



Senator Scott Wiener, 11th Senate District

Senate Bill 607 – Fast & Focused CEQA Act Fact Sheet

SUMMARY

Senate Bill 607 makes several targeted refinements that refocus the scope of environmental analysis required by the California Environmental Quality Act (CEQA) to the issues we know to be truly environmentally harmful. SB 607 makes much needed procedural changes to improve the efficiency of the CEQA process.

Senate Bill 607 does not diminish CEQA's environmental protections, but rather improves the ability to build in the areas we know to be the most environmentally sustainable for development-- urban, infill areas-- while preserving CEQA's existing standard of environmental protection for projects with a clearly egregious environmental impact.

BACKGROUND

The California Environmental Quality Act (CEQA) was passed in 1970 to require that government agencies review the environmental impacts of certain projects. This environmental review process is critically important for protecting the environment from projects, such as refineries, that pollute natural resources and jeopardize health, especially for historically marginalized and underserved populations.

However, in the decades since its passage, courts have massively expanded CEQA to apply any time a state or local government entity substantially engages with a project or activity, whether by undertaking it directly, providing funding, or granting discretionary approval. CEQA helps ensure that significant impacts from proposed projects are disclosed to the

public, analyzed thoroughly, and mitigated where possible.

However, each step of the CEQA process is subject to appeals and lawsuits that can increase project costs and time. It's not unusual for CEQA lawsuits to take three to four years and millions of dollars to resolve, while appeals regularly take six months. Larger and more complex projects go through lengthier and more expensive CEQA reviews.

Given the broad applicability of the law and the potential for misapplication or even abuse, the Legislature and the courts have created numerous exemptions and carve outs to CEQA. Some of these exemptions, deemed 'categorical' exemptions, apply broadly to specific types of projects and were established through CEQA guidelines. While these exemptions assist various projects, the Legislature has stepped in numerous times to create additional exemptions, typically for projects or actions that align with state goals. Student housing, sustainable transportation projects, and desperately needed supportive housing have all been removed from the CEQA process due to these statutorily-created exemptions. Despite these numerous legislative interventions, however, comprehensive attempts to restore CEQA to its original intent have been few and far between.

PROBLEM

The need to rebalance CEQA has been widely acknowledged. As early as 1994, the Legislature codified that the intent of the Legislature was that courts not interpret CEQA or the CEQA state guidelines in a manner which imposes procedural

or substantive requirements beyond those explicitly stated (PRC 21083.1 Added by Stats. 1993, Ch. 1070, Sec. 2. Effective January 1, 1994).

As noted in the Little Hoover Commission’s CEQA: Targeted Reforms for California’s Core Environmental Law Report, “... like any law, CEQA can have damaging, often unintended, consequences. While CEQA remains an essential tool to protect the state’s environment, it can be improved through targeted, limited reforms.”

Recent CEQA lawsuits have brought further attention to the law. For example, a recent lawsuit was brought against an art installation to illuminate the San Francisco-Oakland Bay Bridge with LED lights, saying the project constituted “discrimination”. In 2023, neighbors in Berkeley filed a lawsuit to block student housing, citing the noise students would hypothetically make in an urban area as an “environmental” harm. And in 2017, an organization opposing a Planned Parenthood facility in the City of South San Francisco alleged that the City ignored the “inherently noxious and controversial nature” of Planned Parenthood’s services which would cause protests leading to “environmental impacts... including traffic, parking, [and] public health and safety concerns,” thus necessitating an Environmental Impact Report (EIR) under CEQA.

In these instances, and countless others, CEQA—a statute that is intended to be about protecting the environment—has in practice allowed basically anyone who can hire a lawyer to use CEQA to obstruct projects they do not like for reasons that have nothing to do with the environment. CEQA is frequently used to delay or block dense housing near transit & jobs, bike lanes, public transportation projects, and clean energy projects. Refocusing CEQA is critical to

ensure that we can build the things we need to make Californians lives better.

Moreover, while the Legislature has more often carved out environmentally sensitive areas, it has also affirmatively accelerated development in areas where development is environmentally desirable. Urban infill development is one such area where affirmative acceleration is environmentally desirable. Development in these areas is known to reduce greenhouse gas emissions and improve regional air quality by reducing the distance people need to travel. Additionally, urban infill development can reduce conversion of agricultural land, sensitive habitat, and open space for new development.

SOLUTION

SB 607 is a good government measure that makes several key changes to improve the clarity and efficiency of CEQA processes. SB 607 does not relax any of the standards of environmental review required by CEQA.

In keeping with CEQA’s environmental mandate, SB 607 excludes projects most likely to harm the environment from the targeted reforms of the bill. Particularly, the bill excludes oil and gas infrastructure and distribution centers.

SB 607 additionally makes a number of targeted refinements to strengthen the operational efficiency of CEQA, including:

- For projects falling short of meeting eligibility for a categorical or statutory exemption by a lead agency, SB 607 focuses the scope of the subsequent environmental review to the disqualifying reason and the facts the action or proceeding relied upon that disqualified the project from the exemption.
- Aligns the standard of review for a lead agency’s determination to adopt a

Negative Declaration (ND) or a Mitigated Negative Declaration (MND) to parity with the existing standard of review for Environmental Impact Reports (EIRs).

- Focuses CEQA review on the most germane administrative records by excluding communications of persons tangential or far removed from project decision-making, with specified exemptions.

SB 607 also focuses specifically on reducing delays on housing and other urban infill projects by:

- Clarifying the existing Class 32 "Infill Development" Categorical Exemption to CEQA by directing the Governor's Office of Land Use and Climate Innovation (LUCI) to set alternative safe harbor objective standards and clearer geographic standards. These changes will make the existing categorical exemption more usable.
- Exempting re-zonings that are consistent with an already approved housing element from CEQA, recognizing that local jurisdictions must undergo the CEQA process as a part of the housing element adoption process.

SUPPORT

- **Bay Area Council, Sponsor**
- **Housing Action Coalition, Sponsor**
- **RCRC, Sponsor**
- **Prosperity California, Sponsor**
- California YIMBY
- YIMBY ACTION

FOR MORE INFORMATION

Radhika Gawde, Legislative Aide

Email: Radhika.Gawde@sen.ca.gov