THIRD READING

Bill No: SB 887
Author: Padilla (D), et al.
Amended: 5/14/26
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-1, 3/18/26
AYES: Blakespear, Allen, Hurtado, Menjivar
NOES: Valladares
NO VOTE RECORDED: Dahle, Gonzalez

SENATE ENERGY, U. & C. COMMITTEE: 13-3, 4/21/26
AYES: Allen, Archuleta, Arreguín, Becker, Caballero, Gonzalez, Hurtado, McNerney, Reyes, Richardson, Rubio, Stern, Wahab
NOES: Ochoa Bogh, Grove, Strickland
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/14/26
AYES: Cervantes, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

SUBJECT: California Environmental Quality Act: environmental leadership development projects: data centers: clean energy powerplant projects

SOURCE: Author

DIGEST: This bill specifies that data centers, as defined, are subject to review under the California Environmental Quality Act (CEQA), and makes data centers meeting specified criteria eligible for CEQA streamlining under the environmental leadership development program (ELDP).

ANALYSIS:

Existing law:

1) Establishes CEQA, which requires lead agencies with the principal responsibility for carrying out or approving a project to prepare a negative declaration (ND), mitigated negative declaration (MND), or environmental impact report (EIR) for the project, unless the project is exempt from CEQA. (Public Resources Code (PRC) §21000 et seq.). If a project may have a significant effect on the environment, the lead agency must prepare a draft EIR. (CEQA Guidelines §15064(a)(1), (f)(1))

    a) Defines a "project" as a "whole action" subject to a public agency's discretionary funding or approval that has the potential to either (1) cause a direct physical change in the environment or (2) cause a reasonably foreseeable indirect physical change in the environment. "Projects" include discretionary activity by a public agency, a private activity that receives any public funding, or activities that involve the public agency's issuance of a discretionary approval and is not statutorily or categorically exempt from CEQA. (PRC § 21065.)

2) Defines "ministerial" projects to mean a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project, involving only the use of fixed standards or objective measurements. A building permit is ministerial if the ordinance requiring the permit limits the public official to determining whether the zoning allows the structure to be built in the requested location, the structure would meet the strength requirements in the Uniform Building Code, and the applicant has paid the fee. (CEQA Guidelines §15369)

3) Establishes over 135 CEQA exemptions in the public resources code, water code, government code and other statutes, and includes 33 categorical CEQA exemptions in the California Code of Regulations. (CEQA guidelines §15260-15285)
    a) Specifies that ministerial projects are not subject to CEQA.

4) Established the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 (AB 900, Buchanan, Chapter 354, Statutes of 2011), which established accelerated CEQA administrative and judicial review procedures for an "environmental leadership" project. The Act was later extended and modified in 2021 to include infrastructure projects for clean

energy, transportation, and water (SB 7, Atkins, Chapter 19, Statutes of 2021). (PRC §21178 et seq.)

This bill:

1) Specifies that a public agency decision on the development and operation of data centers is not eligible for categorical exemptions.
   a) Defines "data center" to mean a large-scale energy consumer that requires uninterruptible electricity to serve a facility housing servers and related data center equipment and software for the processing, storage, and distribution of data, excluding publicly funded research facilities, public safety facilities, national security facilities, publicly owned facilities, and other utility facilities, including, but not limited to, an asset of a facilities-based telecommunications provider.

2) Adds data centers to the list of projects eligible as ELDP projects that get CEQA judicial streamlining. Data centers must meet the labor and environmental provisions of the existing program and the following conditions related to water and energy consumption, specifically :

   a) Pays the full cost of interconnection to prevent cost shifts to other ratepayers;
   b) Does not increase fossil fuel consumption within the state;
   c) Includes zero-carbon energy storage with at least four hours of capacity at 100 percent of forecasted peak demand for the facility;
   d) Uses onsite zero-carbon energy storage to provide demand response services to the electrical grid;
   e) Relies on zero-carbon generation located behind the meter to the maximum extent feasible;
   f) Recovers fully from the data center operator all electrical grid investments, including costs of new generating capacity, to serve the data center in the event the data center ceases operations;
   g) Uses recycled water and water-efficient technology or waterless cooling systems;
   h) Will rely on 100% zero-carbon electricity resources to serve hourly energy needs within five years of initial operations, of which 75% shall be newly developed;
   i) Contains a community benefits program; and
   j) Contains a project labor agreement and prevailing wage requirement.

3) Specifies that the California Energy Commission shall develop uniform statewide standards for the criteria in (2) above, require regular compliance reporting by operators of the data centers, and initiate enforcement in the case of noncompliance.

4) Defines "data center" to mean a commercial facility primarily used to house computer servers and associated equipment for processing, storing, or transmitting data.

5) Adds a 'clean renewable energy powerplant' project using any source of thermal energy except fossil fuels to the list of ELDP eligible projects.

Background

1) *A, B, C's of CEQA*. CEQA is an environmental planning law designed to (a) make government agencies and the public aware of the environmental impacts of a proposed project, (b) ensure the public can take part in the review process, and (c) identify and implement measures to mitigate or eliminate any negative impact the project may have on the environment.

   CEQA is enforced by civil lawsuits that can challenge any project's environmental review, and it is the only state environmental law that allows civil suits. Under CEQA, projects (unless they have a specific exemption) must undergo environmental analysis.

   This process starts with an initial study which determines what level of further environmental review is needed for a given project. If a project has no significant effects on the environment, or if those effects can be fully mitigated, the project can move forward with a negative declaration (ND) or mitigated negative declaration (MND). If the initial study finds the project has potential significant effects on the environment, then a full EIR is conducted. An EIR provides a thorough environmental review of a proposed project, analyzing the significant direct and indirect environmental impacts of a proposed project. The EIR also includes proposed mitigation measures for any significant effects that it identifies and considers alternatives to the proposed project.

2) *Environmental Leadership Development Programs.* While only a small number of projects are challenged under CEQA (e.g. 1.05% of projects that went through CEQA in 2022-2023 were challenged[1]), very environmentally

[1] CEQA for the Future Protecting Land, People, & Climate. Smith-Heimer and Hitchcock, Dec 2025.

impactful and controversial projects are more likely to face a lawsuit. The Legislature has developed streamlining measures to speed CEQA lawsuits against specified, often large-scale and high-profile, projects through the courts.

In current law, this CEQA streamlining entails both judicial and administrative streamlining. Judicial streamlining requires that a CEQA lawsuit be heard in 270 days, including all appeals, as feasible. Administrative streamlining requires projects to prepare the administrative record, the comprehensive document at the heart of a CEQA case, at the same time as the environmental review documents are prepared. Preparing these documents concurrently, instead of sequentially, saves time if there is a lawsuit. These streamlining measures shorten what is potentially the lengthiest portion of the CEQA process—litigation—while retaining the full environmental review and public engagement offered under CEQA.

In 2011, the Legislature passed the first CEQA streamlining certification program with the Jobs and Economic Improvement Through Environmental Leadership Act (Leadership Act), which created CEQA streamlining for residential, retail, commercial, sports, and recreational use projects that were certified as Environmental Leadership Development Projects (ELDP) by the Governor (AB 900, Buchanan, Chapter 354, Statutes of 2011). The ELDP program was further extended and modified in 2021 with (SB 7, Atkins, Chapter 19, Statutes of 2021).

In 2023, The Legislature expanded these same streamlining provisions for certain energy, transportation, and water infrastructure projects (SB 149, Caballero, Chapter 60, Statutes of 2023).

The specific criteria that projects must meet to be eligible for CEQA streamlining varies by project and process, but all are intended to ensure that projects meet high environmental and labor standards. In current law, environmental criteria for streamlining includes requirements such as achieving Leadership in Energy and Environmental Design (LEED) Gold certification and being greenhouse gas neutral. SB 149 (Caballero, Chapter 60, Statutes of 2023) also includes a specific equity provision which requires that projects both minimize significant environmental impacts in disadvantaged communities and take mitigation measures that directly benefit the affected community. In offering CEQA streamlining for projects that meet these high

standards, California has been able to promote projects that align with the State's environmental, climate, and labor goals.

3) *Environmental impacts of data centers.* Data centers house the equipment used to process, store, and transmit digital information. Data centers have experienced explosive growth in recent years primarily in response to the AI boom. In early 2014, U.S. data center construction ran at an annualized rate of roughly $1.6 billion. By July 2025, that number reached about $41.0 billion, more than 25 times the 2014 level. According to Statista, an online statistics and market data platform that collates market data, the global Data Center market is projected to reach US $527.46 billion in 2025, with revenue growing to US $739.05 billion by 2030, and the United States contributing the largest share at US $171.90 billion.

   Explosive growth in data centers has significant implications for the environment, as data centers consume huge amounts of energy and water resources, which can result in environmental impacts.

   Energy use: According to a U.S. Department of Energy publication[2] produced by Lawrence Berkeley National Laboratory, data centers consumed about 4.4% of total U.S. electricity in 2023. Data centers are expected to consume approximately 6.7 to 12% of total U.S. electricity by 2028. Data centers that serve AI customers are particularly large electricity consumers within the data center sector. Five of the anticipated facilities serving OpenAI could collectively use more electricity than 3 million households.[3]

   Depending on the source of all that energy, data centers could have an impact on air pollution and greenhouse gas emissions. Data centers can also lead to localized air pollution from backup power sources at the facilities. One study examining local air pollution from data centers in Texas found that generator testing alone can emit around 12 metric tons of NO_x annually per large data center[4].

   Water use: Data centers consume water directly, using it for cooling, and also use water indirectly as part of their energy generation. It is not entirely clear how much water consumption happens on site since estimates vary by facility

[2] Shehabi, A., Smith, S., Sartor, D., Brown, R., Herrlin, M., Koomey, J., ... & Lintner, W. (2016). United states data center energy usage report.
[3] https://www.nytimes.com/interactive/2025/03/16/technology/ai-data-centers.html
[4] Eslami, E. (2025). Air Quality and Greenhouse Gas Emissions Assessment of Data Centers in Texas: Quantifying Impacts and Environmental Tradeoffs. *arXiv preprint arXiv:2509.21312*.

type and size; however, the on site consumption estimates range from about 18,000 gallons per day for smaller wholesale and retail data centers to approximately 300,000 gallons per day for a mid-sized data center, and around 550,000 gallons per day for a hyperscale data center.[5]

Water use by data centers can strain local and regional water supplies and adversely impact ecosystems. One study estimated that about one-fifth of U.S. data centers used water from water-stressed watersheds in 2021.[6] A Bloomberg study estimated that two-thirds of the data centers built since 2022 are located in areas of high water stress.[7]

Researchers at UC Riverside estimate that statewide on-site data center water consumption in California will balloon from 351 million gallons in 2019 to between 1.12 and 1.75 billion gallons by 2028.[8]

Comments

1) *Purpose of Bill.* According to the author, "Data centers are getting built at an extreme rate without adequate guardrails, creating air quality, water supply, and energy supply challenges for local communities across the country. Imperial county, which has one of the highest unemployment rates in the state, is currently evaluating multiple proposed hyperscale projects that could transform the region. This could bring substantial economic development to the region, but if done incorrectly, could offset the benefits and have disastrous impacts on public health and energy costs. This measure incentivizes good neighbor data center development for projects that support California's grid and the communities in which they are built."

2) *Data centers permitting in the balance.* California has the third most data centers of any state in the country, (after Texas and Virginia). As more data centers are planned in California, it is important to consider the benefits and risks of continued data center growth for Californians. SB 887 strikes a balance by requiring that data centers undergo the environmental planning and transparency of CEQA, while at the same time offering shortened litigation timelines (and certainty to data center developers that their projects will not get tied up in lengthy lawsuits).

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[5] CENTER, REGULATING DATA. "WATER USE in California." *Policy* (2026).
[6] Siddik, M. A. B., Shehabi, A., & Marston, L. (2021). The environmental footprint of data centers in the United States. *Environmental Research Letters*, *16*(6), 064017.
[7] AI Is Draining Water From Areas That Need It Most
[8] Depending on the growth scenario. Liu et al., supra note 38.

This approach ensures that important environmental review is being retained, while also providing benefits (and thus promoting) data centers that have environmental and labor protections that developers might otherwise not consider.

3) *Ministerial grading: data center workaround?* The legality of a ministerial (meaning non-discretionary and thus not a project subject to CEQA) approval of a data center is currently under review in the courts*:* the City of Imperial, California, is suing Imperial County, alleging the improper application of a ministerial approval for a grading project that would lead to a large data center.

According to local news source summary of the case[9]: "…in early September, Imperial County determined that a large (950,000-square-foot, or roughly six times the size of an average Costco[10]) data center project, located on industrially zoned land, was permitted ministerially under the county's zoning code. In early November, the county approved a ministerial grading permit and issued a notice determining the project was exempt from CEQA."

(In its notice of exemption, the county states that "the ministerial process applies only to grading activity, not the entire data center project.")

In early December, the city of Imperial filed a lawsuit against the county and the project developer, asserting that the project required a rezoning and a conditional use permit (CUP), and therefore could not qualify for a CEQA exemption.

"After reviewing the county's zoning code, the county and the developer notified the city of their intent to file a motion for judgment on the pleadings (in effect, to dismiss the complaint), on the grounds that neither a rezoning nor a CUP was required. The city agreed to amend its complaint, per the release, but the court found (on Feb 10th) that the amended complaint was legally insufficient, effectively concluding that the project does not require a rezoning or a CUP... The court granted the city leave to amend one final time."

This situation has brough into question whether or not data centers could, under any conditions, be considered ministerial and thus exempt from CEQA.

[9] https://www.thedesertreview.com/news/city-of-imperial-s-data-center-lawsuit-hits-setback-as-court-rejects-amended-complaint/article_4cf8bf2f-5b51-42d9-9dd4-12cda6d6f71e.html
[10] https://www.sfgate.com/california/article/california-data-centers-21331191.php

To address this concern SB-887 specifies that data centers are required to be subject to CEQA.

4) *Data centers to the front.* Requiring data centers to meet high environmental and labor criteria to get a priority pass through the courts in the case of a lawsuit offers an incentive to data centers to 'do the right thing' and meet the high environmental and labor standards set in the program. However, allowing data centers to be eligible for CEQA streamlining means that they are competing for yet another finite resource: court capacity.

   Currently, ELDP projects, while expedited, are not moved through the courts (including all appeals) in 270 days. Requiring that data centers be given priority for expedited, 270-day (as feasible) judicial review means that some other ELDP project, including major clean energy, water, or transportation projects, will move slower through the queue.

   When the Legislature made clean energy, water, and transportation projects eligible for CEQA judicial streamlining, it also appropriated one million dollars to the judicial council for judicial officer training for implementation of the above provisions.

   Another approach to ensure that adding new projects to the existing ELDP program does not edge out existing project types is to create a separate, slightly longer expediated judicial review requirement. For example, a "environmental leadership media campus projects" for a Fox studio project (AB 1365, Bryan, Chapter 255, Statutes of 2024) and an 'environmental leadership transit projects' for a gondola project at a stadium in Los Angeles (SB 44, Allen, Chapter 633, Statutes of 2021), were offered a slightly slower 365 expedited judicial review if they met 'leadership' criteria. Creating a slightly longer but still prioritized time window for judicial review can both provide the project with an expedited judicial review while also retaining top-tier priority for large-scale clean energy, water, and transportation projects.

Related/Prior Legislation

SB 886 (2026, Padilla) would require the commission, on or before July 1, 2027, to establish or modify an electrical corporation tariff for the interconnection of the participating customer facilities and the transmission, distribution, and generation services to participating customers, as specified.

SB 149 (Caballero, Chapter 60, Statutes of 2023) makes a broad swath of energy, transportation, water, and semiconductor projects eligible for expedited judicial review under CEQA. Projects must meet certain environmental and labor criteria to be eligible for certification. The streamlining certification ends January 1, 2033.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- The California Energy Commission (CEC) estimates ongoing costs of approximately $1.5 million annually (Energy Resources Program Account [ERPA] or General Fund) for seven positions to implement the requirements of this bill. The CEC notes that there is no funding source identified in the bill, and that, because of the ongoing structural deficit within ERPA, it may not be an appropriate fund source to support the implementation of this bill.

- The Governor's Office of Land Use and Climate Innovation (LCI) estimates one-time costs of about $1 million spread over two years (General Fund) to facilitate the inclusion of data centers and geothermal powerplants into the judicial streamlining program.

- The California Public Utilities Commission (CPUC) anticipates any costs would be minor and absorbable.

- To the extent the Attorney General successfully brings civil action against reporting entities in violation of the provisions of this bill, potential increases in state revenues of an unknown amount due to the collection of civil penalties.

SUPPORT: (Verified 5/14/26)

Audobon California
Buena Park; City of
California Nurses Association
City of Buena Park
Comité De Acción Del Valle INC
Heber Public Utility District
IBEW Local Union 569
Imperial Valley Equity & Justice Coalition
Kuhn Hay
Los Amigos De LA Comunidad, INC.
Monterey Park; City of
National Audubon Society

Net-zero California
Sustainable Rossmoor
The Brawley Chamber of Commerce
The Utility Reform Network
Victoria Homes

OPPOSITION: (Verified 5/14/26)

Bay Area Council
Cal Asian Chamber of Commerce
California African American Chamber of Commerce
California Chamber of Commerce
California Hispanic Chamber of Commerce
Data Center Coalition
Silicon Valley Leadership Group
Techca
Technet
Building Owners and Managers Association of California
Calasian Chamber of Commerce
Calbroadband
California Business Properties Association
California Hispanic Chambers of Commerce
California Manufacturers & Technology Association
Naiop California
Silicon Valley Leadership Group

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