
THIRD READING

Bill No: SB 958
Author: Weber Pierson (D)
Amended: 4/16/26
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 4/15/26
AYES: Blakespear, Valladares, Allen, Dahle, Gonzalez, Hurtado, Menjivar

SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 4/22/26
AYES: Durazo, Choi, Arreguín, Ashby, Cervantes, Laird, Seyarto

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: California Environmental Quality Act: environmental impacts:
building height

SOURCE: Author

DIGEST: This bill specifies that environmental impacts that are associated with increased building height alone are not considered significant impacts on the environment under the California Environmental Quality Act (CEQA).

ANALYSIS:

Existing law:

- 1) Requires under CEQA that a lead agency determines whether a project is exempt from CEQA, or if it must do an initial study to determine if a project will have significant effects on the environment. If a project has no effect on the environment or effects that can be mitigated, the lead agency prepares a negative declaration (ND) or mitigated ND (MND). If the project will have significant impacts, the lead agency prepares an environmental impact report (EIR) to evaluate and propose mitigation measures for any effects on the environment, including impacts or likely impacts to land, air, water, minerals,

flora, fauna, ambient noise, and historic or aesthetic significance. (Public Resources Code (PRC) §§21000 et seq.)

- 2) Establishes over 135 statutory CEQA exemptions in the public resources code, water code, government code and other statutes.
- 3) Establishes 33 categorical CEQA exemptions in the California Code of Regulations. (CEQA guidelines §15260- 15285). Categorical exemptions generally do not apply if there are significant environmental effects of the project, and specific exclusions include the site being located in a sensitive environment, on a hazardous waste site, having cumulative impacts over time, significantly adversely impacting a historic resource, or if there are other unusual circumstances that would cause a project to have a reasonable possibility for a significant effect on the environment due to unusual circumstances.

This bill states that the environmental impacts of a project that are associated with increased building height alone cannot be considered significant impacts on the environment if the project meets all of the following conditions:

- a) The use and density of the project is otherwise analyzed in a certified EIR;
- b) The project is on a previously graded infill site;
- c) There are no sensitive biological resources physically present on the site;
- d) The project is not an industrial use; and
- e) For a project that is proposed to be constructed on a site that is greater than 40 acres that has an estimated construction valuation that exceeds \$100 million and that is subject to a project-specific EIR, the project creates high-wage, highly-skilled jobs that pay prevailing wages and living wages, employ a skilled and trained workforce, and provide construction jobs and permanent jobs for Californians.

Background

- 1) *The A, B, C's of CEQA*. CEQA is 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. Nonprofits, private individuals, public agencies, advocacy groups, and other organizations can all file lawsuits under CEQA: CEQA is the only state environmental protection law that allows

for citizen lawsuits. In the case of a CEQA lawsuit, it is ultimately up to the courts to determine if the environmental review was sufficient to meet the requirements of CEQA.

- 2) *Environmental Review under CEQA.* 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 that the project has potential significant effects on the environment, then a full EIR is conducted. An EIR provides thorough environmental review of a proposed project, analyzing the significant direct and indirect environmental impacts of a proposed project on water quality, transportation, air quality and greenhouse gas emissions, terrestrial and aquatic biological resources, surface and subsurface hydrology, land use and agricultural resources, aesthetics, geology and soils, recreation, public services and utilities such as water supply and wastewater disposal, and cultural resources, among other factors. The EIR also includes proposed mitigation measures for any significant effects that it identifies and considers alternatives to the proposed project.
- 3) *Midway Rising.* Midway Rising is a proposed development in the City of San Diego that covers 49 acres of City-owned land at the San Diego Sports Arena site in the Midway-Pacific Highway community. The project is envisioned to include a 16,000-seat sports arena, 14 acres of parks and public space, a mixed-use entertainment, arts, and cultural district, and 4,250 housing units (2,000 of which will be affordable at 80% below area median income). The project is intended to replace an older stadium and associated parking lots. When built, Midway Rising will include one of the largest mixed-income and affordable housing projects in California. The project is also expected to generate roughly 21,900 temporary construction jobs and 3,100 permanent positions in entertainment, hospitality, and retail, and is subject to a project labor agreement with the San Diego County Building and Construction Trades Council.

The path to permitting Midway Rising has not been smooth. The project is located within an area of San Diego that is subject to San Diego's Coastal Height Limit Overlay Zone, which generally limits building heights to 30 feet. In 2018, the City completed a program environmental impact report (PEIR) for the land use plans governing the area to enable development of the project. Because aspects of the project exceeded the 30-foot height limit, the City

submitted a ballot measure to voters to raise the height limit for the project area in 2020. The City relied on the PEIR as the environmental analysis for the project. However, the Fourth District Court of Appeals invalidated that ballot measure because the PEIR did not consider potential environmental impacts of removing the height limit. While that appeal was pending, in 2022 the City prepared a supplemental environmental impact report (SEIR) and approved a second ballot measure to remove the height limit from the same area. The Fourth District also invalidated the second ballot measure for similar reasons. The Court noted:

“The 2022 draft SEIR recognized removal of the Coastal Zone height limit was a changed circumstance from the 2018 PEIR. Yet, for almost every category of potential environmental impacts the initial study addressed, it said the PEIR adequately examined potential impacts because the project ‘would be limited to the [Midway Rising] area footprint and land use, density, and zoning analyzed in the 2018 PEIR.’”¹

The Court went on to identify a litany of impacts that could be related to building height that were not examined in the PEIR. The City of San Diego wants to streamline the CEQA process for the Midway Rising project.

Comments

- 1) *Purpose of Bill.* According to the author, “The Midway Rising Project will transform nearly 50 acres of underused, blighted City-owned land into a vibrant, modern district that directly addresses our region’s housing shortage while delivering lasting economic and community benefits. It will deliver more than 4,000 homes, including 2,000 affordable and income-restricted, a state-of-the-art sports and entertainment venue, and more than 14 acres of parks and open space. SB 958 is a targeted, catalytic solution to move this transformational project forward after years of planning, extensive environmental review, and voter approval through two separate ballot measures. The bill upholds environmental accountability and is explicitly contingent on the certification and adoption of the final Environmental Impact Report already completed by the City of San Diego.

¹ *Save Our Access v. City of San Diego*, 115 Cal. App. 5th 388

“Once completed, Midway Rising is projected to generate millions in local economic impact, create thousands of permanent jobs, support new businesses, utilize a highly-skilled and trained workforce, and produce long-term economic opportunities and tax revenue for the City and County of San Diego. Proposed to be the largest affordable housing project in the western United States, Midway Rising carries significant statewide importance and promise. At a time when California faces an urgent housing crisis, SB 958 advances a meaningful solution for San Diego and the state.”

- 2) *‘What is Environmental Impacts’ for 500 points.* It is fair to consider that the environmental impacts for building a project 30 feet high could be different from the impacts of building one that is 130 or 165 feet tall. However, the court’s ruling that the SEIR did not adequately consider those environmental effects related to building height include the following considerations:
- a) How could tall buildings in and around the Midway-Pacific Highway area influence dispersal of predicted emissions or odors?
 - b) Will noise reflected or refracted from taller buildings disturb sensitive species in or adjacent to the Midway-Pacific Highway area?
 - c) Will light from rows of buildings near the San Diego River disturb the lunar cycles of sensitive wildlife?
 - d) Will numerous tall buildings cause increased runoff that will impact sensitive habitats?
 - e) Will changed topography, noise, and light from new building heights fragment and disrupt the recognized wildlife corridor along the San Diego River?
 - f) If man-made structures draw [peregrine falcons] (or others) to the area for nesting, will the project otherwise impact them?

While some queries on the impacts of building height on the environment, including aesthetics, shadow, wind, and reflection, are routinely considered in applicable cases, several of the considerations in this particular ruling are unique to say the least, and as such it’s not clear how Midway Rising’s SEIR would have anticipated and included these specific environmental impacts.

Courts have discretion in evaluating whether or not the lead agency adequately considered the environmental impacts of the project.

However, the Legislature has the capability to overturn judicial rulings related to CEQA. Most prominently in recent years was the specification in AB 1307 (Wicks Chapter 160, Statutes of 2023) that for residential projects, the effects of noise generated by project occupants and their guests on human beings is not a significant effect on the environment.

SB-958 uses a similar approach to AB 1307 by course correcting a court ruling on what constitutes environmental impacts under CEQA. In practice, this would constrain the scope of further environmental review across California. For midway rising, this would ensure that any future lawsuits on environmental review documents, such as the project specific EIR that is currently being developed by the city of San Diego for midway rising, would not have to consider environmental impacts related to building height alone as specified.

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

SUPPORT: (Verified 5/11/26)

Mayor Todd Gloria, City of San Diego
San Diego Councilmember Jennifer Campbell
Western States Regional Council of Carpenters

OPPOSITION: (Verified 5/11/26)

Western Electrical Contractors Association

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