



METROPOLITAN
TRANSPORTATION
COMMISSION

Agenda Item 3a

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Memorandum

TO: Legislation Committee

DATE: June 7, 2013

FR: Executive Director

W. I. 1131

RE: SB 731 (Steinberg): California Environmental Quality Modernization Act

Background

Senate Bill 731 (Steinberg/Hill) — aims to expedite review of clean energy and infill projects under the California Environmental Quality Act (CEQA), while also modifying the legal process. The bill also requires that the CEQA guidelines be revised to provide “thresholds of significance” for addressing transportation, parking, and noise-related impacts within transit priority areas¹, as defined.

Recommendation: Support and Seek Amendments

Discussion

SB 731 would reduce uncertainty for infill projects critical to implementation of *Plan Bay Area*, while enabling the law to continue to protect the state’s natural resources. Key elements of the bill include:

- 1. Thresholds of Significance for Infill Projects.** Requires the Governor’s Office of Planning & Research to propose — for adoption by the Secretary of the Natural Resources Agency — standardized environmental thresholds to evaluate transportation, parking and noise impacts of residential, mixed-use residential or employment center projects located in transit priority areas.²
- 2. Changes to Specific Plan Provisions.** Expands the current exemption for specific planning so that projects undertaken pursuant to a local specific plan are not subject to further review or CEQA lawsuits. It also proposes to exclude from the definition of “new information” (which triggers additional revisions to an EIR) unsubstantiated opinion or “evidence of social or economic impacts that do not contribute to, or are caused, by physical impacts on the environment.”
- 3. CEQA streamlining for clean energy projects.** Streamlines review process of renewable energy projects and establishes a point-of-contact for renewable energy projects in the Governor’s office.
- 4. Lawsuit reforms aimed at speeding up disposition of legal challenges:**
 - Allows a lead agency to comply with notices and findings on EIRs through the Internet;
 - Allows parties to mutually agree to extend the 30-day statute of limitations to negotiate a settlement;

¹ The bill defines a “transit priority area” as an area within one-half mile of a major transit stop that is existing or planned, if the stop is scheduled to be completed within the planning horizon of the regional transportation plan pursuant to federal law.

² An “employment center project” is defined as a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan.

- Authorizes project proponents to pay for concurrent preparation of the administrative record
- Allows courts to issue partial remands of environmental documents;
- Directs the Attorney General to track and report on CEQA lawsuits

5. **Annual Mitigation Monitoring Reports.** Adds a new requirement for a lead agency to prepare (and post online) an annual report on project compliance with mitigation measures adopted as part of an EIR or a mitigated negative declaration for the duration of the mitigation measures.

Staff recommends a “support and seek amendment” position on the bill to enable pursuit of additional changes, as detailed below. Staff has consulted with the San Francisco County Transportation Authority, which has worked extensively on the subject, as well as transportation consultants and CEQA experts.

1. **Parking Impacts.** Parking was formally removed from the CEQA guideline checklist in 2009. However, the question of how to treat parking in CEQA was recently cast in doubt when an appellate court ruled last April that parking must still be evaluated under CEQA *despite* its absence from the guidelines.³ To avoid further confusion and litigation on the subject, this issue needs to be resolved in statute. Staff recommends amendments that would narrow the parking analysis to focus on safety impacts and reducing the number of new auto trips generated by a project. *Local governments would retain the authority to establish parking requirements related to circulation outside of CEQA.*
2. **Transportation Impacts.** Under current law, CEQA’s transportation analysis can undermine the efforts of a local jurisdiction to reduce auto trips, putting transportation mitigation at odds with efforts to mitigate for other impacts, such as air quality. In lieu of the bill’s “thresholds of significance” approach, which would result in changes to the CEQA guidelines, staff recommends amendments that would clarify *in statute* that transportation impacts may be evaluated based of the number of new auto trips generated, rather than improving traffic speed and throughput, with mitigation focused at a *corridor* level. A project’s impacts on local air quality and safety would still need to be evaluated and mitigated in the immediate vicinity of the project.
3. Narrow the scope of CEQA so that it does not apply to transit operator service modifications, including reductions. (Current law only exempts new transit service or service *increases*).
4. Consistent with amendments sought by the CEQA Working Group⁴:
 - Limit consideration of comments to those that are filed during the draft EIR’s written comment period to prohibit the practice of raising last-minute issues in a tactic known as “data dumping,” in order to delay adoption of an EIR.
 - Modify the requirements for an EIR to be recirculated so that it does not apply to changes made in direct response to public comment if mitigation or project changes can resolve the concern to a “less than significant” impact.

Known Positions (see Attachment A)



Steve Heminger

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³ See *Taxpayers for Accountable School Bond Spending v. San Diego Unified School District*

⁴ The CEQA Working Group is a coalition of over 100 public and private entities, including the Bay Area Council, the Silicon Valley Leadership Group, San Francisco Planning & Urban Research, Transportation California, and California Alliance for Jobs.

**SB 731 (Steinberg)
Revisions to the California Environmental Quality Act**

Known Positions

Support

Association of California Health Care Districts
Association of California Water Agencies
California Association of School Business Officials
California Association of Realtors
California Coalition for Adequate School Housing
California Special Districts Association
Los Angeles Unified School District
Metro. Water District of Southern CA
Mission Bay Development Group
Public Works Coalition
Rural County Representatives of California
San Gabriel Valley Economic Partnership
Small School Districts Association
South Coast Air Quality Mgt. District
Three Valleys Municipal Water District
Urban Counties Caucus

Opposed

None on file