

CONCURRENCE IN SENATE AMENDMENTS

AB 2731 (Gloria)

As Amended August 27, 2020

Majority vote

SUMMARY:

Establishes expedited administrative and judicial review procedures under the California Environmental Quality Act (CEQA) for the "transit and transportation facilities" (TTF) project, a regional transportation facility in San Diego, including a hub on the Old Town Center (OTC) site and transportation linkages to the regional transportation system and the airport, requiring the courts to resolve lawsuits within 270 business days, to the extent feasible. Provides that the environmental impact statement (EIS) prepared by the Navy pursuant to the National Environmental Policy Act (NEPA) for "transit-oriented development" (TOD) on the Old Town Center site may be used in lieu of an environmental impact report (EIR) under CEQA if the TOD projects and the EIS meet specified environmental and labor requirements.

The Senate Amendments:

- 1) Provide that the requirements of CEQA are satisfied by a specified EIS for a TOD project, as defined, that:
 - a) Is proposed within a transit priority area;
 - b) Is undertaken to implement and is consistent with the land use standards approved by the Navy and San Diego Association of Governments (SANDAG) for the OTC site and the site plan for which an EIR has been certified on or before December 31, 2022, and the site plan meets a vehicle miles traveled reduction of 25% below the regional average vehicle miles traveled identified in a sustainable communities strategy (SCS) or alternative planning strategy (APS);
 - c) Is consistent with the general use designation, density, building intensity, and applicable policies specified in either a SCS or APS for which the Air Resources Board (ARB) has accepted SANDAG's determination that the SCS or the APS would achieve the greenhouse gas (GHG) emissions reduction targets; and
 - d) Complies with specified labor requirements, including payment of prevailing wage and use of a skilled and trained workforce for construction work.
- 2) Requires further environmental review of TOD projects only if:
 - a) Substantial changes are proposed which will require major revisions to the EIR.
 - b) Substantial changes occur with respect to the circumstances under which the project is being undertaken will require major revisions in the EIR.
 - c) New information, which was not known and could not have been known at the time the EIR was certified, becomes available.
- 3) Subjects the TTF project to certain environmental standards including that any facility that is part of the project obtains Leadership in Energy and Environmental Design (LEED) gold

certification for new construction within one year of project completion, that the project does not result in any net additional emission of GHGs, that the project has a transportation demand management program, and the project achieves at least 25% reduction in vehicle miles traveled as compared to the regional average vehicle miles traveled identified in a sustainable communities strategy or alternative planning strategy.

- 4) Specifies procedures for the quantification and mitigation of GHG emissions for the TTF project, including requiring the baseline for GHG emissions be established based upon the physical conditions at the project site at the time the application is submitted, prioritizing on-site or local direct GHG emissions reductions, and limiting the use of offsets.
- 5) Requires Judicial Council, by January 1, 2022, to amend certain California Rules of Court that would apply to an action or proceeding brought to attack, review, set aside, void, or annul the certification of an EIR for the TTF project, or the granting of any project approvals, requiring lawsuits and any appeals to be resolved, to the extent feasible, within 270 business days of certification of the record of proceedings (which must occur within five days of the lead agency filing the notice of determination on the project).
- 6) Establishes special procedures for the preparation and certification of the record of proceedings for the TTF project including, among others, that the lead agency prepare the record of proceedings concurrently with the administrative process, all documents in the record be posted on the lead agency's internet website, the lead agency make the draft EIR and documents relied on in the preparation of the EIR public, and any dispute arising from the record of proceedings be resolved by the superior court.
- 7) Establishes special procedures for public participation in CEQA review of the TTF project including, among others, that the project EIR include a specified notice, the lead agency conducts an informational workshop, the lead agency and project proponent participate in nonbinding mediation with parties that submits comments and request mediation, and the lead agency is permitted to ignore written comments submitted after the close of the public comment period.
- 8) Subjects the TTF project and TOD projects to specified labor requirements, including payment of prevailing wage and use of a skilled and trained workforce for construction work.

COMMENTS:

According to the bill's sponsors, SANDAG, the need for this legislation is a timing issue. The bill's sponsor is trying to take advantage of an opportunity to develop what would otherwise be federally-owned land and subject to NEPA. In exchange for SANDAG financing the revitalization of the Naval Information Warfare Systems Command's (NAVWAR) facilities, the Navy will transfer to SANDAG what remains of the 70.5 acre OTC site for development of TOD projects and the TTF project. The Navy will be able to proceed under normal NEPA requirements for the revitalization of its NAVWAR facilities should an agreement not be finalized between the Navy and SANDAG. While there is nothing that would prevent the Navy and SANDAG from partnering in future years for the development of the OTC site, the sponsors feel that this is a unique opportunity for both the Navy and the City of San Diego to benefit.

According to the Author:

For decades, the San Diego region has explored ways to provide better connectivity to San Diego International Airport, the busiest single-runway airport in the nation. The airport anticipates an increase of 16 million annual passengers by 2050, which would result in a total of 40 million passengers annually. The projected increase in airport passengers is expected to exceed the capacity of current airport roadway connections. Due to the anticipated future growth combined with limited ground transit access to the airport, SANDAG, in partnership with the City of San Diego, the Port of San Diego, and the San Diego County Regional Airport Authority, has made it a chief priority to identify a solution for a direct transit connection to the airport. Optimally positioned near the airport, the OTC site presents great potential to provide an enduring solution to the region's longstanding challenge of airport connectivity and is one of several sites being considered for development of a Central Mobility Hub.

On September 19, 2019, SANDAG and the Navy signed an initial agreement to explore options for redevelopment of the OTC. On January 23 of this year, SANDAG signed the Navy OTC Revitalization Agreement, which lays out a timeline for the Navy and SANDAG to explore the redevelopment of the OTC site to include a Central Mobility Hub. On January 24, the Navy began an environmental analysis of the intended revitalization project in accordance with NEPA. This analysis will enable the Navy to prepare an EIS outlining potential environmental impacts associated with the project. SANDAG will cooperate with the Navy to supplement this environmental analysis to be technically sufficient under CEQA. SANDAG has committed \$50 million in funding for continued Central Mobility Hub analysis, which includes environmental analysis, preliminary engineering, and complete corridor planning.

As amended, AB 2731 will strengthen environmental mitigation efforts for both the redevelopment of the NAVWAR facilities and the Central Mobility Hub and will enhance public participation and government transparency while providing certainty of process to allow both projects to begin construction in relatively short order. In light of the COVID-19 pandemic, this project, and the resulting public comment that will follow, will be essential to San Diego's economic recovery.

Arguments in Support:

According to the City of San Diego, AB 2731 is intended to streamline the construction process so that the benefits of this project may be realized quickly. Moreover, this bill will subject the U.S. Navy to provisions of CEQA that would otherwise not be required of the NAVWAR component of the Old Town Center. As the state faces unprecedented unemployment and likely a sustained recession, this project is needed now more than ever.

According to SANDAG, AB 2731 would provide the construct that is needed to support the Navy and SANDAG's partnership to outline a process that ensures the project meets all environmental standards.

Arguments in Opposition:

According to the California Judges Association, the 270-day goal is unrealistic, granting extraordinary calendar priority to these cases means that other litigants are pushed to the back of the line, and litigants are already feeling the effects of under-resourced courts, and expedited review adds to this burden.

The Plumbing-Heating-Cooling Contractors Association and the Western Electrical Contractors Association oppose the requirement that all construction will use a skilled and trained workforce.

To comply with this mandate, no fewer than 60% of journey workers will need to have graduated from a California apprenticeship program. This requirement will increase the cost for this work and reduce the number of contractors who can and will bid on these projects. This will also reduce the opportunities for local contractors to bid on this work.

FISCAL COMMENTS:

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

VOTES:

ASM NATURAL RESOURCES: 9-0-2

YES: Friedman, Flora, Chau, Eggman, Limón, Mathis, McCarty, Muratsuchi, Mark Stone

ABS, ABST OR NV: Brough, Cristina Garcia

ASM APPROPRIATIONS: 18-0-0

YES: Gonzalez, Bigelow, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

ASSEMBLY FLOOR: 77-0-2

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Obernolte, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon

ABS, ABST OR NV: Eggman, Quirk

SENATE FLOOR: 38-0-2

YES: Allen, Archuleta, Atkins, Bates, Beall, Borgeas, Bradford, Caballero, Chang, Dahle, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Melendez, Mitchell, Monning, Morrell, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Jones, Moorlach

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