

SENATE THIRD READING
SB 288 (Wiener)
As Amended August 12, 2020
Majority vote

SUMMARY:

Exempts specified transit, bicycle, and pedestrian projects from the California Environmental Quality Act (CEQA).

Major Provisions

- 1) Exempts 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, as defined.
 - 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) The maintenance, repair, relocation, replacement, or removal of any utility infrastructure associated with a project listed above.
 - g) A project to construct or maintain infrastructure to charge or refuel zero-emission transit buses, as specified.
 - h) A project that combines 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) Requires exempt projects meet all of the following criteria:
 - a) A public agency is carrying out the project and is the lead agency for the project.
 - b) The project is located in an urbanized area, as defined.
 - c) The project is located on or within an existing public right-of-way.
 - d) 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.

- e) 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:
- a) 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.
 - b) Construction impacts are fully mitigated.
 - c) The lead agency completes and considers the results of a project business case and a racial equity analysis.
 - d) 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) Sunsets the section adding the exemptions above on January 1, 2023.
- 6) Extends the sunset of the 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.

COMMENTS:

CEQA includes statutory exemptions for certain transportation project types. In addition, the CEQA Guidelines include categorical exemptions that apply to some transportation projects, including: (1) work on existing facilities where there is negligible expansion of an existing use, specifically including "(e)xisting highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities" (Section 15301(c), CEQA Guidelines); and (2) minor public or private alterations in the condition of land, water, and/or 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 (Section 15304 (h), CEQA Guidelines).

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.

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.

Arguments in Support:

SB 288 would save critical time and money by creating statutory exemptions from CEQA for projects that make streets safer for walking and bicycling, speed up transit service in the public right of way, modernize and build new transit stations, repair eligible bridges and install zero-emission infrastructure.

Arguments in Opposition:

SB 288 would allow a large list of transportation projects that will likely bring significant environmental impacts to be exempt from CEQA, thereby circumventing the law's important public participation and environmental health requirements. Although the bill as amended (on June 3, 2020) purportedly promotes sustainable transportation projects, it would in fact exempt large-scale projects from undergoing a critical environmental review and accountability processes that will likely bring long-term, significant air quality and other environmental and environmental health impacts.

FISCAL COMMENTS:

According to the Assembly Appropriations Committee, negligible state impact.

VOTES:

SENATE FLOOR: Vote not relevant

ASM RULES: 12-0-0

YES: Cooley, Cunningham, Carrillo, Flora, Grayson, Kamlager-Dove, Maienschein, Mathis, Quirk-Silva, Ramos, Robert Rivas, Wicks

ASM ELECTIONS AND REDISTRICTING: 4-0-3

YES: Berman, Calderon, Mullin, Weber

ABS, ABST OR NV: Gallagher, Low, Mayes

ASM NATURAL RESOURCES: 7-1-3

YES: Friedman, Flora, Chau, Eggman, Luz Rivas, Mathis, McCarty

NO: Mark Stone

ABS, ABST OR NV: Cristina Garcia, Muratsuchi, Cunningham

ASM APPROPRIATIONS: 16-2-0

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

NO: Bigelow, Bauer-Kahan

UPDATED:

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