SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2019-2020 Regular Session

SB 25 (Caballero & Glazer)
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JDT

SUBJECT

California Environmental Quality Act: projects funded by qualified opportunity zone funds or other public funds

DIGEST

This bill, until 2025, provides for expedited judicial review of California Environmental Quality Act (CEQA) challenges to projects that are at least partially funded by qualified opportunity zone funds or by specified public funds.

EXECUTIVE SUMMARY

For a small handful of major projects—particularly, large "environmental leadership" projects and stadiums in Oakland and Inglewood—existing law provides that, to the extent feasible, courts must resolve CEQA challenges to those projects within 270 days of the filing of the record of administrative proceedings. These provisions were the subject of protracted policy battles over concerns regarding the burden on courts, diminished access to justice for other litigants, and the potential for insufficient environmental review. Citing the state's housing crisis, several authors this session have introduced bills proposing to extend this 270-day review provision to much broader classes of projects. The widespread application of this provision magnifies the concerns described above. Additionally, it could have diminishing returns for project developers: at some point, if the burden is too great, courts will fail to meet this deadline or even ignore it altogether. This bill—which applies to a broad range of projects that are at least partially funded by a qualified opportunity zone fund, and to certain residential and transit projects that are at least partially funded by specified public funds—and another bill by the same joint authors, SB 621, are two such bills pending before this Committee. The Senate Environmental Quality Committee passed both bills by votes of 5-2.

The bill is sponsored by Habitat for Humanity and supported by BizFed and the California Council for Affordable Housing. It is opposed by several environmental and environmental justice organizations.

PROPOSED CHANGES TO THE LAW

Existing federal law, pursuant to H.R.1, which enacted fundamental changes to the federal income tax law, among other things, allows state governors to designate certain census tracts as opportunity zones in their states. Investments made by individuals through special funds, known as opportunity zone funds, in these zones can defer or eliminate federal taxes on capital gains. The Governor can designate up to 25 percent of census tracts that either have poverty rates of at least 20 percent or median family incomes of no more than 80 percent of statewide or metropolitan area family income.

Existing state law:

1) Establishes CEQA, which requires a public agency to prepare, or cause to be prepared, and to certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. (Pub. Res. Code § 21100 et seq.; all further references are to the Public Resources Code unless otherwise stated.)

2) Defines "project" as an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:
    a) an activity directly undertaken by any public agency;
    b) an activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; or
    c) an activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies. (§ 21065.)

3) Provides that an action or proceeding to attack, review, set aside, void, or annul the acts or decisions of a public agency on the grounds of noncompliance with CEQA may be commenced when, among other things, it is alleged that:
    a) a public agency is carrying out or has approved a project that may have a significant effect on the environment without having determined whether the project may have a significant effect on the environment;
    b) a public agency has improperly determined whether a project may have a significant effect on the environment;
    c) an EIR prepared by, or caused to be prepared by, a public agency does not comply with CEQA;
    d) a public agency has improperly determined that a project is not subject to CEQA; or
    e) another act or omission of a public agency does not comply with CEQA. (§ 21167.)

4) Requires both the Superior Court and the Court of Appeal to give CEQA lawsuits "preference over all other civil actions therein, in the matter of setting the same for hearing or trial, and in hearing the same, to the end that the action or proceeding shall be quickly heard and determined." (§ 21167.1(a).)

5) Requires the Court of Appeal to regulate briefing schedules such that, to the extent feasible, the appeal is heard within one year of filing. (§ 21167.1(a).)

6) Requires counties with a population of over 200,000 to designate one or more judges to develop expertise concerning CEQA and related land-use and environmental matters, and then assign such matters to that judge or those judges. (§ 21167.1 (b).)

This bill:

1) Makes the following findings and declarations:
    a) the federal Investing in Opportunity Act, enacted as a part of the federal Tax Cuts and Jobs Act (Public Law 115-97), created tax incentives for investment in designated census tracts called qualified opportunity zones to spur growth in low-income communities by encouraging reinvestment of capital gains into certified opportunity funds;
    b) the Governor has nominated and the United States Department of the Treasury has certified 879 census tracts in California as qualified opportunity zones;
    c) the Strategic Growth Council funds projects that by their nature are intended to reduce the emissions of greenhouse gases and to reduce vehicle miles traveled;
    d) the State of California currently lacks housing supply at all levels of affordability and lacks the sufficient infrastructure to support sufficient housing growth;
    e) it is in the interest of the state to expedite judicial review of these projects, as appropriate, while protecting the environment and the right of the public to review, comment on, and, if necessary, seek judicial review of, the adequacy of the EIR for the project; and
    f) a streamlined judicial review process for any challenges to environmental review of projects funded by qualified opportunity zone funds or other public funds is needed to provide investment certainty regarding those projects and to ensure efficient use of public resources.

2) Defines a "qualified project" as a project subject to the following:
    a) if financed, in whole or in part, by a qualified opportunity the following restrictions apply:
        i. the project must:

1. receive Leadership in Energy and Environmental Design (LEED) Gold certification;
2. not result in net greenhouse gas emissions (GHGs); and
3. have zero net energy emissions;

ii. additionally, if the project contains residential units, it must also be at least 75 percent residential, 40 percent of which must be for lower-income families, as specified; or

b) if financed, in whole or in part, by one of several listed public funding sources, then the project must either be:
   i. a project that meets the environmental, residential, and affordability restrictions described above; or
   ii. a planned transit project contained in a sustainable communities strategy that, upon completion of the project, will result in a reduction of emissions of GHGs and vehicle miles traveled.

3) Requires the project proponent to certify to the local agency that:
   a) the project is a public work, as specified, or if the project is not in its entirety a public work, certify that all construction workers employed for the project will be paid at least the general prevailing rate of per diem wages, and meet other specified requirements; and
   b) that a skilled and trained workforce will be used to complete the project, subject to certain requirements.

4) Provides that 3) does not apply if the project includes 75 or fewer residential units and is not a public work.

5) Enables a public commenter to initiate nonbinding mediation with the lead agency, applicant, as well as all commenters who timely submitted comments on the draft EIR and who requested the mediation.

6) Applies certain rules of court establishing procedures requiring actions or proceedings seeking judicial review pursuant to CEQA or the granting of project approvals, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court to an action or proceeding seeking judicial review of the lead agency's action related to those projects.

7) Requires a party seeking to file an action or proceeding pursuant to CEQA to provide the lead agency and the real party in interest a notice of intent to sue within 10 days of the posting of a certain notice and prohibits a court from accepting the filing of an action or proceeding from a party that fails to provide the notice of intent to sue.

8) Sunsets on January 1, 2025.

COMMENTS

1. Stated need for the bill

According to the author:

> SB 25 will help end abuse of CEQA by NIMBY litigants that use the courtroom as a strategy to delay or kill housing development. Crucially, SB 25 focuses on a funding source to define a qualified project, and provides relief from lengthy CEQA litigation solely for projects receiving certain public funds, or an investment through a qualified Opportunity Zone Fund. This means that SB 25 is not applicable to private development without a nexus to the public good; it is not a CEQA exemption, nor a blanket negative declaration freeing a project from an environmental impact report. Under SB 25, projects still have to produce an EIR, and that EIR can face a challenge in court. In fact, not one environmental risk will be absorbed by a project that uses SB 25 streamlining. Simply, costly litigation strategies are redressed while keeping all environmental protections afforded to all projects in place.
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> With public funded projects, the Legislature should ensure that CEQA litigation challenging an EIR is streamlined, so that the public's interest is served over that of a single, often anonymous, litigant. In the case of Opportunity Zones, the state is participating in a federal program that will potentially drive private investment into our most capital-starved communities, if investors see that their investments will produce a return, instead of wasted away on litigation expenses.
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> A quarter of the nation's homeless are on California's streets. The Governor wants to build 3.5 million housing units in the next 5 years. The Governor is right about the need to reform CEQA in order to meet the mark. If the Legislature can deliver CEQA litigation streamlining for billionaire sports team owners, then we can do it for all Californians.

According to Habitat for Humanity California, the bill's sponsor:

> In recent years, CEQA has become a tool for nimbyism and frivolous lawsuits have prevailed in delaying or halting many housing projects, including one of Habitat for Humanity's projects in Redwood City, California. That project became the subject of a years-long lawsuit, which ultimately ended in a settlement that reduced the number of planned affordable units. We support the essence of SB 25, which will help decipher between legitimate environmental challenges and concerns and those formed by NIMBY neighbors and their creative legal advisors.
>
> SB 25 would establish streamlined procedures under CEQA for administrative and judicial review, and approvals granted to projects funded in whole or in part by

certain public monies or through a private Opportunity Zone fund. It is important to note that SB 25 will not exempt these projects from completing an Environmental Impact Report; instead it is focused on the process of administrative and judicial review, which will allow these projects to reach the marketplace in a timely manner.

2. California's housing shortage

California is in the midst of a housing crisis. The state is home to 21 of the 30 most expensive rental housing markets in the country, which has had a disproportionate impact on the middle class and the working poor. Housing units affordable to low-income earners, if available, are often in serious states of disrepair. On average, a person earing minimum wage must work three jobs to pay the rent for a two-bedroom unit. The Department of Housing and Community Development (HCD) estimates that approximately 2.7 million lower-income households are rent-burdened (meaning they spend at least 30 percent of their income on rent), 1.7 million of which are severely rent-burdened (spending at least 50 percent of their income on rent). Not a single county in the state has an adequate supply of affordable homes. According to a 2015 study by the California Housing Partnership Corporation, California has a shortfall of 1.5 million affordable homes and 13 of the 14 least affordable metropolitan areas in the country.

A major factor in this crisis is the state's housing shortage. From 1954-1989, California constructed an average of more than 200,000 new homes annually, with multifamily housing accounting for the largest share of housing production. Since then, however, construction has dropped significantly. HCD estimates that approximately 1.8 million new housing units—180,000 new homes per year, are needed to meet the state's projected population and housing growth by 2025. Even when housing production rose in the mid-2000s, it never reached the 180,000 mark, and over the last 10 years, construction averaged just 80,000 new homes per year.

3. CEQA generally

Enacted in 1970, CEQA requires state and local agencies to follow a set protocol to disclose and evaluate the significant environmental impacts of proposed projects and to adopt feasible measures to mitigate those impacts. CEQA itself applies to projects undertaken or requiring approval by public agencies, and, if more than one agency is involved, CEQA requires one of the agencies to be designated as the "lead agency." The environmental review process required by CEQA consists of: (1) determining if the activity is a project; (2) determining if the project is exempt from CEQA; and (3) performing an initial study to identify the environmental impacts and, depending on the findings, prepare either a Negative Declaration (for projects with no significant impacts), a Mitigated Negative Declaration (for projects with significant impacts but that are revised in some form to avoid or mitigate those impacts), or an EIR (for projects with significant impacts).

An EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Before approving any project that has received environmental review, an agency must make certain findings pertaining to the project's environmental impact and any associated mitigation measures. If mitigation measures are required or incorporated into a project, the public agency must adopt a reporting or monitoring program to ensure compliance with those measures. To enforce the requirements of CEQA, a civil action may be brought under several code sections to attack, review, set aside, void, or annul the acts or decisions of a public agency for noncompliance with the act.

4. The weight of the evidence undermines the perception that CEQA is a major impediment to housing and other important projects in California

A pair of studies from the firm of Holland & Knight reviewed CEQA lawsuits filed between 2010–2012 and 2013–2015, respectively.[1] The studies conclude that CEQA litigation is disproportionately directed toward the types of projects that the state encourages, such as infill.

However, overall litigation rates regarding CEQA are low. In 2016, BAE Urban Economics did a quantitative analysis of the effects of CEQA on California's economy generally, including the specific effects on housing development.[2] The report found "no evidence" to support the argument that CEQA represents a major barrier to development. To the contrary, the report found that only 0.7 percent of all CEQA projects undergoing environmental review were involved in litigation. The report indicated that California's affordable housing production ranked ninth among the 50 states. In fact, the report concluded that "[t]he CEQA process also helped ensure that affordable housing is develop[ed] in a way that does not compromise the health and safety of an already vulnerable population."

In October 2017, the Senate Environmental Quality Committee published the results of a survey it had conducted of state agencies regarding CEQA to gain a better understanding of CEQA compliance and litigation.[3] The survey, covering fiscal years 2011–2012 to 2015–2016, showed over 90 percent of projects lead by state agencies were exempt from CEQA; and only one percent required an EIR. Further, out of a total of 15,783 projects, only 207 CEQA cases were brought against the state agencies within

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[1] See Hernandez, Jennifer *California Environmental Quality Act Lawsuits and California's Housing Crisis* (2018) 24 Hastings Envtl. L.J. 21 (2018); Jennifer Hernandez, David Friedman & Stephanie Deherrera, *In the Name of the Environment*, Holland & Knight (2015).

[2] BAE Urban Economics, *CEQA in the 21st Century* (August 2016) <https://rosefdn.org/ wp-content/uploads/2016/08/CEQA-in-the-21st-Century.pdf> (as of Apr. 30, 2018).

[3] Available at https://senv.senate.ca.gov/sites/senv.senate.ca.gov/files/ceqa_survey_ full_report_-_final_12-5-17.pdf (as of March 1, 2019).

those five years. With multiple cases brought against some of the same projects, it is estimated that less than one percent of projects were litigated. The survey results suggest that CEQA litigation is not a significant burden on projects where the state agency is the lead agency.

Two recent studies conducted by faculty at the University of California, Berkeley illustrate how aspects of the project approval process that are independent of CEQA drive project approval timelines.[4] CEQA requires project applicants to secure all applicable permits and approvals necessary to carry out the project, as well as to comply with any other environmental review required under applicable federal, state, local laws, regulations, or policies. These requirements apply independently of CEQA, but are also incorporated into the CEQA process. The results of the first study, done in residential development projects in five Bay Area cities, led to the conclusion that, among other factors, "*what drives whether and how environmental review occurs for residential projects is local land-use law*." (Emphasis added.) The second study, which focused on the building permit process in four Los Angeles area cities, found that different cities chose to apply CEQA differently with regard to residential development and that overall relatively few projects within the study area required a full EIR. The studies also confirmed that CEQA litigation rates are very low, finding that less than three percent of CEQA-eligible projects (which excludes exempted projects) were litigated.

Finally, the Association of Environmental Professionals recently surveyed 46 cities and counties throughout the state to determine CEQA's impact on housing production.[5] The survey found that under six percent of the housing projects in those jurisdictions were required to undergo a full EIR, which took 15 months on average to complete. Instead, the survey found that cities and counties are successfully using alternatives to EIRs that expedite housing projects: 35.9 percent of projects were reviewed by mitigated negative declarations, which took just eight months to complete, while 42.3 percent were reviewed under streamlining provisions or exemptions for affordable housing, infill, and transit priority projects, which took just six months to complete. Another 9.3 percent were determined to be eligible for other exemptions. The survey found that cities and counties were not fully utilizing the affordable housing exemption, often opting for a full EIR for projects that were eligible for the exemption. The survey respondents also indicated that, among the barriers to increased housing production in California, CEQA is not a major cause. The costs of building, lack of available sites, and lack of financing for affordable housing were all cited as primary barriers to housing production.

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[4] *Getting it Right: Examining the Local Land Use Entitlement Process to Inform Policy and Process* (2018), available at https://www.law.berkeley.edu/wp-content/uploads/2018/02/Getting_It_Right.pdf (as of March 1, 2019); *Examining the Local Land Use Entitlement Process to Inform Policy and Process* (2019) https://www.law.berkeley.edu/wp-content/uploads/2019/02/Examining-the-Local-Land-Use-Entitlement-Process-in-California.pdf (as of March 1, 2019).

[5] *CEQA's Impact on Housing Production: 2018 Survey of California's Cities and Counties*.

Thus, the weight of the evidence undermines the perception that CEQA is a major impediment to housing and other important projects in California. Consequently, additional changes to CEQA might do less to promote development and more to undermine the law that helps ensure that development is undertaken responsibly. In opposition, a coalition of environmental justice organizations writes follows:

> […] it is important to highlight that SB 25 will also not mitigate or solve the current housing crisis. Many housing projects are already exempt from environmental review all together through using the infill exemption as well as tiering from specific or community plans. Yet the housing crisis exists as a result of several factors, including high building costs, non-CEQA related neighborhood opposition, and lack of available sites. Additionally, lack of affordable housing financing and loss of redevelopment agencies are also key constraints to affordable housing production. Instead of continuing to weaken CEQA, we urge you to instead support legislative solutions that would address these primary barriers to housing production.

5. CEQA has been extensively streamlined in recent years

CEQA has been amended over the years to provide several tools to expedite the review of, or altogether exempt from CEQA, various types of projects.

a. Projects eligible for exemptions

Numerous types of projects may be eligible for an exemption from CEQA review pursuant to either a statutory exemption or a categorical exemption in the CEQA Guidelines. Categorical exemptions are projects determined by the Secretary of the Natural Resources Agency to not have a significant effect on the environment (§ 21084). In general, if a project meets certain specified criteria, it is not subject to CEQA review. Some common exemptions include:

- ministerial actions (§ 21080(b)(1));
- repairs to damaged facilities (§§ 21080(b)(3), § 21060.3);
- mitigation of an emergency (§ 21080(b)(4); Guidelines, § 15269(c));
- existing facilities, replacement, or reconstruction (Guidelines, §§ 15301, 15302);
- small development and construction projects (Guidelines, §§ 15303, 15304, 15311); and
- protection of natural resources (Guidelines, §§ 15307, 15308, 15313, 15316-15318, 15325).

Additionally, there are numerous categories of infill projects that, subject to specified criteria and exceptions, are eligible for exemptions:

- residential projects (Gov. Code, § 65457; Guidelines, § 15182);

- agricultural housing projects (§ 21159.22; Guidelines, § 15193);
- affordable housing projects (§ 21159.23; Guidelines, § 15194);
- urban residential projects (§ 21159.24; Guidelines, § 15195);
- urban residential or mixed-use housing projects in unincorporated counties (§ 21159.25);[6]
- urban infill projects (Guidelines, § 15332);
- residential, employment center, or mixed-use development project in a transit priority-area (§ 21155.4);[7] and
- transit-priority and residential projects (§ 21155.1).[8]

b. Streamlined administrative review

CEQA provides for streamlined processes for preparing EIRs and other CEQA documents that enable public agencies to "use various special types of EIRs to simplify preparation and avoid duplication." (*Californians for Alternatives to Toxics v. Department of Food & Agriculture* (2005) 136 Cal.App.4th 1, 22, fn. 10.) These various documents include "program" EIRs for a series of related actions that can be collectively characterized as a single project, "staged" EIRs for sequential projects, and "master" EIRs for community-level projects. Additionally, CEQA Guidelines section 15183(a) provides that:

> CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive studies.

CEQA also provides for "tiering"—the process of analyzing general projects in a broad EIR, followed by focused review of subsequent environmental projects that are narrower in scope, thereby "allow[ing] an agency to defer analysis of certain details of later phases of long-term linked or complex projects until those phases are up for approval." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 431.) Finally, CEQA specifically provides for limited-scope environmental review for certain residential, infill, transit-priority projects, and approvals consistent with community-scale environmental planning documents.

[6] AB 1804 (Berman), Ch. 670, Stats. 2018.
[7] SB 743 (Steinberg), Ch. 386, Stats. 2013.
[8] SB 375 (Steinberg), Ch. 728, Stats. 2008.

c. Streamlined judicial review

Several provisions streamline judicial review of challenges to projects under CEQA, including:

- amendments to provisions governing litigation and mediation;
- discovery is generally not allowed, as CEQA cases are generally restricted to review of the record;[9]
- concurrent preparation of the record of proceedings to enable judicial review to occur sooner;[10]
- counties with a population of over 200,000 must designate one or more judges to develop expertise on CEQA and hear CEQA cases (§ 21167.1 (b));
- both the Superior Court and the Court of Appeal must give CEQA lawsuits preference over all other civil actions (§ 21167.1(a));
- if feasible, the Court of Appeal must hear a CEQA appeal within one year of filing (§ 21167.1(a)); and
- if feasible, a 270-day judicial review period for environmental leadership projects,[11] as well as for specified stadium projects.[12]

Many of these changes have created efficiencies in the environmental review process overall and have expedited the process for the types of projects encouraged by the state. CEQA has not stayed stagnant since its enactment, but rather has evolved over close to half a century.

6. AB 900 and last session's stadium bills

AB 900 (§ 21178 et seq.), which sunsets January 1, 2021, establishes procedures for 270-day expedited judicial review for "environmental leadership" projects certified by the Governor and meeting specified conditions, including clean renewable energy projects, clean energy manufacturing projects, and LEED Gold-certified infill site projects achieving transportation efficiency 15 percent greater than comparable projects and zero net additional GHG emissions. AB 900 additionally provides that a leadership project:

- may be certified by the Governor only if it meets specified criteria, including all of the following:
    - the project will result in a minimum investment of $100 million in California upon completion of construction;

[9] See *Cadiz Land Co. v. Rail Cycle, LP* (2000) 83 Cal.App.4th 74, 122.
[10] SB 122 (Jackson, 2015), Ch. 476, Stats. 2016.
[11] AB 900 (Buchanan, 2011), Ch. 354, Stats. 2011.
[12] SB 292 (Padilla, 2011), Ch. 353, Stats. 2011; SB 743 (Steinberg, 2013), Ch. 386, Stats. 2013 (see *Saltonstall v. City of Sacramento* (2014) 231 Cal.App.4th 837, 855-856); AB 734 (Bonta, 2018), Ch. 959, Stats. 2018; AB 987 (Kamlager-Dove, 2018), Ch. 961, Stats. 2018.

    - the project creates high-wage, highly skilled jobs that pay prevailing wages and living wages, provides construction jobs and permanent jobs for Californians, and helps reduce unemployment;
    - the project does not result in any net additional GHG emissions; and
    - the applicant has entered into a binding and enforceable agreement that all mitigation measures required under CEQA are to be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency;
    - the applicant bears the burden of costs for any hearing or decision before the Court of Appeal, as well as the costs of preparing the record of proceedings for the project (§ 21183); and
- upon certification by the Governor, is submitted to the Joint Legislative Budget Committee for review and concurrence or non-concurrence (§ 21184(a)-(c)); and
- upon certification of the EIR or any related project approvals, is subject to review, including any appeals, for 270 days, pursuant to rules adopted by the Judicial Council (§ 21185; Cal. Rules of Court, Rule 3.2220 et seq.).

To date, 12 projects have been certified under AB 900:

- McCoy Solar Energy Project in Riverside County.
- Apple Campus 2 in Cupertino.
- Soitec Solar Energy Project in San Diego County.
- 8150 Sunset Boulevard, a mixed-use commercial and residential project in Hollywood.
- Event Center and Mixed-Use Development at Mission Bay Blocks (i.e., Warriors Arena) in San Francisco.
- Qualcomm Stadium Reconstruction Project in San Diego.
- 6701 Sunset/Crossroads, a mixed-use residential, hotel, and commercial project in Hollywood.
- Yucca-Argyle Project, a mixed-use residential, hotel, and commercial project in Hollywood.
- 10 Van Ness Avenue, a mixed-use commercial/residential redevelopment project in San Francisco.
- 1045 Olive Street Project, a mixed-use commercial/residential redevelopment project in downtown Los Angeles.
- Hollywood Center Project, a mixed-use project in Hollywood.
- Potrero Power Station, a project to convert a closed power station to residential/mixed-use commercial in San Francisco.

Of these projects, two have been litigated: the Golden State Warriors arena project and the 8150 Sunset Boulevard. The Sacramento Kings arena project, which was not an AB 900 project, but was authorized under a similar framework pursuant to AB 743, was also litigated. As discussed in more detail below, these cases were generally resolved expeditiously, if not quite within the 270-day timeline, providing a significant benefit to

the developers. However, it should be noted that according to the Judicial Council, the court in the 8150 Sunset Boulevard case bifurcated the non-CEQA claims, which were subject to a normal timeline.

Last year, the Legislature adapted the AB 900 framework for two bills specific to stadiums in Oakland (AB 734, Bonta; Ch. 959, Stats. 2018) and Inglewood (AB 987, (Kamlager-Dove; Ch. 961, Stats. 2018). Broadly, these bills are substantially equivalent to AB 900 on key requirements—including LEED Gold certification, GHG neutrality, traffic efficiency, and construction wages, with limited exceptions. The Assembly Natural Resources Committee analyses of the final versions of these bills stated that they "raise[] the bar on GHG mitigation and clean air."

7. Broad scope of projects eligible under this bill

This bill provides expedited 270-day judicial review for CEQA challenges against a "qualified project." There are two categories of qualified projects under this bill: those that are at least partially funded by an opportunity zone fund and those that are least partially funded by a specified public fund. The first category encompasses a broad range of projects in an opportunity zone, while the second category applies only to predominantly residential projects and transit projects. As described below, the projects covered under this bill are also subject to environmental protections, and, in certain cases, affordability and labor restrictions.

a. Applies to a broad range of projects funded at least partially by an opportunity zone fund, subject to certain restrictions

President Trump's 2017 tax package lowered capital gains taxes for investors who finance projects in economically distressed census tracts designated by the Governor as "opportunity zones." Up to 879 census tracts in California are eligible for this designation. Opportunity zone funds are special funds created by investors for the benefit of a qualified opportunity zone. For investors to take advantage of certain tax benefits, 90 percent of the funds must be invested in projects located in the opportunity zone. Those projects can vary but will most likely be real estate investments and include all different types of development. A recent *New York Times* article states as follows:

> Hedge funds, investment banks and money managers are trying to raise tens of billions of dollars this year for so-called opportunity funds, a creation of President Trump's 2017 tax package meant to steer money to poor areas by offering potentially large tax breaks.
>
> Little noticed at first, the provision has unleashed a flurry of investment activity by wealthy families, some of Wall Street's biggest investors and other investors who want to put money into projects ostensibly meant to help struggling Americans. The ranks of those starting such funds include Anthony Scaramucci,

> the New York hedge fund executive who served briefly as Mr. Trump's communications director.
>
> More than 80 of the funds have sprung up since January 2018, even though the Trump administration has not finalized regulations governing them. Managers of the funds are seeking to raise huge sums of money by pitching investors on a combination of outsize returns and a feel-good role in fighting poverty.
>
> The flood of capital is raising hopes as well as concerns. Those who championed the provision, which provides for a hefty tax break on long-term investments, believe the money can help distressed towns and neighborhoods that are still feeling the effects of the financial crisis and have barely benefited from the nine-year economic expansion. Skeptics worry that the funds will mostly target real estate and other projects that probably would have attracted investment even without the tax break, and may not deliver the returns being dangled.[13]

For projects funded "in whole or in part" by a qualified opportunity zone fund, this bill requires that the project receive LEED Gold certification, be GHG-neutral, and have zero net energy emissions. These are significant environmental protections that will in practice limit the scope of projects eligible under these provisions and encourage beneficial development. Additional requirements apply depending on the type of project: if the project contains residential units, it must also be at least 75 percent residential, 40 percent of which must be for lower-income families, as specified. Finally, the project could be subject to certain labor-related requirements, as described below.

However, a project that is at least partially funded by an opportunity zone fund is not otherwise limited by *type* of project. As long as it meets the requirements described above, as applicable, the project could be a stadium, skyscraper, shopping mall, warehouse, or hotel, among other things. Thus, despite the author and sponsor's concern over addressing affordable housing, this aspect of the bill does not focus on housing and instead seeks to encourage development generally in opportunity zones.

b. Applies to certain residential projects and transit projects if the project is funded at least partially by specified public sources, subject to certain restrictions

This bill also provides expedited 270-day judicial review for CEQA challenges against a project that is funded "in whole or in part" by specified public funding sources if the project is either at least 75 percent residential or a transit project. If it is residential, the project must meet the environmental, residential, and affordability restrictions described above. If it is a transit project, it must be contained in a sustainable

[13] *Wall Street, Seeking Big Tax Breaks, Sets Sights on Distressed Main Streets* (Feb. 20, 2019) New York Times, available at https://www.nytimes.com/2019/02/20/business/taxes-hedge-funds-investors-opportunity-funds.html (as of Apr. 16, 2019).

communities strategy that, upon completion of the project, will result in a reduction of emissions of GHGs and vehicle miles traveled. And the project could be subject to certain labor-related requirements, as described below.

The list of eligible funding sources are as follows:

- Moneys appropriated from the Greenhouse Gas Reduction Fund (GGRF) and allocated by the Strategic Growth Council (SGC).
- An enhanced infrastructure financing district.
- An affordable housing authority.
- A community revitalization and investment authority.
- A transit village development district.
- A housing sustainability district.
- A Neighborhood Infill Finance and Transit Improvements Act district.
- The Department of Housing and Community Development (HCD).
- The Department of Veterans Affairs.
- The California Housing Finance Agency.
- The California Infrastructure and Economic Development Bank.
- Specified transportation districts.

Most of these public financing sources that would qualify a project for expedited judicial review, with the exception of programs funded by GGRF moneys and allocated by the SGC, generally lack a direct nexus to environmental protection and have the capacity to fund thousands of projects on an annual basis. For example, as a general matter, the Department of Housing and Community Development (HCD) administers programs that provide grants and loans to create rental and homeownership opportunities for Californians. During the 2016-17 fiscal year HCD awarded 238 grants and loans, totaling more than $460 million. The California Infrastructure and Economic Development Bank (iBank), another example, is the state's general-purpose financing authority. As of July 31, 2018, iBank has financed over $40 billion in infrastructure and private development projects, including $650 million in Infrastructure State Revolving Fund loans to state and local governments for infrastructure and economic expansion and $37 million in bonds for public agencies, nonprofits, and manufacturing facilities. Finally, infrastructure financing districts finance the construction or rehabilitation of public infrastructure and private facilities using a property tax increment of its member entities. If one of these sources partially funds a covered residential or transit project, the project is eligible for accelerated judicial review under this bill.

c. *Certain projects under this bill would be subject to prevailing wage and skilled labor force requirements*

The bill also requires that qualified projects provide for prevailing wages and employ a skilled and trained labor force if the project has over 75 residential units. Additionally,

if the project is a public work, the project must use a skilled and trained labor force. Conversely, if the project is (1) not a public work and (2) non-residential or has fewer than 75 residential units, then these requirements do not apply. These provisions likely apply to many of the publicly-funded projects that are covered by this bill because those projects are limited to projects that contain at least 75 percent residential units and to transit projects. On the other hand, these provisions may be less likely to apply to projects that are at least partially funded by opportunity zone funds, as those projects are not limited to any particular type of project.

8. Sets impractical expectations and prioritizes CEQA cases over other important cases

This bill would require the Judicial Council, by September 1, 2020, to adopt a rule of court applying to an action or proceeding brought to attack, review, set aside, void, or annul the certification of an "environmental review document" for a qualified project or the granting of any project approvals that requires the action or proceeding to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings. Such a requirement presents several key issues.

First, the author's statement points out that "[i]f the Legislature can deliver CEQA litigation streamlining for billionaire sports team owners, then we can do it for all Californians." However, the provisions enacted by sports stadium bills and AB 900 only apply to EIRs. (See §§ 21168.6.6(d), 21168.6.7(c), 21168.6.8(f) & 21185.) Thus, this provision is broader than its predecessors, as it additionally provides expedited judicial review for negative declarations, mitigated negative declarations, and determinations that a project is exempt from CEQA.

Second, as described above, the bill also applies to numerous projects throughout the state and thus is far broader than its predecessors. Given the breadth of eligible projects under this bill, this expedited judicial review provision would be impracticable to carry out. Based on information from the Judicial Council, a 270-day timeline triggered at the point of certification of the record is generally infeasible and fails to take into consideration the realities of the court system.

Additionally, such a requirement inherently prioritizes such cases over other critically important ones, further delaying justice for parties to those actions. As pointed out by the Judicial Council, this expedited judicial review undermines equal access: "The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment appears at odds with how our justice system has historically functioned."

Under existing law, certain parties are entitled to calendar preference, including a party that is at least 70 years old and in ill health, a party in a personal injury or wrongful death matter is under the age of 14, or a party that is unlikely to survive beyond another six months. (Code of Civ. Proc. § 36). Additionally, certain actions receive calendar

preference, including appeals in probate proceedings, contested election cases, and actions for libel or slander by a person who holds any elective public office or a candidate for any such office alleged to have occurred during the course of an election campaign. (Code of Civ. Proc. § 44.) In fact, existing law already provides that both the Superior Court and the Court of Appeal must give CEQA lawsuits preference over all other civil actions. (§ 21167.1(a).) Yet this bill would further prioritize CEQA lawsuits. The Judicial Council states that "[i]mposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice."

9. How much certainty does the 270-day timeline provide?

a. The Legislature cannot bind courts to resolve cases on a specific timeframe

In mandating that courts endeavor to resolve any CEQA challenges to a qualified project on an accelerated timeline, the Legislature, if it adopts this bill, would to a degree intrude on the judiciary's prerogative to manage its core internal functions. Consequently, this bill, in addition to imposing a potentially substantial and ongoing burden on courts, implicates the doctrine of separation of powers.

Unlike the United States Constitution, in which separation of powers is an implied doctrine, the California Constitution contains a provision that expressly provides for the separation of governmental functions. Article III, section 3 of the California Constitution provides that "[t]he powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution." Although this provision suggests a sharp demarcation between the branches of governments, courts have long recognized the interrelatedness of the branches' functions:

> Indeed, upon brief reflection, the substantial interrelatedness of the three branches' actions is apparent and commonplace: the judiciary passes upon the constitutional validity of legislative and executive actions, the Legislature enacts statutes that govern the procedures and evidentiary rules applicable in judicial and executive proceedings, and the Governor appoints judges and participates in the legislative process through the veto power. Such interrelationship, of course, lies at the heart of the constitutional theory of 'checks and balances' that the separation of powers doctrine is intended to serve.

(*Superior Court v. County of Mendocino* (1996) 13 Cal.4th 45, 52–53 (*County of Mendocino*).) Consequently, courts have held that the doctrine of separation of powers "prohibits the legislative branch from arrogating to itself core functions of the executive or judicial branch." (*Carmel Valley Fire Protection Dist. v. State of California* (2001) 25 Cal.4th 287, 298.) Nevertheless, the doctrine "permits actions of one branch that may 'significantly affect those of another branch.'" (*Ibid*.) Legislation that would "defeat or materially

impair" the court's inherent power to decide cases would be an unconstitutional invasion of judicial power. (*Ibid*.)

The California Court of Appeal has concluded that a similar 270-day review provision under CEQA did not amount to such an invasion. (*Saltonstall v. City of Sacramento* (2014) 231 Cal.App.4th 837, 855-856 (*Saltonstall*).) In *Saltonstall*, the plaintiff argued, among other things, that the 270-day deadline to review challenges to the Sacramento Kings arena project under SB 743 (Steinberg, 2013) was impossibly short and thus prevented courts from fulfilling their adjudicatory functions. (*Ibid*.) The court noted, however, that the deadline was not an absolute one; rather, the provision, Public Resources Code section 21168.6.6, required courts to resolve challenges to the project within 270 days "to the extent feasible." (*Id.* at p. 856.) The court reasoned as follows:

> Section 21168.6.6 does not impose any penalty for review that exceeds the 270 days. For example, the statute does not declare the case to be moot, deprive any court of jurisdiction, or declare a particular winner on a certain date. Saltonstall acknowledges that, even though section 21168.6.6 applies to any appeal, it does not affect the California Constitution's 90-day deadline for issuance of a decision after submission of the case for decision. (Cal. Const., art. VI, § 19.) Because the 270-day period for review is required only "to the extent feasible," we reject Saltonstall's contention that section 21168.6.6 materially impairs the core function of the courts. In short, Saltonstall has not shown section 21168.6.6 crosses over the line from reasonable regulation to a material impairment of the courts' exercise of power to adjudicate this case. [Citing *County of Mendocino*, *supra*, 13 Cal.4th at pp. 58–59.]

(*Ibid*.)

This bill contains a similar proviso: courts must resolve challenges to qualified projects within 270 days "to the extent feasible." As a result, this deadline, like the deadline applicable to the Sacramento Kings arena, would likely survive a constitutional challenge. However, since courts would not be obligated to observe this deadline, the question arises whether this provision would provide developers with the certainty they seek.

b. Diminishing returns?

A recent report entitled *Review of Environmental Leadership Development Projects* from the Senate Office of Research reviewed litigation under AB 900 and SB 743 in depth and found the following timelines, which under then-existing law began when the

administrative record was certified[14] and include the trial court, court of appeal, and the Supreme Court's denial of review, for those cases:

Project	Business days	Calendar days
Kings arena	243	352
Warriors arena	257	376
8150 Sunset Boulevard	395	578

The report concludes that these projects were reviewed under a faster timeline than normally would apply, benefiting the developers and providing upfront financial security. The report also states that "the impacts to the court from such a short timeline also should be taken into consideration when determining how fast the Legislature would like [AB 900] cases resolved," and suggests a longer timeline may be appropriate.[15]

Unlike AB 900, which has only led to 12 certified projects, and unlike the stadium-specific bills, this bill would apply to a vastly higher number of projects throughout the state until 2025. Although it is impossible to estimate how many projects could ultimately qualify for accelerated review, if numerous projects are propelled to the forefront of judicial calendars across the state, courts may be forced to repeatedly miss the 270-day deadline, and, at some point, altogether ignore it. As noted above, the Judicial Council, writing in opposition, states that imposing this timeline on top of the calendar preference that CEQA cases are afforded under existing law "is arbitrary and likely to be unworkable in practice."

In a sense, this bill, along with other similar bills proposing expedited judicial review for CEQA challenges, could be a victim of its own success: at some point, the more projects that are eligible to benefit from accelerated judicial review, the smaller the impact of that benefit.

c. *Projects subject to CEQA challenges may be subject to other challenges that will not be expedited*

As discussed above, less than three percent of CEQA projects are litigated. The projects that do make it to litigation are likely to be among the most complex. Such projects may also be susceptible to legal challenges on grounds not related to CEQA. If so, the 270-day review provision does not apply to the non-CEQA claims,[16] which will be resolved

[14] See *id.* at pp. 6-8 (noting some uncertainties in the calculation methodology). Additionally, the current version of AB 900 and this bill's timelines commence at a later point: the filing of the administrative record with the court, which makes the 270-day period somewhat less onerous for courts.
[15] *Id.* at p. 15.
[16] It has been suggested that the phrase "or the granting of any approval" in similar 270-day review provisions in other bills encompasses challenges to land-use approvals based on violations of statutory requirements not related to CEQA. Consequently, it has been argued that such language applies the

along a normal timeframe. Parties will surely take this into account when contemplating the range of possible causes of action they might bring against projects that are eligible for expedited CEQA judicial review under this bill.

10. Author's amendments to improve process that limits a party's ability to file an action

Existing law sets out specific timeframes in which a party must challenge a lead agency's acts or decisions on grounds of noncompliance with CEQA. Generally, the timeframe is 30 days from the date the lead agency files the notice of determination for allegations. If the lead agency does not file a notice of exemption, the action or proceeding must be commenced within 180 days from the project's commencement date.

SB 25 would additionally require a party that intends to challenge a lead agency's determination to provide notice of its intent to file within 10 days of the lead agency filing the notice of determination. If a party does not do so within 10 days, the court is prohibited from accepting or filing an action or proceeding from the party. The Judicial Council, writing in opposition, states that this provision:

> […] is unworkable from a court administration standpoint. Court clerks, exercising their ministerial duties, are not in a position to make *legal* determinations that the requisite notice was not timely given. The statute could provide that this type of action would be subject to dismissal if the notice were not properly given, but that decision would need to be made by a judicial officer. It is the *court*, not the clerk that eventually would need to decide whether the petitioning party gave proper notice and whether the case can proceed.

(Emphasis in original.)

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expedited review provisions to non-CEQA claims against eligible projects. While the phrase is broad, this interpretation does not comport with the principles of statutory construction, as it ignores the statutory context in which the provision is situated and its implication would be that numerous provisions outside the Public Resources Code have been indirectly amended. (See e.g., *Aron v. U-Haul Co. of California* (2006) 143 Cal.App.4th 796, 808 ["We construe the language in the context of the statute as a whole and the overall statutory scheme"]; *Turner v. Association of American Medical Colleges* (2011) 193 Cal.App.4th 1047, 1067 [interpretations that impliedly amend other sections are to be avoided]; see also Cal. Const. art. IV, § 9 ["A section of a statute may not be amended unless the section is re-enacted as amended"].) Additionally, this argument ignores the longstanding contemporaneous administrative construction embodied in the rules adopted by the Judicial Council that govern challenges to projects under AB 900 and SB 743, both of which have similar expedited review provisions. (See Cal. Rules Ct. § 3.2200 ["the rules in this chapter apply to all actions brought under the California Environmental Quality Act"].) Nor has this broad construction been expressly contemplated in the legislative history of similar provisions. Finally, according to the Judicial Council, the court in the 8150 Sunset project under AB 900 bifurcated CEQA claims and non-CEQA claims, resolving the latter on a normal timeline. This indicates that the court did not view the analogous expedited review provision under AB 900 as expansively as this interpretation would suggest.

In view of these concerns, the author has agreed to the following amendment:

Amendment 1

(g) (1) In addition to other requirements, a party bringing an action or proceeding pursuant to this division shall, within 10 days of the posting of the notice required pursuant to Section 21108 or 21152, notify, in writing, the lead agency and the real party in interest of its intent to file the action or proceeding. ~~The court shall not accept for filing an action or proceeding from a party that fails to comply with this paragraph.~~

Additionally, the Judicial Council has requested, and the author has agreed to, the following technical amendment:

Amendment 2

(c) ~~Rules 3.2220 to 3.2237, inclusive, of the California Rules of Court, as may be amended by~~ *On or before September 1, 2020,* the Judicial Council, shall *adopt rules of court that* apply to any action or proceeding brought to attack, review, set aside, void, or annul the certification or adoption of an environmental review document for a qualified project that meets the requirements of subdivisions (b) and (d) or the granting of any approval for the qualified project, to require the action or proceeding, including any potential appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court. ~~On or before September 1, 2020, the Judicial Council shall amend the California Rules of Court, as necessary, to implement this subdivision.~~

11. Should this bill be a pilot project?

In view of the concerns set forth above, the Committee may wish to amend this bill into a pilot project to be implemented in counties entirely within the authors' districts: Merced, San Benito, and Contra Costa. Such a pilot project could be used to study whether expedited judicial review for CEQA challenges spurs development in California. This could provide the Legislature with much needed information regarding the efficacy of expedited judicial review when applied to broad categories of projects. This amendment could be made as follows:

Amendment 3

Amend the bill to limit its application to Merced, San Benito, and Contra Costa Counties.

SUPPORT

Habitat for Humanity (sponsor)
BizFed
California Council for Affordable Housing
Civil Justice Association of California

OPPOSITION

Associated Builders and Contractors Northern California Chapter
California Environmental Justice Alliance
California League of Conservation Voters
Center for Biological Diversity
Center for Community Action and Environmental Justice
Center on Race, Poverty, and the Environment
Judicial Council of California
Physicians for Social Responsibility- Los Angeles
Planning and Conservation League
Sierra Club California

RELATED LEGISLATION

Pending Legislation:

SB 384 (Morrell, 2019) would establish expedited administrative and judicial review of environmental review and approvals granted for housing development projects with 50 or more residential units. The bill would prohibit courts from staying or enjoining challenged projects with two narrow exceptions. This bill failed passage in the Senate Environmental Quality Committee.

SB 621 (Glazer & Caballero, 2019) would, until 2025, provide for expedited judicial review of CEQA challenges to affordable housing projects, as defined. That bill will be heard on the same day as this bill.

SB 744 (Caballero, 2019) among other things, would establish procedures governing CEQA actions challenging certain "No Place Like Home" supported housing projects, which requires the actions and any appeals therefrom to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court. This bill is pending before the Senate Environmental Quality Committee.

AB 1244 (Fong, 2019) would impose the limits on the court's ability to issue injunctive relief that were contained in SB 292 or SB 743 in CEQA cases challenging specified housing projects. This bill is pending before the Assembly Natural Resources Committee.

Prior Legislation:

SB 922 (Nguyen, 2018) would have imposed limits on the court's ability to issue injunctive relief in CEQA cases challenging specified affordable housing projects built upon former surplus state real property. It also would have imposed time limits on the courts for the resolution of such cases. The bill failed passage in the Senate Governmental Organization Committee.

SB 948 (Allen, 2018) would have authorized the Governor to certify updates to a community plan and the accompanying ordinances meeting specified requirements as eligible for the CEQA streamlining benefits provided by AB 900. The bill was held in the Senate Judiciary Committee.

SB 1052 (Bates, 2018) would have required detailed information on any plaintiffs bringing CEQA challenges to acts or decisions of a public agency, including the source and amount of all contributions to the action. This bill failed passage in the Senate Environmental Quality Committee.

SB 1340 (Glazer, 2018) would have required the Judicial Council to adopt a rule of court to establish procedures requiring courts to fully adjudicate CEQA actions and proceedings in connection with any housing projects within 270 days of certifying the record of proceedings, to the extent feasible. This bill would also have prohibited courts from staying or enjoining challenged projects with two narrow exceptions. This bill failed passage in the Senate Judiciary Committee.

SB 1341 (Glazer, 2018) would have required detailed information on any plaintiffs bringing CEQA challenges to acts or decisions of a public agency, including the source and amount of all contributions to the action. This bill was held in the Senate Environmental Quality Committee.

AB 734 (Bonta; Ch. 959, Stats. 2018) establishes special procedures for CEQA review, additional conditions for certification, and expedited judicial review for a proposed baseball park and mixed-use development in the City of Oakland.

AB 987 (Kamlager-Dove; Ch. 961, Stats. 2018) establishes special procedures for CEQA review, additional conditions for certification, and expedited judicial review for a proposed basketball arena and related development in the City of Inglewood.

AB 1905 (Grayson, 2018) would have imposed limits on the court's ability to issue injunctive relief in CEQA cases challenging specified transportation projects. This bill was held in the Assembly Natural Resources Committee.

AB 2267 (Wood, 2018) would have established, until January 1, 2024, expedited administrative and judicial review for actions or proceedings brought pursuant to the

CEQA on the adoption or approval of amendments to the Downtown Station Area Specific Plan for the City of Santa Rosa, as specified, and for the adoption or amendment of the specified planning document for incorporated or unincorporated areas of Sonoma County in the "RED Area," as defined. The bill was held in the Senate.

AB 2279 (Fong, 2018) would have imposed limits on the court's ability to issue injunctive relief in CEQA cases challenging specified housing projects. This bill was held in the Assembly Natural Resources Committee.

AB 2856 (Melendez, 2018) would have imposed limits on the court's ability to issue injunctive relief in CEQA cases challenging specified housing projects. This bill failed passage in the Assembly Natural Resources Committee

AB 30 (Caballero, 2017) would have imposed limits on the court's ability to issue injunctive relief in CEQA cases challenging specified strip mall conversion housing projects. This bill died in the Assembly Natural Resources Committee.

SB 743 (Steinberg, Ch. 386, Stats. 2013) established specified administrative and judicial review procedures for review of the EIR and public agency approvals granted for a project related to the development of an entertainment and sports center in the City of Sacramento. Additionally, this bill provides that aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment under CEQA, as specified.

SB 292 (Padilla, Ch. 353, Stats. 2011) established specified administrative and judicial review procedures for review of the EIR and public agency approvals granted for a project related to the development of a stadium in the City of Los Angeles.

AB 900 (Buchanan, Ch. 354, Stats. 2011), the Jobs and Economic Improvement Through Environmental Leadership Act of 2011, established specified administrative and judicial review procedures for the review of the EIR and public agency approvals granted for designated residential, retail, commercial, sports, cultural, entertainment, or recreational use projects, or clean renewable energy or clean energy manufacturing projects.

PRIOR VOTES:

Senate Environmental Quality Committee (Ayes 5, Noes 2)

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