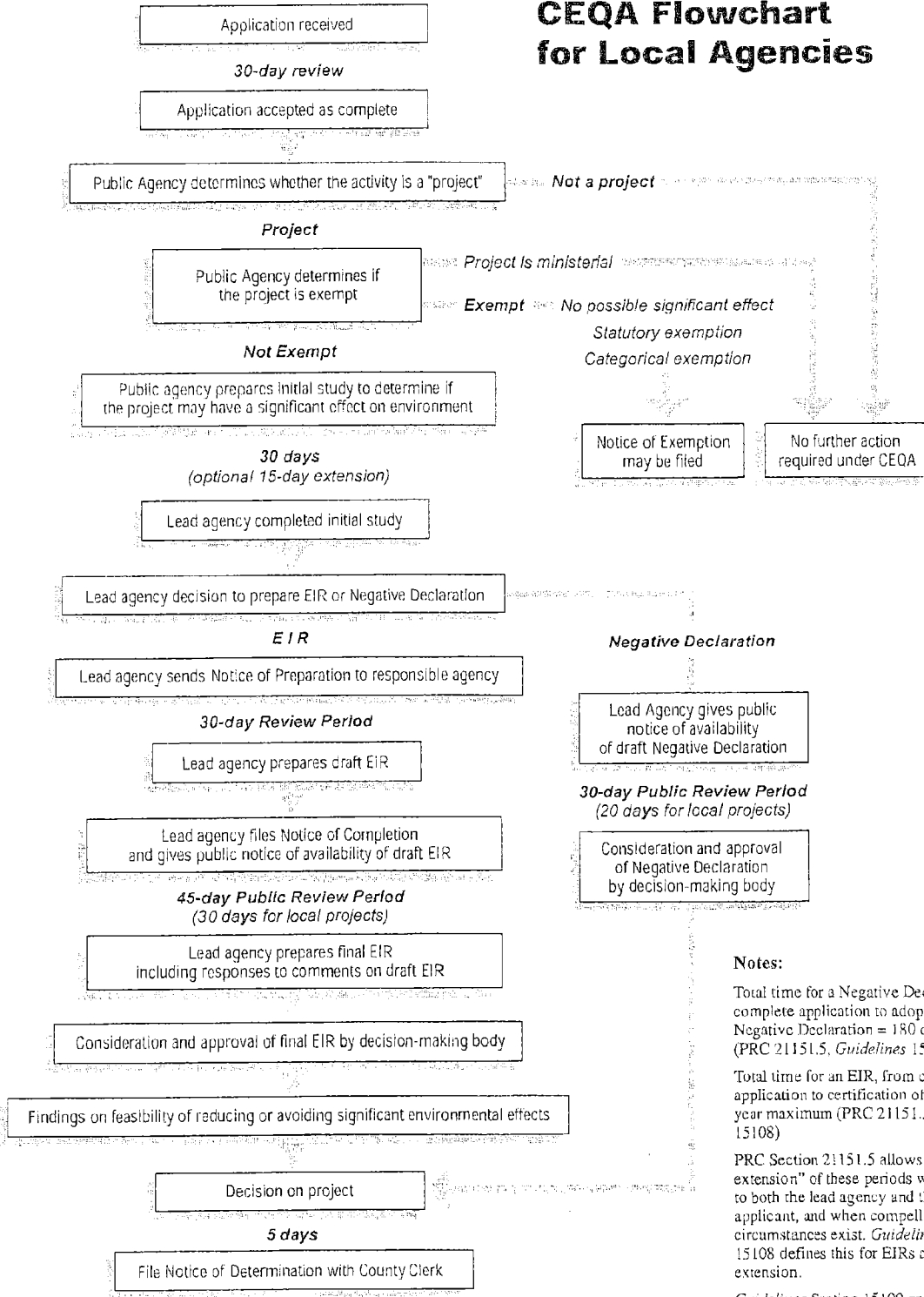
Environmental Impact Report

Consultation requirements of the Initial Study apply, plus the following:

- A Notice of Preparation must be sent to OPR, all affected responsible, trustee, and federal agencies and a scoping meeting held upon request.

- Early public consultation must be held with affected water system agencies.
- Early public consultation may be held with interested persons or organizations and must be held, at the request of the applicant, with affected agencies.
- A Notice of Completion must be filed with OPR when the draft EIR is completed.
- Public notice must be given of the availability of the draft EIR for review.
 - Publish and mail notices.
 - Post notice with the County Clerk.
 - Provide notice to all affected responsible, trustee, and federal agencies
 - Send notice of the draft EIRs availability to individuals upon request.
- Consultation on draft EIR.
 - Consult with affected responsible, trustee, and federal agencies, cities and counties bordering the jurisdiction within which the project is located, as well as individuals with pertinent expertise.
 - Submit the draft EIR for a project involving a state agency or which is of statewide, regional, or areawide significance to the State Clearinghouse for distribution.
 - Consult with transportation agencies (for projects of statewide, regional, or areawide significance).
 - Hold a scoping meeting when requested by Caltrans.
 - State lead agencies must consult with the Department of Fish and Game.
- The EIR must be recirculated if significant new information has been added after the draft EIR was circulated for review and consultation, but before the final EIR is certified.
- Written draft responses to public agency comments must be provided to those agencies prior to certification of the EIR.
- A Notice of Determination must be filed after approving a project for which an EIR was certified.

CEQA Flowchart for Local Agencies



Notes:

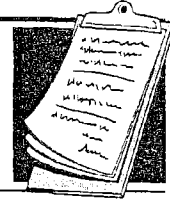
Total time for a Negative Declaration, from complete application to adoption of the Negative Declaration = 180 days maximum (PRC 21151.5, *Guidelines* 15107)

Total time for an EIR, from complete application to certification of the EIR = 1 year maximum (PRC 21151.5, *Guidelines* 15108)

PRC Section 21151.5 allows a "reasonable extension" of these periods when agreeable to both the lead agency and the project applicant, and when compelling circumstances exist. *Guidelines* Section 15108 defines this for EIRs as one 90-day extension.

Guidelines Section 15109 provides that the running of these time periods may be suspended when there is "unreasonable delay" by the applicant in providing to the lead agency material necessary to complete the Negative Declaration or EIR.

Bibliography



Guide to the California Environmental Quality Act, by Michael Remy, Tina Thomas, et al., Solano Press Books, P.O. Box 773, Point Arena, CA 95468, phone: (800) 931-9373. The CEQA practitioner's "Bible" is a highly respected and comprehensive discussion of the Act, including recent case law. It includes a copy of the current statutes and the State CEQA Guidelines.

Practice Under the California Environmental Quality Act, by Stephen L. Kostka and Michael H. Zischke, Continuing Education of the Bar, 2300 Shattuck Avenue, Berkeley, CA 94704, phone: (800) 924-3924. Concise, authoritative, and comprehensive, this two volume set is intended for use by both environmental planners and attorneys.

State Clearinghouse Handbook, Governor's Office of Planning and Research, 1400 Tenth Street, Sacramento, CA 95814, phone: (916) 455-0613. The requirements and procedures of the State Clearinghouse regarding the review of environmental documents and federal grants are described in detail in this handbook.

CEQA Deskbook, by Ronald E. Bass, Albert I. Herson, and Kenneth M. Bogdan, Solano Press Books, P.O. Box 773, Point Arena, CA 95468, phone: (800) 931-9373. This is a "how-to" manual offering practical advice on complying with CEQA's procedures and legal requirements. It includes the current statutes and CEQA Guidelines.

PROOF OF SERVICE BY U.S. MAIL

*(Tuolumne Jobs & Small Business Alliance v. Superior Court of Tuolumne County, et al
Supreme Court Case No. S207173)*

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed by the law office of Rutan & Tucker, LLP in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 611 Anton Boulevard, Suite 1400, Costa Mesa, California 92626-1931.

On March 11, 2013, I served on the interested parties in said action the within:

**REAL PARTY IN INTEREST JAMES GRINNELL'S MOTION
FOR JUDICIAL NOTICE**

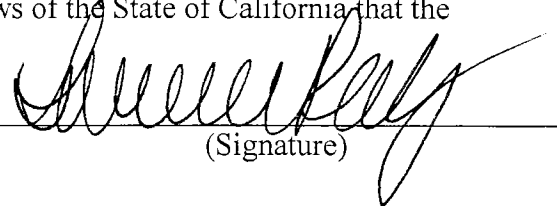
by placing a true copy thereof in sealed envelope(s) addressed as stated on the attached mailing list.

In the course of my employment with Rutan & Tucker, LLP, I have, through first-hand personal observation, become readily familiar with Rutan & Tucker, LLP's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice I deposited such envelope(s) in an out-box for collection by other personnel of Rutan & Tucker, LLP, and for ultimate posting and placement with the U.S. Postal Service on that same day in the ordinary course of business. If the customary business practices of Rutan & Tucker, LLP with regard to collection and processing of correspondence and mailing were followed, and I am confident that they were, such envelope(s) were posted and placed in the United States mail at Costa Mesa, California, that same date. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 11, 2013, at Costa Mesa, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Lauren Ramey
(Type or print name)


(Signature)

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