

Senate Bill No. 68

Passed the Senate August 21, 2008

Secretary of the Senate

Passed the Assembly August 13, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 21167.6.5 of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

SB 68, Kuehl. Environmental quality: determination: dispute.

The California Environmental Quality Act (CEQA) requires a lead agency, which includes a local agency, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. Existing law provides the procedure by which a party may attack, review, set aside, void, or annul the determination, finding, or decision of a public agency on specified grounds.

This bill would require that the petitioner or plaintiff name, as a real party in interest, a recipient of an approval, as identified by the public agency in its notice of determination or notice of exemption, that is the subject of an action or proceeding challenging the determination, finding, or decision of a public agency pursuant to CEQA. This bill would require that a petition or complaint be subject to dismissal if a petitioner or plaintiff fails to serve any recipient of an approval within the statute of limitations period.

The bill would provide that the above requirement would not apply to a proceeding for judicial review filed pursuant to CEQA that is pending on or before December 31, 2008, or to actions or proceedings challenging an act or decision of a public agency for which a notice of decision or notice of exemption was filed on or before December 31, 2008.

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

SECTION 1. Section 21167.6.5 of the Public Resources Code is amended to read:

21167.6.5. (a) The petitioner or plaintiff shall name, as a real party in interest, any recipient of an approval, as identified by the

public agency in its notice of determination or notice of exemption, that is the subject of an action or proceeding brought pursuant to Section 21167, 21168, or 21168.5, and shall serve the petition or complaint on that real party in interest, by personal service, mail, facsimile, or any other method permitted by law, not later than 20 business days following service of the petition or complaint on the public agency.

(b) If the petitioner or plaintiff fails to serve any recipient of an approval, identified in the public agency's notice of determination or notice of exemption, within the limitations period specified in subdivision (a), the petition or complaint shall be subject to dismissal on the motion of any party interested in the proceeding.

(c) The public agency shall provide the petitioner or plaintiff, not later than 10 business days following service of the petition or complaint on the public agency, with a list of responsible agencies and any public agency having jurisdiction over a natural resource affected by the project.

(d) The petitioner or plaintiff shall provide the responsible agencies, and any public agency having jurisdiction over a natural resource affected by the project, with notice of the action or proceeding within 15 days of receipt of the list described in subdivision (b).

(e) Failure to name potential persons, other than those real parties in interest described in subdivision (a), as identified by the public agency in its notice of determination or notice of exemption, is not grounds for dismissal pursuant to Section 389 of the Code of Civil Procedure.

(f) Nothing in this section is intended to affect an existing right of a party to intervene in the action.

SEC. 2. Section 21167.6.5 of the Public Resources Code as amended by Senate Bill 68 of the 2007–08 Regular Session does not apply to a proceeding for judicial review filed pursuant to Chapter 6 (commencing with Section 21165) of Division 13 of the Public Resources Code that is pending on or before December 31, 2008, or to an action or proceeding that seeks to attack, review, void, or set aside an act or decision of a public agency for which a notice of determination or notice of exemption was filed on or before December 31, 2008, and the applicable law in effect on that date shall continue to apply to that proceeding.

Approved _____, 2008

Governor