

Date of Hearing: April 13, 2026

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2552 (Ávila Farías) – As Introduced February 20, 2026

SUBJECT: California Environmental Quality Act: transportation impact mitigation

SUMMARY: Provides that a contribution made to the Transit-Oriented Development Implementation Fund (TOD Fund), in the amount determined consistent with the Office of Land Use and Climate Innovation (LCI) guidance, is full and complete mitigation for that portion of a project’s significant transportation impact and a legally sufficient mitigation measure under the California Environmental Quality Act (CEQA).

EXISTING LAW:

- 1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed discretionary project to prepare a negative declaration (ND), mitigated negative declaration (MND), or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000 *et seq.*)
- 2) Requires LCI to prepare and develop proposed guidelines for the implementation of CEQA by public agencies. Requires the guidelines to include objectives and criteria for the orderly evaluation of projects and the preparation of EIRs and NDs. Also requires the guidelines to include criteria for public agencies to follow in determining whether a proposed project may have a significant effect on the environment. (PRC 21083)
- 3) Requires OPR to prepare proposed revisions to the CEQA Guidelines establishing criteria for determining the significance of transportation impacts within transit priority areas (TPAs). Requires the criteria to promote the reduction of greenhouse gas (GHG) emissions, the development of multimodal transportation networks, and a diversity of land uses. (PRC 21099)
- 4) Authorizes OPR to adopt CEQA Guidelines establishing alternative metrics to traffic “levels of service” (LOS) for transportation impacts outside of TPAs. Authorizes the alternative metrics to include the retention of LOS, where appropriate and as determined by OPR. Pursuant to this authority, OPR revised the CEQA Guidelines to identify vehicle miles traveled (VMT) as the most appropriate metric to evaluate a project’s transportation impacts and to apply VMT statewide. (PRC 21099)
- 5) Establishes the Transit-Oriented Development Implementation Program (TOD Program), to be administered by the Department of Housing and Community Development (HCD), to provide local assistance to developers for the purpose of developing higher density uses within close proximity to transit stations that will increase public transit ridership. The TOD Program provides gap financing for rental housing developments near transit that include affordable units as well as necessary infrastructure improvements. (Health and Safety Code 53560)
- 6) Establishes an in-lieu fee mechanism for VMT mitigation – permitting a project, which is under the jurisdiction of a regional transportation planning agency (RTPA) and has a VMT

mitigation requirement pursuant to CEQA, to satisfy its VMT mitigation requirement by contributing an unspecified amount per VMT to the TOD Fund, which would then be available, upon appropriation, to HCD to provide financing for transit-oriented rental housing developments located within the same county as the “donor” project. (PRC 21080.44)

THIS BILL:

- 1) Provides that a contribution made to the TOD Fund, in the amount determined consistent with the LCI guidance, is full and complete mitigation for that portion of a project’s significant transportation impact and a legally sufficient mitigation measure under CEQA.
- 2) Makes related findings.
- 3) Is an urgency measure.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **From LOS to VMT.** Level of service (LOS) is a measure used by traffic engineers to determine the effectiveness of elements of transportation infrastructure. LOS measures the presence of traffic and how quickly cars can move through a street. LOS was used for decades to analyze transportation impacts under CEQA. However, several years ago LOS became regarded as outdated, based on concerns it neglects transit, pedestrian crossings, and bicycles. Critics contended that an over-reliance on LOS considerations by planners had led to widening intersections and roadways to move automobile traffic faster at the expense of other, less polluting modes of transportation.

In response, SB 743 (Steinberg), Chapter 386, Statutes of 2013, required OPR to update the criteria for analyzing transportation impacts of projects to replace LOS in TPAs (areas within a one-half mile of a major transit stop). According to SB 743, “(n)ew methodologies under (CEQA) are needed for evaluating transportation impacts that are better able to promote the state’s goals of reducing (GHG) emissions and traffic-related air pollution, promoting the development of multimodal transportation system, and providing clean, efficient access to destinations.” Under SB 743, the criteria was required to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. For areas outside of a TPA, OPR was authorized to adopt guidelines that would establish alternative metrics to LOS. Additionally, OPR could retain LOS as a part of those alternative metrics outside of a TPA, if and where OPR deemed appropriate.

Pursuant to SB 743, OPR proposed changes to the CEQA Guidelines that identify VMT as the most appropriate metric to evaluate a project’s transportation impacts and to apply VMT statewide. VMT measures the amount and distance of automobile travel attributable to a project. The Guidelines took effect July 2020 and agencies are now required to analyze the transportation impacts of a project using a VMT metric instead of LOS.

According to OPR’s *Technical Advisory on Evaluating Transportation Impacts in CEQA*, published in December 2018:

The transportation sector has three major means of reducing GHG emissions: increasing vehicle efficiency, reducing fuel carbon content, and reducing the amount of vehicle travel. The California Air Resources Board (CARB) has provided a path forward for achieving these emission reductions from the transportation sector in its 2016 Mobile Source Strategy. CARB determined that it will not be possible to achieve the State's 2030 and post-2030 emission goals without reducing VMT growth. Further, in its 2018 Progress Report on California's Sustainable Communities and Climate Protection Act, CARB found that despite the State meeting its 2020 climate goals, 'emissions from statewide passenger vehicle travel per capita (have been) increasing and going in the wrong direction,' and 'California cannot meet its (long-term) climate goals without curbing growth in single-occupancy vehicle activity.' CARB also found that '(w)ith emissions from the transportation sector continuing to rise despite increases in fuel efficiency and decreases in the carbon content of fuel, California will not achieve the necessary (GHG) emissions reductions to meet mandates for 2030 and beyond without significant changes to how communities and transportation systems are planned, funded, and built.'

Thus, to achieve the state's long-term climate goals, California needs to reduce per capita VMT. This can occur under CEQA through VMT mitigation. Half of California's GHG emissions come from the transportation sector, therefore, reducing VMT is an effective climate strategy, which can also result in co-benefits. Furthermore, without early VMT mitigation, the state may follow a path that meets GHG targets in the early years, but finds itself poorly positioned to meet more stringent targets later.

In addition to providing many examples of VMT-reduction measures, the technical advisory further addresses VMT-reduction programs and in-lieu fees:

Notably, because VMT is largely a regional impact, regional VMT-reduction programs may be an appropriate form of mitigation. In lieu fees have been found to be valid mitigation where there is both a commitment to pay fees and evidence that mitigation will actually occur. (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 140-141; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727-728.) Fee programs are particularly useful to address cumulative impacts. (CEQA Guidelines, § 15130, subd. (a)(3) [a "project's incremental contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact".]) The mitigation program must undergo CEQA evaluation, either on the program as a whole, or the in-lieu fees or other mitigation must be evaluated on a project-specific basis. (*California Native Plant Society v. County of El Dorado* (2009) 170 Cal.App.4th 1026.) That CEQA evaluation could be part of a larger program, such as a regional transportation plan, analyzed in a Program EIR. (CEQA Guidelines, § 15168.)

(https://lci.ca.gov/docs/20190122-743_Technical_Advisory.pdf)

2) **Author's statement:**

Last year's budget trailer bill created a promising option under CEQA to mitigate a project's effect on Vehicle Miles Traveled, namely the ability to meet some or all of this obligation by contributing funds to HCD's Transit Oriented Development program to

build affordable housing near transit. However, projects that rely on this option may still face litigation arguing that the mitigation is inadequate, even when the contribution follows state guidance. AB 2552 increases legal certainty for the VMT mitigation bank concept by expressly stating that a contribution to the TOD Program, in an amount determined pursuant to state guidance, constitutes full and complete mitigation for the portion of a project's significant transportation impact addressed by that contribution, and is a legally sufficient mitigation measure under CEQA. This certainty will open the door to less expensive CEQA obligations and more affordable housing.

- 3) **Suggested amendments.** *The author and the committee may wish to consider amending this bill to replace the current provisions with the following:*

(b) (4) A lead agency for a land use project may require the applicant to contribute to the Transit-Oriented Development Implementation Fund only if (A) the cost of vehicle miles traveled reductions established by the office is equal to or lesser than other vehicle miles traveled mitigation measures required for the project by the lead agency or, (B) if the contribution is the only required mitigation measure, it is the least cost feasible mitigation, and (C) only after the department and office have validated reductions in vehicle miles traveled attributable to projects funded pursuant to this section by contributions from transportation projects.

- 4) **Double referral.** This bill has been double-referred to the Housing and Community Development Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Building Industry Association (sponsor)
 American Council of Engineering Companies
 Apartment Association of Greater Los Angeles
 Building Industry Association of Fresno and Madera Counties
 Building Industry Association of the Bay Area
 Building Industry Association of Tulare/Kings County
 Building Owners and Managers Association of California
 California Association of Realtors
 California Business Properties Association
 California Business Roundtable
 California Chamber of Commerce
 California Council for Affordable Housing
 California Hotel & Lodging Association
 Carlsbad Chamber of Commerce
 Central Valley Taxpayers Association
 Downtown San Diego Partnership
 Family Business Association of California
 Home Builders Association of Kern County
 Inland Empire Economic Partnership
 NAIOP California
 National Association of Royalty Owners - California
 North State Building Industry Association

Orange County Business Council
Sacramento Metro Chamber of Commerce
San Diego Regional Chamber of Commerce
Simi Valley Chamber of Commerce
The Two Hundred for Homeownership

Opposition

Streets for All

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