

CALIFORNIA LEGISLATURE PASSES BILLS TO EXPEDITE JUDICIAL REVIEW OF CEQA CHALLENGES FOR SELECTED PROJECTS

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The California Legislature last week passed two bills that would expedite judicial review of challenges to certain large development projects under the California Environmental Quality Act (CEQA). The first, SB 292 (Simitian), applies only to the proposed development of a new NFL football stadium and convention center in Los Angeles. The second, AB 900 (Steinberg), applies to various types of projects involving investment of more than \$100 million that provide "high-wage, highly skilled" jobs for Californians and do not result in a net increase of greenhouse gas (GHG) emissions. Both bills would grant the state Courts of Appeal original jurisdiction over challenges to project approvals, bypassing the trial courts. Neither bill would significantly change the requirements for environmental analysis under CEQA.

SB 292

SB 292 applies to the development of the proposed Convention Center Modernization and Farmers Field Project in downtown Los Angeles, which would construct an NFL football stadium and expand the Los Angeles Convention Center. The bill requires any challenge to the certification of the project environmental impact report, or to the granting of project approvals, to be filed with the Second District Court of Appeal. The bill also establishes an expedited briefing schedule and requires the Court of Appeal to decide the challenge within 60 days after the last reply brief is filed. Furthermore, the bill requires

the California Supreme Court to render a decision on any petition for review within 30 days after filing. To qualify for these streamlined judicial review procedures, the project must achieve zero net emissions of GHGs from private automobile trips (including the use of offset credits if necessary) and achieve a trip ratio (the ratio of private automobile trips to stadium attendance) that is at least ten percent lower than any other NFL stadium.

AB 900

AB 900 establishes similar expedited review procedures for any project that the Governor certifies as meeting certain criteria. For certified projects, any challenge to an agency's compliance with CEQA, or to project approvals under any other law, must be brought in the appropriate state Court of Appeal, and the court must issue a decision within 175 days. To qualify, a project must be either (1) a wind or solar energy generation project; (2) a "clean energy" manufacturing project (as defined); or (3) a residential, retail, commercial, sports, cultural, entertainment, or recreational use project that is certified as LEED silver or better, achieves at least ten percent greater transportation efficiency than comparable projects, and is located on an infill site. The Governor must find that the project will result in investment of at least \$100 million in California, that it will create construction and permanent jobs for Californians that pay living wages, and that it will not result in a net increase in emissions of GHGs. The Governor's certification of a project is subject to the review and concurrence of the Joint Legislative Budget Committee.

Bills Continue Trend of Selective Relief, Not Broad CEQA Reform

The expedited judicial review procedures provided by SB 292 and AB 900 may save time and money for proponents of qualifying projects, while still allowing members of the public to participate in the CEQA process and to challenge project approvals in court. But the scope of these bills is necessarily limited. SB 292 would apply only to a single project, and AB 900 would cover only a small number of very large projects. In this respect, these bills continue a recent legislative trend of singling out high profile projects for partial exemption from the

burdens of CEQA review, without addressing the underlying problems that have led some to criticize CEQA as subject to abuse.

Both bills await the Governor's signature.

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