

Date of Hearing: July 14, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

SB 71 (Wiener) – As Amended June 30, 2025

SENATE VOTE: 36-0

SUBJECT: California Environmental Quality Act: exemptions: environmental leadership transit projects

SUMMARY: Expands and extends existing California Environmental Quality Act (CEQA) exemptions for transit projects, including removing the existing 2030 sunset for most project types and adding a new exemption for diesel train projects until 2040.

EXISTING LAW:

- 1) CEQA requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000 *et seq.*)
- 2) CEQA exempts specified transportation project types, including the following:
 - a) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities. (PRC 21080(b)(10))
 - b) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities. (PRC 21080(b)(11))
 - c) Facility extensions not to exceed four miles in length which are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services. (PRC 21080(b)(12))
- 3) CEQA exempts, until January 1, 2030, active transportation plans, pedestrian plans, or bicycle transportation plans for the restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles. (PRC 21080.20)
- 4) CEQA exempts, until January 1, 2030, several “clean” public transit project types, including:
 - a) A project for the institution or increase of new bus rapid transit, bus, or light rail service, including the rehabilitation of stations, terminals, or existing operations facilities.
 - b) A project for the institution or increase of zero-emission passenger rail service within an existing rail or highway right-of-way.
 - c) A project to construct or maintain infrastructure to charge or refuel zero-emission transit buses, trains, and ferries.

(PRC 21080.25)

- 5) PRC 21080.25 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 on or within an existing public right-of-way.
 - c) 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.
 - d) 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.
- 6) PRC 21080.25 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, a racial equity analysis, and an analysis of residential displacement.
 - d) The lead agency holds specified public meetings.
- 7) PRC 21080.25 requires the lead agency to certify that the project will be completed by a skilled and trained workforce, as specified.
- 8) CEQA provides for expedited judicial review for up to seven Environmental Leadership Transit Projects (ELTP) to construct a fixed guideway and related fixed facilities that meet all of the following:
- a) The fixed guideway operates at zero emissions.
 - b) The project meets certain greenhouse gas emission reduction requirements, depending on the length of the project, without using offsets, as specified.
 - c) The project reduces no less than 30,000 vehicle miles traveled in the corridor of the project, as specified.
 - d) The project is consistent with the applicable regional transportation plan and sustainable communities strategy or alternative planning strategy.
 - e) The project applicant demonstrates how the applicant has incorporated sustainable infrastructure practices to achieve sustainability, resiliency, and climate change mitigation and adaptation goals in the project.
 - f) The project is located wholly within the County of Los Angeles or connects to an existing project wholly located in the County of Los Angeles.
 - g) The project is approved by the lead agency on or before January 1, 2025.
 - h) Requires Judicial Council, on or before January 1, 2023, to adopt rules of court that would apply to an action or proceeding brought to attack, review, set aside, void, or annul the certification of an EIR for an ELTP, as defined by this bill, or the granting of any project approvals, requiring lawsuits and any appeals to be resolved, to the extent feasible, within 365 calendar days of filing the certified record of proceedings.
- (PRC 21168.6.9)

THIS BILL:

- 1) Removes the existing 2030 sunset from the exemption for active transportation, pedestrian, and bicycle plans, and adds new, permanent exemptions for transit comprehensive operational analyses and transit route changes.
- 2) Removes the existing 2030 sunset from the PRC 21080.25 exemptions for “clean” transit projects and adds new exemptions for:
 - a) Microtransit, paratransit, shuttle, and ferry projects. Provides that the application of this exemption to non-zero-emission vehicles, except for articulated buses, expires January 1, 2032.
 - b) Diesel-powered heavy rail projects meeting the “Tier 4” exhaust emissions standard, until January 1, 2040.
- 3) Expands the footprint of these exemptions from existing rights of way to include projects on any public or private utility property.
- 4) Removes requirements that transit agencies undertaking charging/refueling projects comply with specified ARB rules.
- 5) Adjusts the way in which a project’s cost is assessed to determine if it costs more than \$50 million or \$100 million, which triggers certain requirements including holding public hearings. Specifically, this bill would require that the \$50 million and \$100 million threshold is based on the project engineer’s cost estimate, and require that these cost thresholds should be adjusted to the California Consumer Price Index (CPI).
- 6) Remove specific elements to be contained in the required project business case for projects costing more than \$100 million.
- 7) Extends the deadline for ELTPs from lead agency approval by January 1, 2025 to either lead agency approval by January 1, 2027 or circulation of the draft EIR before January 1, 2025, and eliminates the January 1, 2026 sunset.

FISCAL EFFECT: According to the Senate Appropriations Committee, one-time costs likely around \$100,000 - \$150,000 and ongoing costs likely in the tens of thousands of dollars annually (General Fund) for the Governor’s Office of Land Use and Climate Innovation (LCI) to perform and support anticipated rulemaking as well as update existing technical assistance.

COMMENTS:

- 1) **Background.** CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR.

Generally, 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. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

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: (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" (CEQA Guidelines Section 15301(c)); 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 (CEQA Guidelines Section 15304 (h)).

2) **Author's statement:**

Public transportation is critical to California's future. Streamlining climate-friendly sustainable transportation projects that improve public transportation and make our streets safer for pedestrians, bicyclists, and other vulnerable road users helps the state better deliver on its climate, housing, and social mobility goals. SB 71 makes a critical CEQA exemption - with environmental and other guardrails - for such projects that was first enacted with great success 5 years ago permanent, while slightly expanding and cleaning up the law. At a time where public transportation systems in California and across the nation face acute funding pressures and federal uncertainty, it is critical to enact this reform so that public transportation agencies and local agencies can continue to control capital costs and deliver projects without delay and associated cost increases from the bad-faith abuse of environmental laws. SB 71 will ensure that projects that help the state meet its climate goals, facilitate dense urban infill development, improve access to opportunity and mobility, and support high-quality construction jobs continue, and deliver on the promise of infrastructure investment.

3) **An exemption for diesel train projects until 2040 is a departure from the clean, sustainable transportation focus of this and the prior bills.** Last year, AB 2503 (Lee) added an exemption for passenger heavy rail service projects to the existing "clean" transit exemptions established by SB 288 (Wiener) in 2020, and extended and expanded by SB 922 (Wiener) in 2022. At the time, the argument for AB 2503 was that an exemption was needed to expedite conversion of existing rail lines to catenary (electrified) service. AB 2503 required rail projects to be exclusively zero-emission and located entirely within existing rail

or highway right of way, and, along with the rest of the exemptions in PRC 21080.25, sunset January 1, 2030.

This bill expands the AB 2503 exemption to add diesel-powered passenger rail projects, using “Tier 4” or cleaner engines, until January 1, 2040. The bill also expands the eligible locations for these and other transit line projects, permitting projects on any public or private utility property, rather than limiting to existing rail and highway right of way.

Tier 4 is a federal exhaust emissions standard for diesel engines, including locomotives, that currently reflects the lowest emission diesel combustion engines in commercial use. The Tier 4 standard was adopted by USEPA in 2004 and phased in to apply to locomotives manufactured in 2015 and later. Tier 4 emissions standards are met using a combination of particulate filters, catalysts, and ultra-low sulfur diesel fuel. Going forward, a new diesel passenger rail project is likely to use Tier 4 engines, rather than older, higher-emitting locomotives. Today, Tier 4 is not a new standard or a stretch target. By 2040, Tier 4 is likely to be very outdated.

Diesel exhaust is a carcinogen and a significant contributor of particulate matter in areas of the state designated as serious, severe, and extreme nonattainment, including the South Coast air basin and the San Joaquin Valley. While diesel passenger train service can achieve net emissions benefits compared to other modes of transportation, diesel emissions have significant impacts on communities adjacent to the tracks, particularly near stations or where trains slow or idle. This bill would assure that the impacts of diesel emissions from operation of new passenger rail projects would not be analyzed or mitigated. *The author and the committee may wish to consider removing or limiting this broad new exemption for diesel train projects.*

- 4) **Expansion to property owned by a public or private utility brings in a wide range of lands that are not compatible with transit projects.** For several project types, including bus, light rail and passenger heavy rail, this bill expands the current limit to existing rights of way to include any property owned by a public or private utility. Electric and water utilities are among the largest landowners in the state, with reservoirs, hydroelectric projects, adjacent watershed lands, forests, and campgrounds. None of these seem to be appropriate sites for CEQA-exempt transit projects. *The author and the committee may wish to consider limiting the transit line projects to existing rights of way and limiting use of utility property for transit charging/refueling projects to urban areas.*
- 5) **Out of left field.** Senate Floor amendments added Section 3 to this bill, which extends approval deadlines for environmental leadership transit projects in Los Angeles County. A beneficiary of this extension is the Dodgers Stadium Gondola project, which would transport passengers 1.2 miles between Union Station and Dodgers Stadium. Though the project was certified and approved by the lead agency prior to the existing deadlines, it has been delayed due to local opposition and litigation.

Two nonprofits sued the lead agency (LA Metro) under CEQA, arguing that the EIR failed to justify or take into consideration various impacts that the project would have on nearby residents and parks and failed to account for future development that the gondola might make possible. The lower court judge rejected those arguments, but an appellate panel disagreed, writing:

“We agree Metro’s decision to reject acoustic retrofitting as a potential mitigation measure was conclusory and lacked substantial evidentiary support...Metro’s assertion that acoustic retrofitting is ‘generally only considered as potential noise mitigation’ for ‘significant operational noise impacts’ similarly lacks substantial evidentiary support” and citing other issues.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP

Accelerate Neighborhood Climate Action
Alameda County Transportation Commission
Alameda-Contra Costa Transit District (AC Transit)
All Voting Members of the North Westwood Neighborhood Council
American Planning Association, California Chapter
Bay Area Council
California Downtown Association
California Electric Transportation Coalition
California Hydrogen Business Council
California Transit Association
City and County of San Francisco
City of Alameda
City of Goleta
City of San Jose
City of Santa Monica
City/County Association of Governments of San Mateo County
Climate Action California
Foothill Transit
Los Angeles County Metropolitan Transportation Authority
Metropolitan Transportation Commission
Monterey-Salinas Transit (MST)
Orange County Transportation Authority
Orange County
Peninsula Corridor Joint Powers Board (CALTRAIN)
San Diego Association of Governments
San Diego Metropolitan Transit System
San Francisco Bay Area Rapid Transit District (BART)
San Francisco Bay Ferry
San Francisco Municipal Transportation Agency (SFMTA)
San Mateo County Transit District (SAMTRANS)
San Mateo County Transportation Authority
Santa Cruz Metropolitan Transit District
Solano County Transit (SOLTRANS)
Sonoma County Transportation Authority/Regional Climate Protection Authority
Southern California Regional Rail Authority (METROLINK)
SPUR
Stanislaus Regional Transit Authority
Streets for All

Sunline Transit Agency
Transform
Transportation Agency for Monterey County (TAMC)
Valley Industry & Commerce Association

Opposition

Citizens Committee to Complete the Refuge (unless amended)
Livable California

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /