

Date of Hearing: August 20, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 71 (Wiener) – As Amended July 17, 2025

Policy Committee: Natural Resources

Vote: 12 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

SUMMARY:

This bill extends and expands California Environmental Quality Act (CEQA) exemptions for certain transportation-related projects.

Specifically, this bill, among other things:

- 1) Removes the 2030 sunset for the existing CEQA exemption for active transportation, pedestrian, and bicycle plans, and adds new, permanent exemptions for transit comprehensive operational analyses and transit route changes.
- 2) Extends the sunset, from January 1, 2030, to January 1, 2040, for existing CEQA exemptions for specified transportation-related projects and adds new exemptions for, among other things, and except as specified:
 - a) Micro-transit, paratransit, shuttle, and ferry projects. Provides that a project may not use this exemption after January 1, 2032, if the project primarily uses near-zero-emission, low oxides of nitrogen engine, compressed natural gas, or hybrid powertrain vehicles, except for articulated buses.
 - b) Public projects for the improvement of passenger rail service, including the maintenance of stations, terminals, or existing operations facilities, which will be exclusively used by zero-emission trains or certified Tier 4 or cleaner rolling stock or locomotives. Excludes from this exemption a public project that uses non-zero-emission rolling stock or locomotives and that is located in an air basin designated as a serious, severe, or extreme nonattainment area for particulate matter and ozone.
- 3) Removes the requirement for transit agencies undertaking certain charging or refueling projects to comply with specified Air Resources Board (ARB) rules, such as ARB's Innovative Clean Transit regulations.
- 4) Requires, except as provided, the lead agency to take an action at a public meeting in order for the exemption in item 2, above, to apply to a project.
- 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 requires that the \$50 million and \$100 million thresholds be based on the project engineer's cost estimate. Requires, beginning January 1, 2026, and every

two years thereafter, the Office of Land Use and Climate Innovation (LCI) to adjust these dollar amounts to reflect changes in the Consumer Price Index, as specified.

- 6) Eliminates the January 1, 2026, sunset on an existing CEQA exemption for environmental leadership transit projects (ELTPs), and provides that the exemption applies, except as specified, only to a project in either of these circumstances: (a) the project is initially approved by the lead agency on or before January 1, 2027, or (b) the draft environmental impact report (EIR) for the project is initially circulated before January 1, 2025.
- 7) Requires resolution, to the extent feasible, of an action or proceeding challenging an action or approval of a public agency, in furtherance of an ELTP, on the grounds of noncompliance with any law, within 365 days of the filing of the certified record of proceedings for the challenged action or approval. Requires Judicial Council, by July 1, 2026, to adopt rules of court to implement this requirement, as specified.

FISCAL EFFECT:

- 1) The Bay Conservation and Development Commission (BCDC) estimates ongoing annual General Fund costs of approximately \$191,000 (General Fund) to hire one coastal planning analyst. BCDC notes there is substantial overlap between the natural resource impacts evaluated in a CEQA document (such as an EIR) and the impacts to San Francisco Bay resources BCDC must evaluate as part of its permitting process under the McAteer-Petris Act and the Bay Plan, such as impacts from construction activities on special status species, impacts from development on tidal marsh or subtidal habitat, or impacts to hydrology. Accordingly, BCDC relies on CEQA documentation to identify a project's environmental impacts as well as mitigation measures, which subsequently inform BCDC's permit conditions. By exempting ferry terminal projects from CEQA, BCDC contends it will need to separately evaluate project impacts and environmental studies provided by applicants, which will be resource-intensive.

Similarly, the Bay Plan requires BCDC to coordinate and rely on other expert agencies (like the State Water Resources Control Board and the Department of Fish and Wildlife) and incorporate their evaluations of a project into BCDC's analyses. These agencies typically rely on CEQA documentation when making their determinations. Therefore, it is possible other state regulatory agencies may similarly incur costs as a result of this bill.

- 2) LCI estimates annual General Fund costs of \$219,000 for two years to hire one air pollution specialist to develop technical assistance and implementation guidance and respond to inquiries from lead agencies. LCI develops technical advisories on CEQA, including statutes that provide exemptions from CEQA. LCI developed the sustainable transportation technical advisory that provides guidance for Public Resources Code section 21080.25 (which this bill amends) in 2021. Since the development of this advisory, the code has been amended twice, with this bill being the third. LCI contends the limited-term position is needed to update the advisory and provide updated guidance for implementation. While this may be the case, it is not clear to this committee that LCI's cost estimate should be attributed to this bill alone.
- 3) Potential cost pressure (Trial Court Trust Fund, General Fund) of an unknown amount to the courts to process and hear challenges on an expedited timeline. Expedited cases generally create costs and staffing pressures on the courts, as each review typically requires a judicial

officer, research attorneys, and staff. However, the ELTP CEQA exemption statute requires the project applicant to pay any additional costs incurred by the courts to hear and decide any case challenging a lead agency's action on an ELTP. The Judicial Council's rules of court (specifically rule 3.2240) requires the project applicant, within 10 days after service of the petition or complaint in a case concerning an ELTP, to pay a fee of \$180,000 to the court.

COMMENTS:

1) **Purpose.** According to the author:

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.

2) **Background.** CEQA generally requires state and local government agencies to inform decisionmakers and the public about the potential environmental impacts of proposed projects, and to reduce those impacts to the extent feasible.

This bill makes clarifying changes and expands existing statutory exemptions for CEQA for certain transportation-related projects, primarily established by SB 288 (Wiener), Chapter 200, Statutes of 2020, and further extended and expanded by SB 922 (Wiener), Chapter 987, Statutes of 2022, and AB 2503 (Lee), Chapter 718, Statutes of 2024. According to supporters of this bill, since the passage of SB 288, more than 90 projects have proceeded more quickly and cost-effectively, including transit priority projects, bicycle and pedestrian projects, bus rapid transit projects, zero-emission vehicle charging infrastructure, and others.

The Orange County Transportation Authority (OCTA) notes it has already utilized the existing exemption for a local active transportation project, but that despite the benefits of streamlining, "the existing statute is currently silent on how the existing cost thresholds are to account for inflation or cost increases after the planning phases of projects, creating some uncertainty for projects wishing to use this authority." OCTA writes: "With SB 71, there would be clarity that the project threshold refers to the project engineer's cost estimate at the time the local agency takes action to approve the project and will account for inflation."

Analysis Prepared by: Nikita Koraddi / APPR. / (916) 319-2081