

Assembly Bill No. 3265

CHAPTER 255

An act to add Section 21168.6.6 to the Public Resources Code, relating to environmental quality.

[Approved by Governor September 14, 2024. Filed with
Secretary of State September 14, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3265, Bryan. California Environmental Quality Act: environmental leadership media campus projects: judicial streamlining.

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

This bill would establish streamlined procedures for the administrative and judicial review of the environmental review and approvals granted for an environmental leadership media campus project, defined by the bill as a construction or renovation project on a film and television media campus in the County of Los Angeles, under certain conditions. The bill would require a city within the County of Los Angeles that is the lead agency for an environmental leadership media campus project to certify the project for the streamlined judicial review, as specified, if the lead agency finds the project will meet those conditions. The bill would require the project applicant of the environmental leadership media campus project to take certain actions in order for those specified procedures to apply to the project. The bill would require the Judicial Council, on or before July 1, 2025, to adopt rules of court establishing procedures requiring actions or proceedings seeking judicial review of the certification of an environmental impact report for an environmental leadership media campus project or the granting of any project approval, including any appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 365 calendar days of the filing of the certified record of proceedings with the court. The bill would require the lead agency to prepare the EIR for an environmental

leadership media campus project in a specified manner and would require the concurrent preparation of the record of proceedings.

Because the bill would impose additional duties on a lead agency and on a local agency, this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Los Angeles.

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

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

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The entertainment industry is a rich part of California's history and the state is committed to retaining its status as the world's film and television production capital.

(2) Attractive tax credit incentives from other states and countries to produce film and television are on the rise.

(3) There are large projects under consideration that would replace old and outmoded facilities, use innovative technologies, and help the state meet the increased demand for film and television production.

(4) These projects will generate thousands of full-time construction jobs and thousands more of permanent jobs once constructed and operating.

(5) New construction and renovation at California media production campuses can provide environmental benefits.

(b) It is the intent of the Legislature to incentivize construction and renovation at California's media production campuses in order to ensure business and creative success, stimulate the creation of new employment opportunities, and keep the production of film, scripted television, and streaming content in California for decades to come.

(c) The Legislature further finds and declares that it is in the interest of the state to expedite judicial review of media production campus construction and renovation projects, as appropriate, while protecting the environment and the rights of the public to review, comment on, and, if necessary, seek judicial review of the adequacy of an environmental impact report for the project.

SEC. 2. Section 21168.6.6 is added to the Public Resources Code, immediately following Section 21168.6, to read:

21168.6.6. (a) For purposes of this section, the following terms have the following meanings:

(1) "Disadvantaged community" means an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a disadvantaged unincorporated community pursuant to Section 65302.10 of the Government Code.

(2) “Environmental leadership media campus project” or “project” means a construction or renovation project on a film and television media campus in the County of Los Angeles.

(b) A city within the County of Los Angeles that is the lead agency for the project shall certify an environmental leadership media campus project for streamlining pursuant to this section if the lead agency finds that all of the following conditions will be met:

(1) The project will result in an investment of at least one billion dollars (\$1,000,000,000) in California upon completion of the construction.

(2) (A) The project will obtain certification as Leadership in Energy and Environmental Design (LEED) gold standard or better from the United States Green Building Council for all new construction that is eligible for LEED certification.

(B) Any new construction or major renovation of existing buildings that is not eligible for LEED certification will achieve comparable standards for energy and water efficiency, including, but not limited to, meeting Tier 1 energy efficiency standards.

(3) The project will achieve a reduction in vehicle miles traveled per capita of at least 15 percent compared to existing development consistent with the Office of Planning and Research’s technical advisory on evaluating transportation impacts in CEQA and at least 50 percent of any greenhouse gas emissions reductions necessary to achieve zero net additional greenhouse gas emissions as required by paragraph (4) will be from onsite and local reduction measures.

(4) The project does not result in any net additional greenhouse gas emissions, including, but not limited to, from employee transportation. A project is deemed to meet the requirements of this paragraph if the project applicant demonstrates to the lead agency that the project applicant has a binding commitment that it will mitigate impacts resulting from the greenhouse gas emissions, if any, in accordance with Section 21183.6.

(5) If measures are required to mitigate significant environmental impacts in a disadvantaged community, those impacts will be mitigated consistent with this division, including Section 21002, and the mitigation measures required under this subdivision will be undertaken in, and directly benefit, the affected community.

(6) The project will generate at least 1,000 jobs during construction.

(7) (A) (i) The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages, employs a skilled and trained workforce, as defined in subdivision (d) of Section 2601 of the Public Contract Code, provides construction jobs and permanent jobs for Californians, and helps reduce unemployment. For purposes of this subdivision, “jobs that pay prevailing wages” means that all construction workers employed in the execution of the project will receive at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code. If the project is certified for streamlining, the project

applicant shall include this requirement in all contracts for the performance of the work.

(ii) Clause (i) does not apply to a contractor or subcontractor performing the work on the project that is subject to a project labor agreement requiring the payment of prevailing wages to all construction workers employed in the execution of the project and providing for enforcement of that obligation through an arbitration procedure. For purposes of this clause, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(B) (i) If the project is certified pursuant to this subdivision, contractors and subcontractors shall pay to all construction workers employed in the execution of the project at least the general prevailing rate of per diem wages.

(ii) Except as provided in clause (iii), the obligation of the contractors and subcontractors to pay prevailing wages pursuant to subparagraph (A) may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, or by an underpaid worker through an administrative complaint or civil action. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(iii) Clause (ii) does not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(8) The project applicant demonstrates compliance with the requirements of Chapters 12.8 (commencing with Section 42649) and 12.9 (commencing with Section 42649.8) of Part 3 of Division 30, as applicable.

(9) The project applicant agrees that all mitigation measures required pursuant to this division and any other environmental measures required by this section to certify the project under this section shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency. In the case of environmental mitigation measures and any other environmental measures required by this section, the project applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the life of the obligation. The project applicant shall submit to the lead agency an annual status report on the implementation of the environmental mitigation measures and any other environmental measures required by this section.

(10) The project applicant agrees to pay any additional costs incurred by the courts in hearing and deciding any case subject to this section, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council, as provided in the California Rules of Court adopted by the Judicial Council.

(11) The project applicant agrees to pay the costs of preparing the record of proceedings for the project concurrent with review and consideration of the project pursuant to this division, in a form and manner specified by the lead agency for the project.

(c) On or before July 1, 2025, the Judicial Council shall adopt rules of court that apply to any action or proceeding brought to attack, review, set aside, void, or annul the certification of an environmental impact report for an environmental leadership media campus project or the granting of any project approval that requires the action or proceeding, including any potential appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 365 calendar days of the filing of the certified record of proceedings with the court.

(d) (1) The draft and final environmental impact report for an environmental leadership media campus project shall include a notice in not less than 12-point type stating the following:

THIS ENVIRONMENTAL IMPACT REPORT IS SUBJECT TO SECTION 21168.6.6 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE PUBLIC COMMENT PERIOD, IF ANY, FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT. ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OR ADOPTION OF THE ENVIRONMENTAL IMPACT REPORT OR THE APPROVAL OF THE PROJECT DESCRIBED IN SECTION 21168.6.6 OF THE PUBLIC RESOURCES CODE IS SUBJECT TO THE PROCEDURES SET FORTH IN THAT SECTION. A COPY OF SECTION 21168.6.6 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN THE APPENDIX TO THIS ENVIRONMENTAL IMPACT REPORT.

(2) The draft environmental impact report and final environmental impact report shall contain, as an appendix, the full text of this section.

(3) Within 10 calendar days after the release of the draft environmental impact report, the lead agency shall conduct an informational workshop to inform the public of the key analyses and conclusions of that document, as applicable.

(4) Within 10 calendar days before the close of the public comment period, the lead agency shall hold a public hearing to receive testimony on the draft environmental impact report. A transcript of the hearing shall be included as an appendix to the final environmental impact report, as applicable.

(5) (A) Within five calendar days following the close of the public comment period, a commenter on the draft environmental impact report

may submit to the lead agency a written request for nonbinding mediation, as applicable. The lead agency shall participate in nonbinding mediation with all commenters who submitted timely comments on the draft environmental impact report and who requested the mediation. Mediation conducted pursuant to this paragraph shall end no later than 35 calendar days after the close of the public comment period.

(B) A request for mediation shall identify all areas of dispute raised in the comment submitted by the commenter that are to be mediated.

(C) The lead agency shall select one or more mediators who shall be retired judges or recognized experts with at least five years' experience in land use and environmental law or science, or mediation. The lead agency shall bear the costs of mediation.

(D) A mediation session shall be conducted on each area of dispute with the parties requesting mediation on that area of dispute.

(E) The lead agency shall adopt, as a condition of approval, any measures agreed upon by the lead agency and any commenter who requested mediation. A commenter who agrees to a measure pursuant to this subparagraph shall not raise the issue addressed by that measure as a basis for an action or proceeding challenging the lead agency's decision to certify the environmental impact report or to grant project approval.

(6) The lead agency need not consider written comments on the draft environmental impact report submitted after the close of the public comment period, unless those comments address any of the following:

(A) New issues raised in the response to comments by the lead agency.

(B) New information released by the lead agency subsequent to the release of the draft environmental impact report, such as new information set forth or embodied in a staff report, proposed permit, proposed resolution, ordinance, or similar documents.

(C) Changes made to the project after the close of the public comment period.

(D) Proposed conditions for approval, mitigation measures, or proposed findings required by Section 21081 or a proposed reporting or monitoring program required by paragraph (1) of subdivision (a) of Section 21081.6, if the lead agency releases those documents subsequent to the release of the draft environmental impact report.

(E) New information that was not reasonably known and could not have been reasonably known during the public comment period.

(7) The lead agency shall file the notice required by subdivision (a) of Section 21152 within five calendar days after the last initial project approval.

(e) (1) The lead agency shall prepare and certify the record of proceedings in accordance with this subdivision and in accordance with Rule 3.2205 of the California Rules of Court.

(2) No later than three business days following the date of the release of the draft environmental impact report, the lead agency shall make available to the public in a readily accessible electronic format the draft environmental impact report and all other documents relied on by the lead agency in the preparation of the draft environmental impact report. A document prepared

by the lead agency after the date of the release of the draft environmental impact report that is a part of the record of proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is prepared by the lead agency.

(3) Notwithstanding paragraph (2), documents relied on by the lead agency that were not prepared specifically for the project and are copyright protected are not required to be made readily accessible in an electronic format. For those copyright protected documents, the lead agency shall make an index of the documents available in an electronic format no later than the date of the release of the draft environmental impact report, or within five business days if the document is received or relied on by the lead agency after the release of the draft environmental impact report. The index shall specify the libraries or lead agency offices in which hardcopies of the copyrighted materials are available for public review.

(4) The lead agency shall encourage written comments on the project to be submitted in a readily accessible electronic format, and shall make any such comments available to the public in a readily accessible electronic format within five calendar days of their receipt.

(5) Within seven business days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.

(6) The lead agency shall indicate in the record of proceedings comments received that were not considered by the lead agency and need not include the content of the comments as a part of the record of proceedings.

(7) Within five calendar days after the filing of the notice required by subdivision (a) of Section 21152, the lead agency shall certify the record of proceedings for the approval or determination and shall provide an electronic copy of the record of proceedings to a party that has submitted a written request for a copy. The lead agency may charge and collect a reasonable fee from a party requesting a copy of the record of proceedings for the electronic copy, which shall not exceed the reasonable cost of reproducing that copy.

(8) Within 10 calendar days after being served with a complaint or a petition for a writ of mandate, the lead agency shall lodge a copy of the certified record of proceedings with the superior court.

(9) Any dispute over the content of the record of proceedings shall be resolved by the superior court. Unless the superior court directs otherwise, a party disputing the content of the record of proceedings shall file a motion to augment the record of proceedings at the time it files its initial brief.

(10) The contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances described in Section 1 of this act regarding media production campuses in the County of Los Angeles, including that

incentivizing construction and renovation at California’s media production campuses will ensure business and creative success, stimulate the creation of new employment opportunities, and keep the production of film, scripted television, and streaming content in California for decades to come.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.