

SENATE THIRD READING
SB 71 (Wiener)
As Amended September 02, 2025
Majority vote

SUMMARY

Expands and extends existing California Environmental Quality Act (CEQA) exemptions for transit projects, including adding new exemptions for diesel train projects and combined transit-housing projects, and extending the existing 2030 sunset until 2040.

Major Provisions

- 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) Extends the existing 2030 sunset to 2040 for 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, if the project is not located in an air basin designated as a serious, severe, or extreme nonattainment area for particulate matter and ozone.
 - c) A project that combines an exempt transit project and a housing development project that is either subject to a nondiscretionary approval or is exempt from CEQA.
- 3) Removes requirements that transit agencies undertaking charging/refueling projects comply with specified ARB rules.
- 4) 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).
- 5) Remove specific elements to be contained in the required project business case for projects costing more than \$100 million.

COMMENTS

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)).

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. 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.

Arguments in Support

According to the California Transit Association and other transit project advocates, since the passage of SB 288 in 2020, over 90 projects have moved forward more quickly and cost effectively, including transit priority projects, bicycle & pedestrian projects, bus rapid transit projects, traffic calming projects, zero-emission vehicle charging infrastructure, ADA curb and sidewalk repairs, and transit maintenance facility modernization. As such, we believe the state

should make many of these exemptions permanent, while giving others additional time to use the provisions of the bill. This would create long-term certainty for local agencies as they continue to advance projects that further clean transportation options and make public transit more equitable and accessible.

Arguments in Opposition

None received on current version of the bill.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 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) The Office of Land Use and Climate Innovation (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.

VOTES

SENATE FLOOR: 36-0-4

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Laird, McGuire, McNerney, Menjivar, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Jones, Limón, Niello, Reyes

ASM NATURAL RESOURCES: 12-0-2

YES: Bryan, Alanis, Connolly, Ellis, Flora, Garcia, Haney, Hoover, Kalra, Pellerin, Schultz, Zbur

ABS, ABST OR NV: Muratsuchi, Wicks

ASM APPROPRIATIONS: 10-0-5

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Ahrens, Pacheco, Pellerin, Solache

ABS, ABST OR NV: Sanchez, Dixon, Mark González, Ta, Tangipa

UPDATED

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