

Date of Hearing: August 20, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Lorena Gonzalez, Chair  
SB 288 (Wiener) – As Amended August 12, 2020

Policy Committee: Natural Resources Vote: 7 - 1

Urgency: No State Mandated Local Program: No Reimbursable: No

**SUMMARY:**

This bill exempts specified toll lane, transit, bicycle, and pedestrian projects from the California Environmental Quality Act (CEQA) and extends the sunset of the CEQA exemption for bicycle transportation plans, from 2021 to 2030. Specifically, this bill:

- 1) Exempts from CEQA the following transportation project types:
  - a) Pedestrian and bicycle facilities, including bicycle parking, bicycle sharing facilities, and bikeways.
  - b) Projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians.
  - c) Transit prioritization projects.
  - d) On highways with existing public transit service or that will be implementing public transit service within six months of the conversion, a project for the designation and conversion of general purpose lanes or highway shoulders to bus-only lanes, for use either during peak congestion hours or all day.
  - e) A project for the institution or increase of new bus rapid transit, bus, or light rail service, including the construction of stations, on existing public rights-of-way or existing highway rights-of-way, whether or not the right-of-way is in use for public mass transit.
  - f) A project to construct or maintain infrastructure to charge or refuel zero-emission transit busses, provided the project is carried out by a public transit agency that is subject to, and in compliance with, the State Air Resources Board's Clean Transit regulations and the project is located on property that is owned by the transit agency.
  - g) The maintenance, repair, relocation, replacement or removal of any utility infrastructure associated with a project listed above.
  - h) A project that consists exclusively of a combination of any of the components of a project listed above.
  - i) A project carried out by a city or county to reduce minimum parking requirements.

- 2) Except as provided, requires exempt projects meet all of the following criteria:
  - g) A public agency is carrying out the project and is the lead agency for the project.
  - h) The project is located in an urbanized area, as defined.
  - i) The project is located on or within existing public rights-of-way.
  - j) The project does not add physical infrastructure that increases new automobile capacity on existing rights-of-way except for minor modifications needed for the efficient and safe movement of transit vehicles, such as extended merging lanes. The project shall not include the addition of any auxiliary lanes.
  - k) The construction of the project does not require the demolition of affordable housing units, including rent-controlled units and units occupied by low-income tenants.
- 3) Requires a project exceeding \$100 million to also meet all of the following criteria:
  - g) The project is incorporated in a regional transportation plan, sustainable communities' strategy, general plan, or other plan that has undergone a programmatic-level environmental review within 10 years of the approval of the project.
  - h) The lead agency completes and considers the results of a project business case and a racial equity analysis.
  - i) The lead agency holds specified public meetings.
- 4) Requires the lead agency to certify that the project will be completed by a skilled and trained workforce, as specified.
- 5) Requires the lead agency to file a notice of exemption with the Office of Planning and Research and the county clerk of the county in which the project is located.
- 6) Sunsets this exemption on January 1, 2023
- 7) Extends the sunset of the CEQA exemption for bicycle transportation plans from 2021 to 2030, and repeals the requirement for the lead agency to prepare an assessment of any traffic and safety impacts of the project and include measures in the bicycle transportation plan to mitigate potential vehicular traffic impacts and bicycle and pedestrian safety impacts.

**FISCAL EFFECT:**

Negligible state impact.

**COMMENTS:**

- 1) **Purpose.** According to the author:

SB 288 will jumpstart sustainable transportation projects as an essential part of California's economic recovery from COVID-19, unlocking opportunities for getting people and economy back to work. We cannot afford to delay common-sense projects that create jobs, revive local economies, improve transportation, connect communities, improve public health, and reduce greenhouse gas emissions.

- 2) **Background.** CEQA provides a process for evaluating the environmental effects of applicable projects approved or undertaken by public agencies. For a project not exempt from CEQA, an initial study is prepared to determine if the project may have a significant impact on the environment. If the initial study shows no significant impacts, a negative declaration is issued. If the project may significantly impact the environment, a full Environmental Impact Report (EIR) must be prepared, including the identification of environmental impacts and required mitigation, compliance and reporting measures intended to reduce the environmental impacts to the extent feasible. CEQA also provides for public process and legal challenges.

CEQA actions taken by public agencies can be challenged in superior court once the agency approves or determines to carry out the project. CEQA appeals are subject to unusually short statutes of limitations. Generally, a petition must be filed within 30 to 35 days, depending on the type of decision. The courts are required to give CEQA actions preference over all other civil actions. The petitioner must request a hearing within 90 days of filing the petition and, generally, briefing must be completed within 90 days of the request for hearing.

CEQA includes statutory exemptions for certain transportation project types (listed above). In addition, the CEQA Guidelines include categorical exemptions that apply to some transportation projects, including: (a) work on existing facilities where there is negligible expansion of an existing use, and (b) minor public or private alterations in the condition of land, water, and vegetation which do not involve removal of healthy, mature, scenic trees, except for forestry or agricultural purposes, specifically including the creation of bicycle lanes on existing rights-of-way.

If a project is not exempt from CEQA, but the initial study shows that it would not result in a significant effect on the environment, the lead agency must prepare a negative declaration, and no EIR is required.