

AMENDED IN ASSEMBLY MARCH 28, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 890

Introduced by Assembly Member Medina

February 16, 2017

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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