

AMENDED IN ASSEMBLY MARCH 28, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 890**

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**Introduced by Assembly Member Medina**

February 16, 2017

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An act to amend Sections 9105, 9108, 9110, 9116, 9118, 9203, 9207, 9208, 9214, 9215, 9301, 9305, 9310, 9311, and 9312 of, and to add Sections 9117, 9219, 9227, and 9318 to, the Elections Code, to amend Section 65867.5 of the Government Code, and to amend Sections 21065 and 21152 of the Public Resources Code, relating to initiatives.

LEGISLATIVE COUNSEL'S DIGEST

AB 890, as amended, Medina. Local land use initiatives: environmental review.

The California Constitution authorizes the electors of each city and county to exercise the powers of initiative and referendum under procedures provided by the Legislature. Pursuant to that authority, existing law authorizes a proposed ordinance to be submitted to the appropriate elections official and requires the elections official to forward the proposed ordinance to appropriate counsel for preparation of a ballot title and summary. Existing law requires the elections official to provide the ballot title and summary to proponents of the proposed measure and the proponents are required to include the ballot title and summary upon each section of the petition used to gather the required number of signatures. Under existing law, if an initiative petition is signed by not less than a specified number of voters and filed with the elections official, that elections official must submit the proposed ordinance to the county board of supervisors, legislative body of a city, or governing board of a district. Existing law requires the governing

body to (1) adopt the ordinance without alteration, (2) call an election or special election in certain instances, at which the ordinance, without alteration, would be submitted to a vote of the voters of the jurisdiction, or (3) for cities and counties, order a report on the ordinance and then adopt the ordinance or submit it to the voters.

This bill would require a proponent of an proposed initiative ordinance, at the time he or she files a copy of the proposed initiative ordinance for preparation of a ballot title and summary with the appropriate elections official, to also request that an environmental review of the proposed initiative ordinance be conducted by the appropriate planning department, as specified. The bill would require *the* elections official to notify the proponent of the result of the environmental review. The bill would require the county board of supervisors, legislative body of a city, or governing board of a district, if the initiative ordinance proposes an activity that would result in a direct or indirect physical change in the environment, as specified, to order that an environmental impact report or mitigated negative declaration of the proposed ordinance be prepared. Once the environmental impact report or mitigated negative declaration has been prepared, the bill would require the governing body to hold a public hearing and either approve or deny the proposed ordinance, instead of allowing the proposed ordinance to be submitted to the voters.

By requiring local officials to provide a higher level of service, this bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Local land use initiative measures are matters in which there
- 4 is a statewide interest because they have effects beyond the

1 jurisdictional limits of a local agency, and thus are not matters of  
2 purely local concern.

3 (b) Local land use initiative measures may affect the health,  
4 safety, and general welfare of residents within and outside the  
5 jurisdictional limits of a local agency.

6 (c) Local land use initiative measures may impact the  
7 environment, which is an asset of all the people of California and  
8 is a matter of statewide concern, consistent with the legislative  
9 intent expressed in Chapter 1 (commencing with Section 21000)  
10 of Division 13 of the Public Resources Code.

11 (d) A thorough environmental review of local land use projects  
12 is necessary to safeguard the environment and to inform the public  
13 of the projects' possible consequences. This environmental review  
14 must occur at the earliest possible time.

15 (e) Voters, like legislators, should have access to information  
16 about a local land use initiative measure's environmental impacts.

17 (f) Approving local land use initiative measures that have the  
18 potential to cause significant environmental impacts is  
19 fundamentally incompatible with California's substantive  
20 environmental mandate, as set forth in Section 21002 of the Public  
21 Resources Code, which states that projects are not to be approved  
22 "if there are feasible alternatives or feasible mitigation measures  
23 available which would substantially lessen the significant  
24 environmental effects of such projects."

25 (g) Development agreements, which are negotiated contractual  
26 agreements between a legislative body and an individual or entity,  
27 are unsuitable for the initiative process.

28 SEC. 2. Section 9105 of the Elections Code is amended to read:

29 9105. (a) The county elections official shall immediately  
30 transmit a copy of any proposed measure to the county counsel.  
31 Within 15 days after the proposed measure is filed, the county  
32 counsel shall provide and return to the county elections official a  
33 ballot title and summary for the proposed measure. The ballot title  
34 may differ from any other title of the proposed measure and shall  
35 express in 500 words or less the purpose of the proposed measure.  
36 In providing the ballot title, the county counsel shall give a true  
37 and impartial statement of the purpose of the proposed measure  
38 in such language that the ballot title shall neither be an argument,  
39 nor be likely to create prejudice, for or against the proposed  
40 measure.

1 (b) The county elections official shall furnish a copy of the  
2 ballot title and summary to the proponents of the proposed measure.  
3 The proponents shall, before the circulation of the petition, publish  
4 the Notice of Intention, and the ballot title and summary of the  
5 proposed measure in a newspaper of general circulation published  
6 in that county, and file proof of publication with the county  
7 elections official.

8 (c) The ballot title and summary prepared by the county counsel  
9 shall appear upon each section of the petition, above the text of  
10 the proposed measure and across the top of each page of the  
11 petition on which signatures are to appear, in roman boldface type  
12 not smaller than 12 point. The ballot title and summary shall be  
13 clearly separated from the text of the measure. The text of the  
14 measure shall be printed in type not smaller than 8 point.

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

17  
18 Initiative Measure to be Submitted Directly to the Voters

19  
20 The county counsel has prepared the following title and summary  
21 of the chief purpose and points of the proposed measure:

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

25 (d) (1) ~~Any person who is interested in any~~ *proponent of a*  
26 proposed measure shall file a copy of the proposed measure with  
27 the elections official with a request that an environmental review  
28 of the proposed measure be conducted. The elections official shall  
29 immediately transmit a copy of the proposed measure to the county  
30 planning department. Within 30 days after the proposed measure  
31 is filed, the county planning department shall determine if the  
32 activity proposed by the measure is subject to the California  
33 Environmental Quality Act (Division 13 (commencing with Section  
34 21000) of the Public Resources Code.) If the activity proposed by  
35 the measure is subject to the California Environmental Quality  
36 Act and no exemption applies, the county planning department  
37 shall determine if the activity proposed by the measure has the  
38 potential for resulting in either a direct physical change in the  
39 environment, or a reasonably foreseeable indirect physical change  
40 in the environment. If there is no potential for such a change, the

1 city shall prepare a negative declaration within 180 days. If there  
2 is potential for such a change, the city shall notify the proponent,  
3 within 30 days after the proposed measure is filed, that the  
4 proposed measure cannot be adopted by the initiative process but  
5 can receive a public hearing pursuant to Section 9117 if a sufficient  
6 number of signatures are collected.

7 (2) The elections official shall furnish a copy of the negative  
8 declaration or any other environmental determination to the person  
9 filing the proposed measure. Any negative declaration or any other  
10 environmental determination shall be included with each section  
11 of the petition.

12 SEC. 3. Section 9108 of the Elections Code is amended to read:

13 9108. The proponents may commence to circulate the petitions  
14 among the voters of the county for signatures by any registered  
15 voter of the county after publication of the title and summary  
16 prepared by the county counsel, and after receiving a negative  
17 declaration or other environmental determination from the county  
18 planning department. Each section of the petition shall bear a copy  
19 of the notice of intention, and the title and summary prepared by  
20 the county counsel, and any negative declaration or other  
21 environmental determination prepared for the measure.

22 SEC. 4. Section 9110 of the Elections Code is amended to read:

23 9110. Signatures shall be secured and the petition shall be  
24 presented to the county elections official for filing within 180 days  
25 from the date of receipt of the title and summary, and negative  
26 declaration or other environmental determination, or after  
27 termination of any action for a writ of mandate pursuant to Section  
28 9106 and, if applicable, after receipt of an amended title or  
29 summary, or both, whichever occurs later.

30 SEC. 5. Section 9116 of the Elections Code is amended to read:

31 9116. If the initiative petition is signed by voters not less in  
32 number than 20 percent of the entire vote cast within the county  
33 for all candidates for Governor at the last gubernatorial election  
34 preceding the publication of the notice of intention to circulate an  
35 initiative petition, and contains a request that the ordinance be  
36 submitted immediately to a vote of the people at a special election,  
37 the board of supervisors shall consider certifying the petition at  
38 the next regular meeting after any required public review and  
39 comment period. If the initiative petition proposes an activity for  
40 which there is substantial evidence supporting a fair argument that

1 the activity has the potential for resulting in either a direct physical  
2 change in the environment, or a reasonably foreseeable indirect  
3 physical change in the environment, the legislative body shall  
4 declare that the initiative petition proposes an activity that is  
5 unsuitable for the initiative process and proceed pursuant to Section  
6 9117. If a negative declaration was prepared for the petition, the  
7 negative declaration shall be circulated for public review and  
8 comment for at least 20 days before the meeting at which the  
9 legislative body will consider certifying the petition, and the  
10 legislative body shall consider any public comments raised. At the  
11 meeting where the legislative body will consider certifying the  
12 petition, the legislative body shall do one of the following:

13 (a) Adopt the ordinance without alteration, unless a negative  
14 declaration was prepared for the petition, in which case only  
15 ~~subdivisions (b) and (c) apply.~~ *subdivision (b) applies.*

16 (b) Immediately call a special election pursuant to subdivision  
17 (a) of Section 1405, at which the ordinance, without alteration,  
18 shall be submitted to a vote of the voters of the county. The special  
19 election shall be funded by the proponent of the initiative petition.  
20 If the proponent declines to fund the special election, the ordinance  
21 shall be submitted to voters pursuant to subdivision (b) of Section  
22 1405.

23 (c) Order a report pursuant to Section 9111. When the report is  
24 presented to the board of supervisors, it shall either adopt the  
25 ordinance within 10 days or order an election pursuant to  
26 subdivision (b).

27 SEC. 6. Section 9117 is added to the Elections Code, to read:

28 9117. If an initiative petition is signed by not less than the  
29 number of voters specified in Section 9118, and the activity  
30 proposed by the initiative petition has the potential for resulting  
31 in either a direct physical change in the environment, or a  
32 reasonably foreseeable indirect physical change in the environment,  
33 the legislative body shall require that an environmental impact  
34 report or mitigated negative declaration be prepared to analyze the  
35 impacts of the activity proposed by the initiative petition. Once  
36 the environmental document is complete, the legislative body shall  
37 hold a public hearing to either approve or deny the proposal.

38 SEC. 7. Section 9118 of the Elections Code is amended to read:

39 9118. If the initiative petition is signed by voters not less in  
40 number than 10 percent of the entire vote cast in the county for all

1 candidates for Governor at the last gubernatorial election preceding  
2 the publication of the notice of intention to circulate an initiative  
3 petition, the board of supervisors shall consider certifying the  
4 petition at the next regular meeting after any required public review  
5 and comment period. If the initiative petition proposes an activity  
6 for which there is substantial evidence supporting a fair argument  
7 that the activity has the potential for resulting in either a direct  
8 physical change in the environment, or a reasonably foreseeable  
9 indirect physical change in the environment, the legislative body  
10 shall declare that the initiative petition proposes an activity that is  
11 unsuitable for the initiative process and proceed pursuant to Section  
12 9117. If a negative declaration was prepared for the petition, the  
13 negative declaration shall be circulated for public review and  
14 comment for at least 20 days before the meeting at which the  
15 legislative body will consider certifying the petition, and the  
16 legislative body shall consider any public comments raised. At the  
17 meeting where the legislative body will consider certifying the  
18 petition, the legislative body shall do one of the following:

19 (a) Adopt the ordinance without alteration, unless a negative  
20 declaration was prepared for the petition, in which case only  
21 subdivisions (b) and (c) apply. *subdivision (b) applies.*

22 (b) Submit the ordinance, without alteration, to the voters  
23 pursuant to subdivision (b) of Section 1405, unless the ordinance  
24 petitioned for is required to be, or for some reason is, submitted  
25 to the voters at a special election pursuant to subdivision (a) of  
26 Section 1405. *Any special election shall be funded by the proponent*  
27 *of the initiative petition. If the proponent declines to fund the*  
28 *special election, the ordinance shall be submitted to voters*  
29 *pursuant to subdivision (b) of Section 1405.*

30 (c) Order a report pursuant to Section 9111. When the report is  
31 presented to the board of supervisors, it shall either adopt the  
32 ordinance within 10 days or order an election pursuant to  
33 subdivision (b).

34 SEC. 8. Section 9203 of the Elections Code is amended to read:

35 9203. (a) ~~Any person who is interested in any~~ *proponent of a*  
36 *proposed measure shall file a copy of the proposed measure with*  
37 *the elections official with a request that a ballot title and summary*  
38 *be prepared. This request shall be accompanied by the address of*  
39 *the person proposing the measure. The elections official shall*  
40 *immediately transmit a copy of the proposed measure to the city*

1 attorney. Within 15 days after the proposed measure is filed, the  
2 city attorney shall provide and return to the city elections official  
3 a ballot title for and summary of the proposed measure. The ballot  
4 title may differ from any other title of the proposed measure and  
5 shall express in 500 words or less the purpose of the proposed  
6 measure. In providing the ballot title, the city attorney shall give  
7 a true and impartial statement of the purpose of the proposed  
8 measure in such language that the ballot title shall neither be an  
9 argument, nor be likely to create prejudice, for or against the  
10 proposed measure.

11 (b) The elections official shall furnish a copy of the ballot title  
12 and summary to the person filing the proposed measure. The person  
13 proposing the measure shall, before its circulation, place upon each  
14 section of the petition, above the text of the proposed measure and  
15 across the top of each page of the petition on which signatures are  
16 to appear, in roman boldface type not smaller than 12 point, the  
17 ballot title prepared by the city attorney. The text of the measure  
18 shall be printed in type not smaller than 8 point.

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

21

22 Initiative Measure to be Submitted Directly to the Voters

23

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

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

29 (c) (1) ~~Any person who is interested in any~~ *proponent of a*  
30 proposed measure shall file a copy of the proposed measure with  
31 the elections official with a request that an environmental review  
32 of the proposed measure be conducted. The elections official shall  
33 immediately transmit a copy of the proposed measure to the city  
34 planning department. Within 30 days after the proposed measure  
35 is filed, the city planning department shall determine if the activity  
36 proposed by the measure is subject to the California Environmental  
37 Quality Act (Division 13 (commencing with Section 21000) of  
38 the Public Resources Code.) If the activity proposed by the measure  
39 is subject to the California Environmental Quality Act and no  
40 exemption applies, the city planning department shall determine



1 if the activity proposed by the measure has the potential for  
2 resulting in either a direct physical change in the environment, or  
3 a reasonably foreseeable indirect physical change in the  
4 environment. If there is no potential for such a change, the city  
5 shall prepare a negative declaration within 180 days. If there is  
6 potential for such a change, the city shall notify the proponent,  
7 within 30 days after the proposed measure is filed, that the  
8 proposed measure cannot be adopted by the initiative process but  
9 can receive a public hearing pursuant to Section 9219 if a sufficient  
10 number of signatures are collected.

11 (2) The elections official shall furnish a copy of the negative  
12 declaration or any other environmental determination to the person  
13 filing the proposed measure. Any negative declaration or any other  
14 environmental determination shall be included with each section  
15 of the petition.

16 SEC. 9. Section 9207 of the Elections Code is amended to read:

17 9207. The proponents may commence to circulate the petitions  
18 among the voters of the city for signatures by any registered voter  
19 of the city after publication or posting, or both, as required by  
20 Section 9205, of the title and summary prepared by the city  
21 attorney, and after receiving a negative declaration or other  
22 environmental determination from the city planning department.  
23 Each section of the petition shall bear a copy of the notice of  
24 intention and the title and summary prepared by the city attorney,  
25 and any negative declaration or other environmental determination  
26 prepared for the measure.

27 SEC. 10. Section 9208 of the Elections Code is amended to  
28 read:

29 9208. Signatures upon petitions and sections of petitions shall  
30 be secured, and the petition, together with all sections of the  
31 petition and the negative declaration or other environmental  
32 determination, shall be filed within 180 days from the date of  
33 receipt of the title and summary, or after termination of any action  
34 for a writ of mandate pursuant to Section 9204, and, if applicable,  
35 after receipt of an amended title or summary, or both, whichever  
36 occurs later. Petitions and sections of petitions shall be filed in the  
37 office of the elections official during normal office hours as posted.  
38 If the petitions are not filed within the time permitted by this  
39 section, the petitions shall be void for all purposes.

1 SEC. 11. Section 9214 of the Elections Code is amended to  
2 read:

3 9214. If the initiative petition is signed by not less than 15  
4 percent of the voters of the city according to the last report of  
5 registration by the county elections official to the Secretary of  
6 State pursuant to Section 2187, effective at the time the notice  
7 specified in Section 9202 was published, or, in a city with 1,000  
8 or less registered voters, by 25 percent of the voters or 100 voters  
9 of the city, whichever is the lesser number, and contains a request  
10 that the ordinance be submitted immediately to a vote of the people  
11 at a special election, the legislative body shall consider certifying  
12 the petition at the next regular meeting after any required public  
13 review and comment period. If the initiative petition proposes an  
14 activity for which there is substantial evidence supporting a fair  
15 argument that the activity has the potential for resulting in either  
16 a direct physical change in the environment, or a reasonably  
17 foreseeable indirect physical change in the environment, the  
18 legislative body shall declare that the initiative petition proposes  
19 an activity that is unsuitable for the initiative process and proceed  
20 pursuant to Section 9219. If a negative declaration was prepared  
21 for the petition, the negative declaration shall be circulated for  
22 public review and comment for at least 20 days before the meeting  
23 at which the legislative body will consider certifying the petition,  
24 and the legislative body shall consider any public comments raised.  
25 At the meeting where the legislative body will consider certifying  
26 the petition, the legislative body shall do one of the following:

27 (a) Adopt the ordinance, without alteration, unless a negative  
28 declaration was prepared for the petition, in which case only  
29 ~~subdivisions (b) and (c) apply.~~ *subdivision (b) applies.*

30 (b) Immediately order a special election, to be held pursuant to  
31 subdivision (a) of Section 1405, at which the ordinance, without  
32 alteration, shall be submitted to a vote of the voters of the city.  
33 The special election shall be funded by the proponent of the  
34 initiative petition. If the proponent declines to fund the special  
35 election, the ordinance shall be submitted to voters pursuant to  
36 subdivision (b) of Section 1405.

37 (c) Order a report pursuant to Section 9212. When the report is  
38 presented to the legislative body, the legislative body shall either  
39 adopt the ordinance within 10 days or order an election pursuant  
40 to subdivision (b).

1 SEC. 12. Section 9215 of the Elections Code is amended to  
2 read:

3 9215. If the initiative petition is signed by not less than 10  
4 percent of the voters of the city, according to the last report of  
5 registration by the county elections official to the Secretary of  
6 State pursuant to Section 2187, effective at the time the notice  
7 specified in Section 9202 was published, or, in a city with 1,000  
8 or less registered voters, by 25 percent of the voters or 100 voters  
9 of the city, whichever is the lesser number, the legislative body  
10 shall consider certifying the petition at the next regular meeting  
11 after any required public review and comment period. If the  
12 initiative petition proposes an activity for which there is substantial  
13 evidence supporting a fair argument that the activity has the  
14 potential for resulting in either a direct physical change in the  
15 environment, or a reasonably foreseeable indirect physical change  
16 in the environment, the legislative body shall declare that the  
17 initiative petition proposes an activity that is unsuitable for the  
18 initiative process and proceed pursuant to Section 9219. If a  
19 negative declaration was prepared for the petition, the negative  
20 declaration shall be circulated for public review and comment for  
21 at least 20 days before the meeting at which the legislative body  
22 will consider certifying the petition, and the legislative body shall  
23 consider any public comments raised. At the meeting where the  
24 legislative body will consider certifying the petition, the legislative  
25 body shall do one of the following:

26 (a) Adopt the ordinance, without alteration, unless a negative  
27 declaration was prepared for the petition, in which case only  
28 ~~subdivisions (b) and (c) apply.~~ *subdivision (b) applies.*

29 (b) Submit the ordinance, without alteration, to the voters  
30 pursuant to subdivision (b) of Section 1405, unless the ordinance  
31 petitioned for is required to be, or for some reason is, submitted  
32 to the voters at a special election pursuant to subdivision (a) of  
33 Section 1405. *Any special election shall be funded by the proponent*  
34 *of the initiative petition. If the proponent declines to fund the*  
35 *special election, the ordinance shall be submitted to voters*  
36 *pursuant to subdivision (b) of Section 1405.*

37 (c) Order a report pursuant to Section 9212. When the report is  
38 presented to the legislative body, the legislative body shall either  
39 adopt the ordinance within 10 days or order an election pursuant  
40 to subdivision (b).

1 SEC. 13. Section 9219 is added to the Elections Code, to read:  
2 9219. If an initiative petition is signed by not less than the  
3 number of voters specified in Section 9215, and the activity  
4 proposed by the initiative petition has the potential for resulting  
5 in either a direct physical change in the environment, or a  
6 reasonably foreseeable indirect physical change in the environment,  
7 the legislative body shall require that an environmental impact  
8 report or mitigated negative declaration be prepared to analyze the  
9 impacts of the activity proposed by the initiative petition. Once  
10 the environmental document is complete, the legislative body shall  
11 hold a public hearing to either approve or deny the proposal.

12 SEC. 14. Section 9227 is added to the Elections Code, to read:  
13 9227. The initiative process in a city charter shall not be written  
14 or interpreted in a way that precludes environmental review of an  
15 initiative under state law.

16 SEC. 15. Section 9301 of the Elections Code is amended to  
17 read:

18 9301. Any proposed ordinance may be submitted to the  
19 governing board of the district by an initiative petition filed with  
20 the district elections official. Signatures to these petitions shall be  
21 obtained in the same manner as set forth in Section 9020. Affidavits  
22 shall be attached to each petition section in the form and in the  
23 manner set forth in Section 9022. An environmental review of the  
24 activity proposed by the initiative petition shall be conducted in  
25 the manner set forth in subdivision (c) of Section 9203.

26 SEC. 16. Section 9305 of the Elections Code is amended to  
27 read:

28 9305. After filing a copy of the notice of intention, statement  
29 of the reasons for the proposed petition, written text of the  
30 initiative, negative declaration or other environmental  
31 determination, and affidavit of publication or posting with the  
32 district elections official pursuant to Section 9304, the petition  
33 may be circulated among the voters of the district for signatures  
34 by any person who meets the requirements of Section 102. Each  
35 section of the petition shall bear a copy of the notice of intention  
36 and statement.

37 SEC. 17. Section 9310 of the Elections Code is amended to  
38 read:

39 9310. (a) If the initiative petition is signed by voters not less  
40 in number than 10 percent of the voters in the district, where the

1 total number of registered voters is less than 500,000, or not less  
2 in number than 5 percent of the voters in the district, where the  
3 total number of registered voters is 500,000 or more, and the  
4 petition contains a request that the ordinance be submitted  
5 immediately to a vote of the people at a special election, the district  
6 board shall consider certifying the petition at the next regular  
7 meeting after any required public review and comment period. If  
8 the initiative petition proposes an activity for which there is  
9 substantial evidence supporting a fair argument that the activity  
10 has the potential for resulting in either a direct physical change in  
11 the environment, or a reasonably foreseeable indirect physical  
12 change in the environment, the district board shall declare that the  
13 initiative petition proposes an activity that is unsuitable for the  
14 initiative process and proceed pursuant to Section 9318. If a  
15 negative declaration was prepared for the petition, the negative  
16 declaration shall be circulated for public review and comment for  
17 at least 20 days before the meeting at which the district board will  
18 consider certifying the petition, and the district board shall consider  
19 any public comments raised. At the meeting where the district  
20 board will consider certifying the petition, the board shall do either  
21 of the following:

22 (1) Adopt the ordinance, without alteration, unless a negative  
23 declaration was prepared for the petition, in which case only  
24 paragraph (2) applies.

25 (2) Immediately order that the ordinance be submitted to the  
26 voters, without alteration, pursuant to subdivision (a) of Section  
27 1405. The special election shall be funded by the proponent of the  
28 initiative petition. If the proponent declines to fund the special  
29 election, the ordinance shall be submitted to voters pursuant to  
30 subdivision (b) of Section 1405.

31 (b) The number of registered voters referred to in subdivision  
32 (a) shall be calculated as of the time of the last report of registration  
33 by the county elections official to the Secretary of State made  
34 before publication or posting of the notice of intention to circulate  
35 the initiative petition.

36 SEC. 18. Section 9311 of the Elections Code is amended to  
37 read:

38 9311. If the initiative petition does not request a special  
39 election, the district board shall consider certifying the petition at  
40 the next regular meeting after any required public review and

1 comment period. If the initiative petition proposes an activity for  
2 which there is substantial evidence supporting a fair argument that  
3 the activity has the potential for resulting in either a direct physical  
4 change in the environment, or a reasonably foreseeable indirect  
5 physical change in the environment, the district board shall declare  
6 that the initiative petition proposes an activity that is unsuitable  
7 for the initiative process and proceed pursuant to Section 9318. If  
8 a negative declaration was prepared for the petition, the negative  
9 declaration shall be circulated for public review and comment for  
10 at least 20 days before the meeting at which the district board will  
11 consider certifying the petition, and the district board shall consider  
12 any public comments raised. At the meeting where the district  
13 board will consider certifying the petition, the board shall do either  
14 of the following:

15 (a) Adopt the ordinance, without alteration, unless a negative  
16 declaration was prepared for the petition, in which case only  
17 subdivision (b) applies.

18 (b) Submit the ordinance to the voters, without alteration,  
19 pursuant to subdivision (b) of Section 1405, unless the ordinance  
20 petitioned for is required to be, or for some reason is, submitted  
21 to the voters at a special election pursuant to subdivision (a) of  
22 Section 1405. *Any special election shall be funded by the proponent*  
23 *of the initiative petition. If the proponent declines to fund the*  
24 *special election, the ordinance shall be submitted to voters*  
25 *pursuant to subdivision (b) of Section 1405.*

26 SEC. 19. Section 9312 of the Elections Code is amended to  
27 read:

28 9312. Whenever an ordinance is required by this article to be  
29 submitted to the voters of a district at an election, the district  
30 elections official shall cause the ordinance to be printed. A copy  
31 of the ordinance shall be made available to any voter upon request.

32 The district elections official shall mail with the voter  
33 information guide to each voter the following notice printed in no  
34 less than 10-point type.

35 “If you desire a copy of the proposed ordinance, please call the  
36 district elections official’s office at (insert telephone number) and  
37 a copy will be mailed at no cost to you.”

38 If a negative declaration was prepared for the ordinance, the  
39 district elections official shall print a copy of the negative

1 declaration and similarly notify the public that it is available by  
2 request.

3 SEC. 20. Section 9318 is added to the Elections Code, to read:

4 9318. If an initiative petition is signed by not less than the  
5 number of voters specified in Section 9310, and the activity  
6 proposed by the initiative petition has the potential for resulting  
7 in either a direct physical change in the environment, or a  
8 reasonably foreseeable indirect physical change in the environment,  
9 the district board shall require that an environmental impact report  
10 or mitigated negative declaration be prepared to analyze the impacts  
11 of the activity proposed by the initiative petition. Once the  
12 environmental document is complete, the district board shall hold  
13 a public hearing to either approve or deny the proposal.

14 SEC. 21. Section 65867.5 of the Government Code is amended  
15 to read:

16 65867.5. (a) A development agreement is a legislative act that  
17 shall be approved by ordinance and is subject to referendum.

18 (b) A development agreement cannot be approved by an  
19 ordinance adopted through the initiative process.

20 (c) A development agreement shall not be approved unless the  
21 legislative body finds that the agreement is consistent with the  
22 general plan and any applicable specific plan.

23 (d) A development agreement that includes a subdivision, as  
24 defined in Section 66473.7, shall not be approved unless the  
25 agreement provides that any tentative map prepared for the  
26 subdivision will comply with Section 66473.7.

27 SEC. 22. Section 21065 of the Public Resources Code is  
28 amended to read:

29 21065. "Project" means an activity which may cause either a  
30 direct physical change in the environment, or a reasonably  
31 foreseeable indirect physical change in the environment, and which  
32 is any of the following:

33 (a) An activity directly undertaken by any public agency.

34 (b) An activity undertaken by a person which is supported, in  
35 whole or in part, through contracts, grants, subsidies, loans, or  
36 other forms of assistance from one or more public agencies.

37 (c) An activity that involves the issuance to a person of a lease,  
38 permit, license, certificate, or other entitlement for use by one or  
39 more public agencies.

1 (d) An activity that is proposed by a local initiative measure  
2 ~~and, that~~, if passed or adopted, would be implemented by a public  
3 agency.

4 SEC. 23. Section 21152 of the Public Resources Code is  
5 amended to read:

6 21152. (a) If a local agency approves or determines to carry  
7 out a project that is subject to this division, the local agency shall  
8 file notice of the approval or the determination within five working  
9 days after the approval or determination becomes final, with the  
10 county clerk of each county in which the project will be located.  
11 The notice shall identify the person or persons in subdivision (b)  
12 or (c) of Section 21065, as reflected in the agency's record of  
13 proceedings, and indicate the determination of the local agency  
14 whether the project will, or will not, have a significant effect on  
15 the environment and shall indicate whether an environmental  
16 impact report has been prepared pursuant to this division. The  
17 notice shall also include certification that the final environmental  
18 impact report, if one was prepared, together with comments and  
19 responses, is available to the general public.

20 (b) If a local agency determines that a project is not subject to  
21 this division pursuant to subdivision (b) of Section 21080, and the  
22 local agency approves or determines to carry out the project, the  
23 local agency or the person specified in subdivision (b) or (c) of  
24 Section 21065 may file a notice of the determination with the  
25 county clerk of each county in which the project will be located.  
26 A notice filed pursuant to this subdivision shall identify the person  
27 or persons in subdivision (b) or (c) of Section 21065, as reflected  
28 in the agency's record of proceedings. A notice filed pursuant to  
29 this subdivision by a person specified in subdivision (b) or (c) of  
30 Section 21065 shall have a certificate of determination attached  
31 to it issued by the local agency responsible for making the  
32 determination that the project is not subject to this division pursuant  
33 to subdivision (b) of Section 21080. The certificate of  
34 determination may be in the form of a certified copy of an existing  
35 document or record of the local agency.

36 (c) A notice filed pursuant to this section shall be available for  
37 public inspection, and shall be posted within 24 hours of receipt  
38 in the office of the county clerk. A notice shall remain posted for  
39 a period of 30 days. Thereafter, the clerk shall return the notice to



1 the local agency with a notation of the period it was posted. The  
2 local agency shall retain the notice for not less than 12 months.

3 (d) For a project submitted through the initiative process, a  
4 notice filed pursuant to this section shall not be filed until five  
5 working days after the initiative petition is adopted or election  
6 results approving the initiative are certified.

7 SEC. 24. If the Commission on State Mandates determines  
8 that this act contains costs mandated by the state, reimbursement  
9 to local agencies and school districts for those costs shall be made  
10 pursuant to Part 7 (commencing with Section 17500) of Division  
11 4 of Title 2 of the Government Code.

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