
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

Bill No: SB 1136
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Urgency: No
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Fiscal: Yes

SUBJECT: California Environmental Quality Act: expedited environmental review: climate change regulations

DIGEST: Expands current expedited processes for environmentally mandated projects to apply to energy efficiency projects required by State Energy Resources Conservation and Development Commission and Public Utilities Commission rules and regulations adopted pursuant to the California Global Warming Solutions Act; and requires all environmentally mandated projects, to utilize the expedited processes, meet certain labor requirements.

ANALYSIS:

Existing law under the California Environmental Quality Act (CEQA):

- 1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed discretionary project to prepare a negative declaration (ND), mitigated negative declaration (MND), or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code §21000 et seq.). If there is substantial evidence, in light of the whole record before a lead agency, that 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))
- 2) Under expedited environmental review procedures for environmentally mandated projects:
 - a) Provides that these procedures apply to the following state entities: the State Air Resources Board, air pollution control district or air quality management district, State Water Resources Control Board, regional water quality control boards, Department of Toxic Substances Control, Department of Resources Recycling and Recovery, State Energy Resources Conservation and Development Commission, and Public Utilities

Commission, as specified. (Public Resources Code §21159.4)

- b) Requires the specified public agencies to perform an environmental analysis of the reasonably foreseeable methods of compliance when adopting a rule or regulation requiring installation of pollution control equipment, or a performance standard or treatment requirement. The environmental analysis must include an analysis of: a) reasonably foreseeable environmental impacts of the methods of compliance, b) reasonably foreseeable feasible mitigation measures, c) reasonably foreseeable alternative means of compliance with the rule or regulation, and d) reasonably foreseeable greenhouse gas emission impacts of compliance with a rule or regulation that requires the installation of pollution control equipment adopted pursuant to the California Global Warming Solutions Act of 2006 (CGWSA). (PRC §21159(a))
- c) Authorizes a focused EIR to be used for a project consisting solely of installing pollution control equipment required by a rule of regulation of the specified public entities or pollution control equipment that reduces greenhouse gases required by a rule or regulation of the specified public entities pursuant to the CGWSA (environmentally mandated projects) if certain conditions are met. (PRC §21159.1)
- d) Requires the lead agency of an environmentally mandated project, to the greatest extent feasible, use the environmental analysis in the preparation of an ND, MND, or EIR on the project or in otherwise complying with CEQA. (PRC §21159.2(a)).
- e) If an EIR is required for an environmentally mandated project, requires the lead agency to prepare an EIR which addresses only the project-specific issues related to the project or other issues not discussed in sufficient detail in the environmental analysis. (PRC §21159.2(b))
- f) When preparing an EIR or focused EIR under these provisions, applies certain expedited deadlines. (PRC §21159.3(a))

This bill:

- 1) Expands the application of these expedited environmental review procedures for environmentally mandated projects to also apply to CEC and PUC rules and regulations requiring installation of new or modified equipment, the implementation of other facility process changes, or both the installation and implementation, including energy efficiency projects, adopted pursuant to the

CGWSA.

- 2) Requires the specified public agencies, when adopting a rule or regulation requiring compliance with an energy efficiency standard, to perform an environmental analysis of the reasonably foreseeable methods of compliance.
- 3) Additionally requires, for rules and regulations adopted pursuant to CGSWA that require improvements in energy efficiency or compliance with a performance standard or treatment requirement, the environmental analysis include reasonably foreseeable greenhouse gas emission impacts of compliance with the rule or regulation.
- 4) Additionally authorizes a focused EIR to be used for projects that consist solely of installing pollution control equipment or new or modified equipment, or implementing other facility process changes, or both that installation or implementation, necessary or used to achieve compliance with a performance standard, treatment requirement, energy efficiency standard, or compliance mechanism included in a rule or regulation adopted pursuant to the CGWSA if the project meets the other prescribed requirements.
- 5) Requires environmentally mandated projects meet certain labor requirements to utilize the expedited review processes established for environmentally mandated projects.

Background

- 1) *Overview of CEQA Process.* CEQA provides a process for evaluating the environmental effects of a project, and includes statutory exemptions, as well as categorical exemptions in the CEQA guidelines. If a project is not exempt from CEQA, an initial study is prepared to determine whether a project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration (ND). If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an environmental impact report (EIR).

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project.

What is analyzed in an environmental review? An environmental review analyzes the significant direct and indirect environmental impacts of a proposed project and may include water quality, land use and agricultural resources, transportation and circulation, air quality and greenhouse gas emissions, terrestrial and aquatic biological resources, geology and soils, public services and utilities such as water supply and wastewater disposal, and cultural resources. The analysis must also evaluate the cumulative impacts of any past, present, and reasonably foreseeable projects/activities within study areas that are applicable to the resources being evaluated.

CEQA provides hub for multi-disciplinary regulatory process. An environmental review provides a forum for all the described issue areas to be considered together rather than siloed from one another. It provides a comprehensive review of the project, considering all applicable environmental laws and how those laws interact with one another.

- 2) *CEQA streamlining processes.* AB 1888 (Sher, Chapter 1131, Statutes of 1993) amended and added various provisions of CEQA, including provisions for master EIRs, focused EIRs, and expedited environmental review for certain “environmentally mandated projects.” A master EIR may be prepared for certain projects, allowing for limited review of subsequent projects described in the master EIR. A focused EIR is an EIR on a subsequent project identified in a master EIR
- 3) *Environmentally mandated projects.* AB 1888 established special procedures for “environmentally mandated projects” for specific state agencies. Those special procedures include requiring certain analysis for rules and regulations requiring installation of pollution control equipment, allowing focused EIRs for pollution control equipment required by rules or regulations under certain conditions, and applying specified expedited deadlines. AB 1846 (V. Manuel Perez, Chapter 195, Statutes of 2010) later revised the list of state entities subject to these provisions, added CGWSA-related projects subject to these provisions, and revised the type of analysis required for rules and regulations subject to these provisions.

Comments

- 1) *Purpose of Bill.* According to the author, “[w]hile California is a leader in addressing climate change, significant investment and development is urgently needed to meet the state’s ambitious goals. The Scoping Plan developed by the California Air Resources Board (CARB) calls for broad deployment of greenhouse gas reduction and alternative technologies; a build-out of electricity

generation, storage capacity, and transmission; and other infrastructure-related projects. However, projects can be weighed down by inconsistencies and unnecessary delays, and redundant costs can slow progress. In order to facilitate the rapid growth needed to meet California's climate goals in a coordinated fashion, SB 1136 will clarify and streamline the California Environmental Quality Act (CEQA) process by expanding the range of projects that qualify for a focused environmental impact report (EIR). Allowing focused EIRs to be used for more projects will enable rapid investment and a skilled workforce, facilitating climate-oriented projects by providing certainty in designing, financing, and permitting. SB 1136 will eliminate unnecessary layers of environmental review for specific projects, without compromising necessary environmental review.”

- 2) *This bill.* SB 1136 adds various projects whose purposes are to achieve compliance with environmental rules and regulations adopted pursuant to the CGWSA, including energy standards, to the type of projects that may utilize the streamlining provisions for environmentally mandated projects. Additionally, SB 1136 requires an environmentally mandated project, including the ones added by the bill, to meet certain labor requirements in order to utilize the specified expedited environmental review provisions. According to the AB 1888 Senate Floor Analysis, the bill which originally enacted the expedited environmental review for environmentally mandated projects in 1993, the expedited process was intended to reduce the time and expense needed to review a project undertaken to carry out a rule or regulation.
- 3) *Could a new requirement slow down compliance with environmental regulations?* If an environmentally mandated project does not meet certain conditions, including the labor requirements prescribed by this bill, it will not be eligible to utilize the specific expedited environmental review established for environmentally mandated projects established nearly 20 years ago. Instead, the project will be required to go through the generally-applicable CEQA process. The expedited environmental review process for these projects was specifically set up to help expedite projects that were necessary for compliance with certain environmental rules or regulations, and hence helping the state meet its environmental goals. However, adding the new requirements of this bill could potentially undermine the original intent of AB 1888. If an environmentally mandated project is instead required to utilize the CEQA process that generally applies, it could slow down compliance with the environmental rule or regulation and could ultimately affect or slow down the state's ability of meeting its environmental goals.

The sponsor, the State Building & Construction Trades Council of California, feels that it is important to add these requirements to environmentally mandated projects to ensure that California residents complete these projects.

Related/Prior Legislation

See above

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Labor, Public Employment and Retirement Committee.

SOURCE: State Building & Construction Trades Council of California

SUPPORT:

California Independent Petroleum Association (CIPA)
Coalition for Sustainable Cement Manufacturing and Environment
Garden Grove Chamber of Commerce
Harbor Association of Industry & Commerce
Industrial Environmental Association
Inland Empire Economic Partnership (IEEP)
Kern Citizens for Energy
Redondo Beach Chamber of Commerce
San Pedro Chamber of Commerce
Santa Barbara County Taxpayers Association
Santa Maria Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Sustainable Agriculture & Energy of Monterey County
U.a. Plumbers and Pipefitters Local Union 114
Western States Petroleum Association

OPPOSITION:

None received