

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 839 (Blanca Rubio)
Version: May 26, 2026
Hearing Date: June 30, 2026
Fiscal: Yes
Urgency: No
AM

SUBJECT

California Environmental Quality Act: expedited judicial review: sustainable aviation
fuel projects

DIGEST

The bill authorizes the Governor to certify up to three sustainable aviation fuel projects, as defined, that meet certain requirements, as infrastructure projects, thereby providing the certified projects with an expedited administrative and 270-day judicial review process for litigation involving the California Environmental Quality Act (CEQA).

EXECUTIVE SUMMARY

Existing law authorizes the Governor to certify projects that meet certain criteria as infrastructure projects that receive certain streamlining benefits, such as accelerated CEQA review. Any judicial challenges arising from that process are, to the extent feasible, to be resolved within 270 days of the filing of the administrative record. These provisions are intended to expedite beneficial development, but entail potential tradeoffs with respect to the sufficiency of environmental review, the burden on courts, and access to justice for other litigants, a concern magnified by the judicial backlog arising from the COVID-19 pandemic.¹ This bill authorizes the Governor to certify up to three sustainable aviation fuel projects as infrastructure projects, thereby providing for expedited CEQA administrative and 270-day judicial review.

The bill is author sponsored and supported by various companies and organizations representing the aviation industry, including Boeing and United Airlines. The bill is opposed by several environmental advocacy organizations and the Judicial Council of

¹ Joint Informational Hearing of Ass. and Sen. Comm. on Judiciary: *COVID and the Courts: Assessing the Impact on Access to Justice, Identifying Best Practices, and Plotting the Path Forward* (Feb. 23, 2021) Background Paper, https://sjud.senate.ca.gov/sites/sjud.senate.ca.gov/files/background_paper_-_ajud_and_sjud_feb_23_2021_joint_informational_hearing_-_covid_and_the_courts.pdf.

California. The bill passed the Senate Environmental Quality Committee on a vote of 5 to 1.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed discretionary project to prepare a negative declaration, mitigated declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines). (Pub. Res. Code §§ 21100 et seq.)²
- 2) Sets requirements relating to the preparation, review, comment, approval and certification of environmental documents, as well as procedures relating to an action or proceeding to attack, review, set aside, void, or annul various actions of a public agency on the grounds of noncompliance with CEQA. (§§ 21165 et seq.)
- 3) Established the Jobs and Economic Improvement through Environmental Leadership Act (Act), which established CEQA administrative and judicial review procedures for an “environmental leadership” project. These provisions sunset on January 1, 2034. (§§ 21178 et seq.)
 - a) These projects include, among others, certain energy infrastructure projects, a semiconductor or microelectronic project, a transportation-related project, and a water-related project, as defined. (§ 21189.81(e).)
- 4) Authorizes certain transit projects to be eligible for expedited administrative and judicial review under CEQA. (§ 21168.6.9.)
- 5) Authorizes certain environmental leadership media campus projects to be eligible for expedited administrative and judicial review under CEQA. (§ 21168.6.6.)

This bill:

- 1) Authorizes the Governor to certify up to three sustainable aviation fuel projects under the Act if the project meets certain existing requirements, which would make the project eligible for expedited CEQA administrative review and 270-day judicial review.
- 2) Requires the Governor to ensure all of the following:

² All further references are to the Public Resources Code unless otherwise indicated.

- a) the applicant agrees to pay the costs of the trial court and the court of appeal in hearing and deciding any case challenging a lead agency's action on a certified project, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner as provided in the rule of court adopted by the Judicial Council;
 - b) the applicant agrees to pay the costs of preparing the record of proceedings for the project concurrent with the review and consideration of the project under this division, in a form and manner specified by the lead agency for the project; and
 - c) the applicant demonstrates that the record of proceedings is being prepared as required under the Act for a project for which environmental review has commenced.
- 3) Provides that the Governor may only certify a sustainable aviation fuel project if the project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation. A project is deemed to meet this requirement if the applicant demonstrates to the satisfaction of the Governor that the applicant has a binding commitment that it will mitigate impacts resulting from the emission of greenhouse gases, if any, as provided.
- 4) Defines "sustainable aviation fuel project" to mean a project for the new construction, conversion, or expansion of a facility to manufacture, process, store, distribute, or transport sustainable aviation fuel or feedstock used for the production of sustainable aviation fuel, or to manufacture electrochemical components used for the production of sustainable aviation fuel, that meets all of the following:
 - a) existing requirements under the Act related to public works;
 - b) does not use fossil fuels in its production process;
 - c) the project will reduce emissions of air pollutants compared to the baseline environmental conditions in the vicinity of the project, as determined by the applicable air district, if the project involves the conversion or replacement of an existing Title V source, as defined in Section 39053.5 of the Health and Safety Code;
 - d) the project will not cause a significant effect on the environment attributable to any air pollutant, as determined by the applicable air district, if the project does not involve the conversion or replacement of an existing Title V source, as defined in Section 39053.5 of the Health and Safety Code.
- 5) Defines "sustainable aviation fuel" to mean hydrocarbon fuel that meets the ASTM International (ASTM) standard D7566 for aviation turbine fuel containing synthesized hydrocarbons and can be used as alternative jet fuel, as defined in Section 95481 of Title 17 of the California Code of Regulations, that meets the requirements of Subarticle 7 (commencing with Section 95480) of Article 4 of Subchapter 10 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations.

- 6) Makes various findings and declarations of the Legislature.

COMMENTS

1. Stated need for the bill

The author writes:

AB 839 will provide an essential tool for California to draw investment for and production of sustainable aviation fuel in California. SAF production jobs are well-paying, highly skilled jobs (both in construction/retooling of facilities, and in production). California has 27 commercial airports, and two major international gateways (LAX and SFO). The State Scoping Plan requires that at least 3.2 billion gallons of SAF be used 20 years – by 2045. It is in our economic interest and our environmental interest that we do all we can to draw production of SAF to California. Commercial airlines and airports have been working for 10 years to bring SAF to the forefront of our policies that impact aviation in California. Research and development of SAF has been ongoing for decades, with in-flight testing first occurring in 2008. R & D continues on the use of desirable feedstocks, including municipal solid waste and woody biomass. SAF is and will be the step between conventional jet fuel use and electric technologies for larger aircraft, estimated to be 40 to 50 years away. This is a smart step and a smart policy for California.

2. CEQA

Enacted in 1970, CEQA requires state and local agencies to follow a set protocol to disclose and evaluate the significant environmental impacts of proposed projects and to adopt feasible measures to mitigate those impacts. CEQA itself applies to projects undertaken or requiring approval by public agencies, and, if more than one agency is involved, CEQA requires one of the agencies to be designated as the “lead agency.” The environmental review process required by CEQA consists of: (1) determining if the activity is a project; (2) determining if the project is exempt from CEQA; and (3) performing an initial study to identify the environmental impacts and, depending on the findings, preparing either a Negative Declaration (for projects with no significant impacts), a Mitigated Negative Declaration (for projects with significant impacts but that are revised in some form to avoid or mitigate those impacts), or an EIR (for projects with significant impacts).

An EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Before approving any project that has received environmental review, an agency must make certain findings pertaining to the

project's environmental impact and any associated mitigation measures. If mitigation measures are required or incorporated into a project, the public agency must adopt a reporting or monitoring program to ensure compliance with those measures. To enforce the requirements of CEQA, a civil action may be brought under several code sections to attack, review, set aside, void, or annul the acts or decisions of a public agency for noncompliance with the act.

"CEQA operates, not by dictating proenvironmental outcomes, but rather by mandating that 'decision makers and the public' study the likely environmental effects of contemplated government actions and thus make fully informed decisions regarding those actions. ... In other words, CEQA does not care what decision is made as long as it is an informed one." (*Citizens Coalition Los Angeles v. City of Los Angeles* (2018) 26 Cal. App. 5th 561, 577.)

3. Expedited judicial review under CEQA

Unlike other environmental laws specific to air resources, water resources, or the control of toxic substances, there is no statewide bureaucracy charged with enforcement of CEQA. Rather, it is enforced through citizen participation and litigation if necessary. Arguably, this makes the implementation of CEQA more efficient and expeditious than if a state agency were created to administer the law. Thus, CEQA litigation could more appropriately be characterized as mere enforcement.

Several provisions streamline judicial review of challenges to projects under CEQA, including:

- discovery is generally not allowed, as CEQA cases are generally restricted to review of the record;³
- concurrent preparation of the record of proceedings to enable judicial review to occur sooner;⁴
- counties with a population of over 200,000 must designate one or more judges to develop expertise on CEQA and hear CEQA cases (§ 21167.1 (b));
- both the Superior Court and the Court of Appeal must give CEQA lawsuits preference over all other civil actions (§ 21167.1(a)); and
- if feasible, the Court of Appeal must hear a CEQA appeal within one year of filing (§ 21167.1(a)).

Additionally, several bills have provided for a 270-day judicial review period for environmental leadership projects,⁵ as well as for specified stadium projects,⁶ a San Diego transit and transportation facilities project,⁷ and the Capitol Annex.⁸

³ See *Cadiz Land Co. v. Rail Cycle, LP* (2000) 83 Cal.App.4th 74, 122.

⁴ SB 122 (Jackson, Ch. 476, Stats. 2016).

⁵ AB 900 (Buchanan, Ch. 354, Stats. 2011); SB 7 (Atkins, Ch. 19; Stats. 2021); (Caballero, Ch. 60; Stats. 2023).

The principal framework associated with these provisions is AB 900 (Buchanan, Ch. 354, Stats. 2011), which were extended and revised by SB 7 (Atkins, Ch. 19; Stats. 2021) and SB 149 (Caballero, Ch. 60, Stats. 2023). These provisions establish procedures for 270-day expedited judicial review for “environmental leadership” projects with a minimum investment of \$100,000,000 that are certified by the Governor and meet specified conditions. Such projects include clean renewable energy projects, clean energy manufacturing projects, and LEED Gold-certified infill site projects with transportation efficiency 15 percent greater than comparable projects and zero net additional GHG emissions, and housing development projects with a minimum investment of \$15,000,000. In 2023, SB 149 made additional infrastructure projects eligible for expedited judicial review, including an energy infrastructure project, a semiconductor or microelectronic project, a transportation-related project, and a water-related project, as defined.

A 2019 report entitled *Review of Environmental Leadership Development Projects* from the Senate Office of Research reviewed litigation under AB 900 and SB 743 (Steinberg, Ch. 386, Stats. 2013), which provided for 270-day review for the Sacramento Kings arena. The report found the following timelines, which under then-existing law began when the administrative record was certified⁹ and include the trial court, court of appeal, and the Supreme Court’s denial of review, for those cases:

Project	Business days	Calendar days
Kings arena	243	352
Warriors arena	257	376
8150 Sunset Boulevard	395	578

The report concluded that these projects were reviewed under a faster timeline than normally would apply, benefiting the developers and providing upfront financial security. The report also stated that “the impacts to the court from such a short timeline also should be taken into consideration when determining how fast the Legislature would like [AB 900] cases resolved,” and suggested a longer timeline may be appropriate.¹⁰ In 2021, the Legislature enacted SB 44 (Allen, Ch. 663, Stats. 2021) to make certain transit projects eligible for expedited administrative and judicial review under CEQA within 365 calendar days, to the extent feasible. Last year, AB 3265 (Bryan, Ch. 255, Stats. 2024) was enacted to make certain environmental leadership media campus projects eligible for expedited administrative and judicial review under CEQA within 365 calendar days, to the extent feasible. SB 676 (Limón, Ch 550, Stats. 2025) made

⁶ SB 292 (Padilla, Ch. 353, Stats. 2011); SB 743 (Steinberg, Ch. 386, Stats. 2013) (see *Saltonstall v. City of Sacramento* (2014) 231 Cal.App.4th 837, 855-856); AB 734 (Bonta, Ch. 959, Stats. 2018); AB 987 (Kamlager-Dove, Ch. 961, Stats. 2018).

⁷ AB 2731 (Gloria, Ch. 291, Stats. 2020).

⁸ SB 174 (Committee on Budget, Ch. 74, Stats. 2024.)

⁹ See *Id.* at pp. 6-8 (noting some uncertainties in the calculation methodology).

¹⁰ *Id.* at p. 15.

projects that are located in a geographic area that was damaged by a fire for which the Governor declared a state of emergency on or after January 1, 2023, eligible for expedited administrative and judicial review under CEQA.

4. Expedited judicial review entails tradeoffs, including potentially burdening the courts and affecting access to justice for other litigants

As described above, the Legislature has continually expanded projects that qualify for expedited judicial review under CEQA. Additionally, the Legislature has begun applying expedited judicial review to other areas of the law as well. For example, SB 808 (Caballero, Ch. 527, Stats. 2025) established an expedited writ of mandate procedure for judicial review of a local agency decision denying approval of a housing development project, as defined.¹¹ This Committee will be considering three CEQA expedited judicial review bills this legislative session. (*see Pending Legislation Section.*)

Under existing law, certain parties are entitled to calendar preference, including a party that is at least 70 years old and in ill health, a party in a personal injury or wrongful death matter who is under the age of 14, or a party that is unlikely to survive beyond another six months. (Code Civ. Proc. § 36). Additionally, certain actions receive calendar preference, including appeals in probate proceedings, contested election cases, and actions for libel or slander by a person who holds any elective public office or a candidate for any such office alleged to have occurred during the course of an election campaign. (Code Civ. Proc. § 44.) Additionally, existing law already provides that the superior court and appeals courts are to give CEQA lawsuits preference over all other civil actions. (Gov. Code § 21167.1(a).) These expedited CEQA judicial review bills taken as one-offs may not seem to cause a major concern for the courts and are intended to expedite beneficial development. However, when taken as a whole, these bills entail potential tradeoffs with respect to not only the sufficiency of environmental review, but increasing pressure on court dockets and access to justice for other litigants. These concerns have only been magnified by the judicial backlog arising from the COVID-19 pandemic.¹²

In this regard, the Judicial Council of California writes in opposition to the bill, stating:

[...] Imposing the 270-day expedited judicial review timeline on top of existing calendar preferences [for CEQA cases] is arbitrary and likely to be unworkable in practice. This limited timeframe is especially restrictive if the court of appeal or the California Supreme Court must also decide some portion of a CEQA case. Even

¹¹ Dept. of Finance, Delta Conveyance Project, (updated 5/14/25), available at <https://trailerbill.dof.ca.gov/public/trailerBill/pdf/1263> (as of June 24, 2025).

¹² Joint Informational Hearing of Ass. and Sen. Comm. on Judiciary: *COVID and the Courts: Assessing the Impact on Access to Justice, Identifying Best Practices, and Plotting the Path Forward* (Feb. 23, 2021) Background Paper, https://sjud.senate.ca.gov/sites/sjud.senate.ca.gov/files/background_paper_-_ajud_and_sjud_feb_23_2021_joint_informational_hearing_-_covid_and_the_courts.pdf.

assuming that no extensions of time are granted for any aspect of the proceedings, it takes an estimated six months to get a case to hearing in the superior court, plus the additional time for the judge to decide and issue a decision.

When everything is a priority, nothing is a priority. The courts are overwhelmed with their tasks of managing complicated calendars with myriad cases – each of which often comes with delays due to extension requests by counsel – but with finite resources and finite hours in the day. As with other legislation creating or prioritizing calendaring preferences, the expedited judicial review requirements proposed by AB 839 will likely have an adverse impact on other compelling cases in the courts, so setting a timeline for deciding hand-picked CEQA cases has the practical effect of pushing other cases on a court's docket to the back of the line. This means that the other cases – including statutorily mandated calendar preferences, such as juvenile cases, criminal cases, civil cases in which a party is at risk of dying, wage theft cases, election issues – will likely take longer to be calendared and adjudicated.

5. Statements in support

United Airlines writes in support, stating:

[...] This measure is critical to facilitate and scale up the levels of SAF needed for the commercial aviation industry to reduce greenhouse gas emissions and achieve net zero emissions by 2050. Until zero emission technologies are developed and approved by the Federal Aviation Administration, SAF offers the most significant means of reducing GHG emissions, particulate matter and other criteria pollutants in the coming decades.

United Airlines is the largest airline in the world with over 100,000 employees serving 125 million customers annually through 360 destinations worldwide. United has been a strong global leader in working to advance new SAF technologies through investments and participation in research and development, and ultimately, production. We were the first U.S. airline to test SAF in 2009 and in 2016, we were the first U.S. airline to use SAF consistently in regularly scheduled flights.

SAF can be produced with the use of multiple feedstocks and technologies, including oils, fats and greases, hydrogen, agriculture and forest woody biomass and residue, solid waste and even captured carbon. Emissions in manufacturing are well below those emissions of fossil fuel refineries., and over the fuel's lifecycle (from production to in-flight use) carbon emissions are reduced by up to 85%; particulate matter can be reduced by approximately 50% (up to 90%), and sulfur by 100%. [...]

6. Statements in opposition

A coalition of environmental organizations write in opposition, including Californians Against Waste and Earthjustice, stating:

[...] This bill would curtail judicial review of broadly defined “Sustainable Available Fuel (SAF) projects,” which undermines the rights of Californians impacted at all stages of the SAF supply chain by heightening and prolonging their exposure to harmful pollution.

California Environmental Quality Act (CEQA) cases are inherently complex, and the wide-ranging environmental harms caused by the production and transportation of SAF and its feedstocks adds to that complexity. These impacts warrant careful scrutiny to ensure they are avoided and mitigated. Moreover, the climate and health benefits of SAF are overstated because feedstocks are not always derived from waste materials. They can include virgin, crop-based oils, and increased demand for such oils raises the price of food and causes deforestation and climate impacts. Unfettered SAF growth thus runs the risk of increasing both greenhouse gas emissions — directly counter to its very purpose — and global hunger., SAF producers already enjoy subsidies from California consumers through the Low Carbon Fuel Standard (LCFS) and, according to recent LCFS data, SAF production increased 590% between 2023 and 2024.

Production further increased in 2025. This growth, combined with already existing refinery capacity, puts the industry on track to meeting the state’s SAF goals.¹ Finally, the recent amendments to the bill reward SAF that is produced using fossil fuels, directly counter to State climate policy and the critical transition away from fossil fuel dependence.

The opposition coalition argues that curtailed review of SAF projects poses risks to refinery-adjacent communities and does not limit the bill to projects that do not increase gases, food prices, and deforestation.

SUPPORT

Aerospace and Defense Alliance of California
Association of California Airports
Bay Area Council
Boeing Company
California Airports Council
California Manufacturers and Technology Association
Green Hydrogen Coalition
Los Angeles Area Chamber of Commerce
Mayor Todd Gloria, City of San Diego

Neste Us
Rural County Representatives of California (RCRC)
San Francisco International Airport
Twelve
United Airlines

OPPOSITION

350 Bay Area Action
Active San Gabriel Valley
Asian Pacific Environmental Network (APEN)
BiofuelWatch
California Communities Against Toxics
California Environmental Justice Alliance (CEJA) Action
California Environmental Voters
Californians Against Waste
Center for Biological Diversity
Center on Race, Poverty & the Environment
Communities for a Better Environment
EarthJustice
Interfaith Climate Action Network of Contra Costa County
Judicial Counsel of California
Leadership Counsel for Justice and Accountability
San Francisco Baykeeper
San Francisco Baykeeper
Sierra Club California
Sunflower Alliance

RELATED LEGISLATION

Pending Legislation:

AB 2152 (Mark González, 2026) makes essential local fire station project eligible for streamlining and expedited judicial review under CEQA, as provided. AB 2152 is set to be heard in this Committee on the same day as this bill.

AB 2231 (Ahrens, 2026) makes an environmental leadership hospital campus project eligible for streamlined administrative and expedited judicial review under CEQA, as provided. AB 2231 is set to be heard in this Committee on the same day as this bill.

Prior Legislation:

SB 676 (Limón, Ch 550, Stats. 2025) *see* Comment 3), above.

AB 839 (Blanca Rubio)

Page 11 of 11

AB 3265 (Bryan, Ch. 255, Stats. 2024) *see* Comment 3), above.

SB 149 (Caballero, Ch. 60; Stats. 2023 *see* Comment 4), above.

SB 7 (Atkins, Ch. 19; Stats. 2021) *see* Comment 3), above.

SB 44 (Allen, Ch. 663; Stats. 2021) *see* Comment 3), above.

AB 900 (Buchanan, Ch. 354, Stats. 2011) *see* Comment 3), above.

PRIOR VOTES

Senate Environmental Quality Committee (Ayes 5, Noes 1)

Assembly Floor (Ayes 71, Noes 0)

Assembly Appropriations Committee (Ayes 15, Noes 0)

Assembly Judiciary Committee (Ayes 11, Noes 0)

Assembly Natural Resources Committee (Ayes 14, Noes 0)
