

Appendix B

Public Resources Code, Division 13,
Chapter 6.7, Judicial Review of
Capitol Building Annex and
State Office Building Projects

PUBLIC RESOURCES CODE - PRC

DIVISION 13. ENVIRONMENTAL QUALITY [21000 - 21189.57]

(Division 13 added by Stats. 1970, Ch. 1433.)

CHAPTER 6.7. Judicial Review of Capitol Building Annex and State Office Building Projects [21189.50 - 21189.57]

(Heading of Chapter 6.7 amended by Stats. 2018, Ch. 40, Sec. 9.)

21189.50.

As used in this chapter, the following definitions shall apply:

(a) "Capitol building annex project" means any work of construction of a state capitol building annex or restoration, rehabilitation, renovation, or reconstruction of the State Capitol Building Annex described in Section 9105 of the Government Code that is performed pursuant to Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code.

(b) "Annex project related work" means all work closely related to the Capitol building annex project, including, but not limited to, any visitor's center or parking facility constructed pursuant to Section 9112 of the Government Code.

(c) "State office building project" means any work of construction, restoration, rehabilitation, renovation, or reconstruction of a state office building that is performed pursuant to Article 5.6 (commencing with Section 9125) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code.

(Amended by Stats. 2018, Ch. 40, Sec. 10. (AB 1826) Effective June 27, 2018.)

21189.51.

(a) On or before July 1, 2017, the Judicial Council shall adopt a rule of court to establish procedures applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification of the environmental impact report for a capitol building annex project or the granting of any project approvals that require the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceedings pursuant to Section 21189.52.

(b) On or before July 1, 2019, the Judicial Council shall adopt a rule of court to establish procedures applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification of the environmental impact report for annex project related work or a state office building or the granting of any project approvals with respect to either that work or building that require the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceedings pursuant to Section 21189.52.

(Amended by Stats. 2018, Ch. 40, Sec. 11. (AB 1826) Effective June 27, 2018.)

21189.52.

(a) The lead agency shall prepare and certify the record of the proceedings in accordance with this section and in accordance with Rule 3.1365 of the California Rules of Court.

(b) 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 submitted to or 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 the proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is prepared or received by the lead agency.

(c) Notwithstanding subdivision (b), documents submitted to or relied on by the lead agency that were not prepared specifically for the capitol building annex project, annex project related work, or the state office building project, as applicable, 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 these 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 must specify the libraries or lead agency offices in which hard copies of the copyrighted materials are available for public review.

(d) The lead agency shall encourage written comments on the capitol building annex project, annex project related work, and the state office building project, to be submitted in a readily accessible electronic format, and shall make any such comment available to the public in a readily accessible electronic format within five days of its receipt.

(e) 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.

(f) The lead agency shall indicate in the record of the proceedings comments received that were not considered by the lead agency pursuant to subdivision (d) of Section 21189.55 and need not include the content of the comments as a part of the record.

(g) Within five days after the filing of the notice required by subdivision (a) of Section 21152, the lead agency shall certify the record of the proceedings for the approval or determination and shall provide an electronic copy of the record 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 for the electronic copy, which shall not exceed the reasonable cost of reproducing that copy.

(h) Within 10 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.

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

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

(Amended by Stats. 2018, Ch. 40, Sec. 12. (AB 1826) Effective June 27, 2018.)

21189.53.

(a) In granting relief in an action or proceeding brought pursuant to this chapter, the court shall not enjoin the capitol building annex project, annex project related work, or the state office building project unless the court finds either of the following:

(1) The continuation of the capitol building annex project, annex project related work, or the state office building project presents an imminent threat to the public health and safety.

(2) The capitol building annex project, annex project related work, or the state office building project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continuation of the capitol building annex project, annex project related work, or the state office building project unless the court stays or enjoins the capitol building annex project.

(b) If the court finds that either paragraph (1) or (2) of subdivision (a) is satisfied, the court shall only enjoin those specific activities associated with the capitol building annex project, annex project related work, or the state office building project, as applicable, that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.

(Amended by Stats. 2018, Ch. 40, Sec. 13. (AB 1826) Effective June 27, 2018.)

21189.54.

(a) The draft and final environmental impact report shall include a notice in not less than 12-point type stating the following:

THIS EIR IS SUBJECT TO CHAPTER 6.7 (COMMENCING WITH SECTION 21189.50) OF DIVISION 13 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 FOR THE DRAFT EIR. ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE

PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTIONS 21189.51 TO 21189.53, INCLUSIVE, OF THE PUBLIC RESOURCES CODE. A COPY OF CHAPTER 6.7 (COMMENCING WITH SECTION 21189.50) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN THE APPENDIX TO THIS EIR.

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

(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)

21189.55.

(a) Within 10 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 report.

(b) Within 10 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.

(c) (1) Within five 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. 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 days after the close of the public comment period.

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

(3) 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.

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

(5) 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 one or more initial project approvals.

(d) The lead agency need not consider written comments submitted after the close of the public comment period, unless those comments address any of the following:

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

(2) New information released by the public 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.

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

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

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

(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)

21189.56.

The provisions of this chapter are severable. If any provision of this chapter or its application is held to be invalid, that invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application.

(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)

21189.57.

Except as otherwise provided expressly in this chapter, nothing in this chapter affects the duty of any party to comply with this division.

(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)