

CONCURRENCE IN SENATE AMENDMENTS

AB 40 (Bonta)

As Amended August 21, 2026

Majority vote

SUMMARY

Original Committee of Reference: Assembly Health Committee

Requires that new projects for the handling, storage, or export of more than five million tons per year of coal be reviewed in an environmental impact report (EIR) under the California Environmental Quality Act (CEQA) and that certain conditions, including changing the type of coal or increasing the quantity of coal handled, stored, or exported, triggers a subsequent EIR, among other provisions.

Senate Amendments

Current Committee Recommendation: Concur in Senate Amendments

- 1) Delete prior version of the bill.
- 2) Require, before issuing the initial discretionary approval for a large-volume bulk coal facility, a lead agency to prepare or cause to be prepared an EIR.
- 3) Require issuance of any permit by an air pollution control district or air quality management district that authorizes construction, or increases potential emissions, of a large-volume bulk coal facility to be considered a discretionary approval and not be exempt from CEQA.
- 4) Prohibit, independent of the conditions for a subsequent EIR and adopted guidelines, a lead agency, air pollution control district, or air quality management district from relying on an existing EIR to issue a discretionary approval for or to a large-volume bulk coal facility, and a subsequent EIR, or a new EIR required if any of the specified conditions are met.
- 5) Provide that if a previously certified EIR for a large-volume bulk coal facility did not specifically analyze the environmental impacts of coal handling, storage, and transportation, that EIR does not retain informational value.
- 6) Require the provisions of this bill to apply retroactively to any discretionary approval for a large-volume bulk coal facility by a lead agency, air pollution control district, or air quality management district that is pending or made between June 4, 2026, and January 1, 2027.

COMMENTS

On June 4, 2026, the Trump Administration announced \$700 million in federal funding to support coal-fired power plants and coal export infrastructure, including \$425 million for 13 coal plants nationwide and \$75 million for construction of the Oakland Bulk and Oversized Terminal (OBOT). The terminal has a documented design capacity of nine–10 million short tons of coal annually and is expected to begin operations in 2028.

There has never been a stand-alone CEQA EIR prepared specifically for the OBOT as the terminal was treated as part of the redevelopment of the former OAB and addressed in the 2002 EIR and 2012 Addendum for that project.

AB 40 requires a full EIR before a lead agency can grant an initial discretionary approval for a new or expanded bulk coal handling, storage, or export facility with a design capacity exceeding five million short tons per year. It also requires updated environmental review when the type or quantity of coal changes and would prohibit an air district from granting discretionary approval without such review. Lastly, the bill requires every relevant EIR to evaluate the facility's potential to generate fugitive dust emissions and to include mitigation sufficient to prevent a significant increase in ambient concentrations beyond the facility's boundaries.

According to the Author

California's environmental review framework was not built for what is happening in West Oakland right now. The Trump administration has invoked a Cold War-era emergency law to direct \$75 million toward the construction of a bulk coal export terminal on one of the most environmentally overburdened communities in California, a community that was designated a first-year priority under AB 617's Community Air Protection Program precisely because of its documented cumulative pollution burden.

The environmental review that the terminal's operators rely upon is over a decade old. It did not account for the type of coal now planned, nor the volumes now projected, which have grown dramatically. And it predates peer-reviewed, California Air Resources Board (CARB)-funded science establishing that coal trains measurably increase dangerous levels of fine particulate matter in the communities they pass through. AB 40 closes that gap. It ensures that before any public agency issues a discretionary approval for a large-scale coal terminal in California, there is a full EIR that reflects the actual coal, the actual volume, and the actual science, and that where significant air quality impacts are found, the developer must demonstrate enforceable mitigation before any approval can be issued.

Arguments in Support

A coalition of environmental and environmental justice advocates write that AB 40 narrowly and appropriately targets large-scale bulk coal projects with the greatest potential to impact public health and the environment by reasonably requiring an up-to-date environmental review for facilities that transport five million or more short tons of coal annually.

Arguments in Opposition

A coalition of developers, oil industry, and business groups write that the bill's broad use of the term "project" risks upending established CEQA standards creating uncertainty for projects throughout California at a time when the Legislature has rightly sought to reform CEQA to provide greater project certainty.

FISCAL COMMENTS

The Senate Appropriations Committee approved this bill pursuant to Senate Rule 28.8.

VOTES

ASM HEALTH: 12-0-3

YES: Bonta, Addis, Aguiar-Curry, Arambula, Carrillo, Mark González, Krell, Patel, Celeste Rodriguez, Schiavo, Sharp-Collins, Stefani

ABS, ABST OR NV: Chen, Flora, Sanchez

ASM APPROPRIATIONS: 10-3-2

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Solache

NO: Sanchez, Hadwick, Ta

ABS, ABST OR NV: Dixon, Pellerin

ASSEMBLY FLOOR: 58-9-12

YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO: DeMaio, Ellis, Hadwick, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa

ABS, ABST OR NV: Alanis, Castillo, Chen, Davies, Dixon, Flora, Gallagher, Jeff Gonzalez, Hoover, Papan, Ramos, Sharp-Collins

SENATE FLOOR: 30-10-0

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

ASM NATURAL RESOURCES: 10-4-0

YES: Bryan, Connolly, Garcia, Haney, Kalra, Muratsuchi, Pellerin, Schultz, Wicks, Zbur

NO: Ellis, Alanis, Hoover, Macedo

UPDATED

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CONSULTANT: Lawrence Lingbloom / NAT. RES. / (916) 319-2092

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