
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

Bill No: SB 922
Author: Wiener
Version: 3/16/2022
Urgency: No
Consultant: Genevieve M. Wong

Hearing Date: 3/28/2022
Fiscal: Yes

SUBJECT: California Environmental Quality Act: exemptions: transportation-related projects

DIGEST: Expands the application of CEQA exemptions for various transportation-related projects and removes the sunsets of those exemptions, extending the application of those exemptions indefinitely.

ANALYSIS:

Existing law, 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 ND, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines). (Public Resources Code (PRC) §21000 et seq.).
- 2) Exempts from CEQA, until January 1, 2030, bicycle transportation plans for an urbanized area for restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and related signage for bicycles, pedestrians, and vehicles under certain conditions if the lead agency holds noticed public hearings in areas affected by the bicycle transportation plan and files a notice of exemption (NOE) with Office of Planning and Research (OPR). (PRC §21080.20)
- 3) Exempts from CEQA, until January 1, 2023, the following projects (SB 288 projects):
 - a) Pedestrian and bicycle facilities, including new facilities.
 - b) Projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians.
 - c) Transit prioritization projects.

- d) On highways with existing public transit service or that will be implementing public transit service within six months of the conversion, a project for the designation and conversion of general purpose lanes or highway shoulders to bus-only lanes.
 - e) A project for the institution or increase of new bus rapid transit (BRT), bus, or light rail service, including the construction of stations, as specified.
 - f) A project to construct or maintain infrastructure to charge or refuel zero-emission transit buses, as specified.
 - g) The maintenance, repair, relocation, replacement, or removal of any utility infrastructure associated with a project described in (a) through (f), above.
 - h) A project that consists exclusively of a combination of (a) through (g), above.
 - i) A project carried out by a city or county to reduce minimum parking requirements.
- 4) Subjects each of the projects described in (3) above, not including a project to reduce minimum parking requirements, to the following requirements:
- a) Carried out by a public agency and the public agency is the lead agency.
 - b) Located in an urbanized area.
 - c) Located on or within an existing public right-of-way.
 - d) Cannot add physical infrastructure that increases new automobile capacity on existing rights-of-way, except as provided.
 - e) Does not require demolition of affordable housing units.
 - f) Lead agency certification that the project will be completed by a skilled and trained workforce, except as provided.
- 5) Requires a project described in (3) that exceeds \$100,000,000 to also:
- a) Be incorporated in a regional transportation plan, sustainable communities strategy, general plan, or other plan that has undergone a programmatic-level environmental review within 10 years of the approval of the project.
 - b) Fully mitigate construction impacts are fully consistent with applicable law.
 - c) Require the lead agency to complete and consider results of a project business case and a racial equity analysis, as specified.
 - d) Require lead agency to hold noticed public hearings, as prescribed.

This bill:

- 1) Removes the requirement, for the CEQA exemption to apply, that a bicycle transportation plan be for an urbanized area and applies the exemption indefinitely.

- 2) Additionally exempts from CEQA active transportation plans, pedestrian plans, and specified feasibility and planning studies if the lead agency holds noticed public hearings and files an NOE with OPR. Applies these CEQA exemptions indefinitely.
- 3) For SB 288 projects, removes the January 1, 2023, sunset, applying the exemption indefinitely and makes the following changes to SB 288 general requirements:
 - a) Allows a local agency, instead of requiring a public agency, to carry out the project and be the lead agency.
 - b) No longer requires that the project be located in an urbanized area, unless otherwise specified.
 - c) No longer requires that the project be located on or within an existing public right of way, unless otherwise specified.
 - d) Prohibits a project from adding physical infrastructure or striping that increases new automobile capacity on existing rights-of-way except as specified. Redefines “new automobile capacity” to not include lane mileage that are transit lanes or preferential lanes. Defines “preferential lanes” to mean lanes designated for special traffic uses such as light rail, buses, taxis, or bicycles, or very-high occupancy vehicles.
- 4) Makes the following changes to individual SB 288 project exemptions:
 - a) Applies to pedestrian and bicycle facilities that improve safety, access, or mobility and requires that the facilities be within the public right-of-way.
 - b) Requires projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians to be within the public right-of-way.
 - c) Expands “transit prioritization projects” to include:
 - i) Other signal and sign changes such as the installation of traffic signs or new signals.
 - ii) Installation of:
 - a) Transit queue jump or bypass lanes.
 - b) Turn restrictions.
 - iii) Conversion of general purpose lanes to high-occupancy vehicle (HOV) lanes or very-high occupancy vehicle lanes.
 - iv) Narrowing of lanes to allow for dedicated transit lanes or transit reliability improvements.
 - v) Widening of existing transit travel lanes by removing or restricting street parking.
 - vi) Transit stop access and safety improvements.
 - d) Instead of exempting the designation and conversion of highway shoulders to bus-only lanes, exempts the designation and conversion of highway shoulders to part-time transit lanes. Defines “part-time transit lanes” as

designated highway shoulders that support the operation of transit vehicles during specified times.

- e) Additionally exempts projects for the institution or increase of *existing* BRT, bus, or light rail service, including the rehabilitation of stations, terminals, or existing operations facilities. Specifies such projects include terminals and requires the project be located within an urbanized area or urban cluster. Retroactively applies these changes to projects where lead agency filed an NOE before January 1, 2023.
 - f) Expands exemption for projects to construct or maintain infrastructure to charge or refuel zero-emission buses to include infrastructure for the charging, refueling, or maintenance of zero-emission transit vehicles.
 - g) Exempts eliminating minimum parking requirements, instituting parking maximums, removing or restricting parking, and implementing transportation demand management requirements or programs.
- 5) For SB 288 projects that exceed \$100,000,000, requires the local agency to complete an analysis of residential displacement and suggest anti-displacement strategies, designs, or actions where 50 percent of the project or project's stops and stations are located in an area that is at-risk of residential displacement, as identified by the Metropolitan Planning Organization, and that will have a maximum of 15-minute peak headways.
- 6) Requires the lead agency to certify that the project will be completed by skilled and trained workforce following the granting of an exemption, instead of before or concurrently.
- 7) Requires the lead agency to file an NOE with either OPR or the county clerk of the county in which the project is located, instead of both.

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 environmental effects, the lead agency prepares a ND. If the initial study shows that the project may have a significant environmental effects, the lead agency must prepare an 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. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

- 2) *CEQA and NEPA*. The National Environmental Protection Act (NEPA) is the federal equivalent of CEQA. If the project involves a “major federal action” with significant impacts, NEPA may require an environmental impact statement (EIS). Sometimes a joint EIR/EIS is used to satisfy the requirements of both CEQA and NEPA. If a transit project, such as a highway improvement project, is funded with federal funds, it will also be subject to NEPA.

One significant difference between CEQA and NEPA is whether mitigation is required as a part of project approval. While both statutes require analyses of ways to mitigate environmental impacts, NEPA does not require an agency to impose those identified mitigation measures. CEQA, on the other hand, requires the adoption of feasible mitigation measures or alternatives to lessen the significant effect before approving the project.

- 3) *CEQA and transportation projects*. In October 2017, this committee conducted a survey of state agencies regarding CEQA to gain a better understanding of CEQA compliance and litigation. The survey covered a period of five years, Fiscal Years 2011/12 to 2015/16.

The Department of Transportation (DOT) reported the most number of projects with 3,259 projects during the five-year period. Breakdown of the DOT results are as follows:

- Exempt through a categorical exemption: 2,890 projects (88%)
- Exempt through a statutory exemptions: 44 projects (1.3%)
- Subject to an ND/mitigated ND: 263 projects (8%)
- Subject to an EIR: 62 projects (1.9%)
- Total CEQA challenges filed: 29 (less than 1%) (multiple lawsuits could have been filed against a single project, making the number of projects challenged potentially lower).

- 4) *SB 288 (Wiener, Chp. 200, Stats. 2020)*. SB 288 was enacted as a way to “jumpstart the sustainable transportation projects as an essential part of California’s economic recovery from COVID-19.” Introduced in February 2019 as a bill relating to electricity, the bill was subsequently amended in June

2020 to provide CEQA exemptions for numerous transportation-related projects. Due to the adjusted legislative calendar that resulted from the onset of COVID-19, this committee did not have an opportunity to hear the bill when it returned to this house on concurrence.

According to OPR's CEQAnet database, as of March 7, 2022, 12 projects have filed an NOE pursuant to SB 288. No NOEs have been filed for projects to construct or maintain infrastructure to *refuel* zero-emission transit buses ((PRC §21080.25(b)(6)) or projects to reduce minimum parking requirements (PRC §21080.25(b)(9)).

Comments

- 1) *Purpose of Bill.* According to the author, “SB 922 will remove the sunset of SB 288 (Wiener, 2020), ensuring that sustainable transportation projects are not unnecessarily delayed. SB 288 provides an exemption for specified transportation projects, those that provide inherent environmental benefits and improve the safety and accessibility of our transportation system, from CEQA. Although CEQA is crucial for protecting our communities, each step of the CEQA process is subject to appeals and lawsuits that can increase project costs and create delays. It's not unusual for it to take three to four years and millions of dollars to resolve a single lawsuit, while appeals regularly take six months to resolve. When CEQA is misused as a tool to delay or halt critically needed projects, it has real consequences for California – making it more difficult to build the active transportation and sustainable transit projects that will result in a safer, healthier, and equitable future for all Californians.

“SB 288 successfully exempted sustainable transportation projects that should not be reviewed under this process, and in the short time since its passage, has resulted in numerous projects being built out. Thus far, ten projects have been streamlined across the state, including protecting pedestrian walkways and bikeways, building out BRT projects, and expanding electric vehicle charging options. Seven of these ten projects are located in disadvantaged communities, resulting in expanded equitable transportation options for neighborhoods that are currently shouldering a disproportionate burden of the state's vehicle pollution. Additionally, bike lane, complete street and public transit projects are proven to create jobs and increase investment in local businesses, with ten to thirteen jobs per million dollars spent, and a five to one economic return in direct and indirect spending and support for local businesses.

“Beyond the projects actually built under SB 288, numerous others have been identified by transit agencies as ‘under consideration’ to utilize the SB 288 exemption. Without the extension present in SB 922, these projects will be subject to review, lawsuits, and appeals under CEQA, resulting in potentially year-long delays, or agencies determining that the projects simply aren’t feasible without this exemption.

“The necessity for this exemption is only bolstered by the federal Bipartisan Infrastructure Law, which will increase California’s transit fund allocation. This funding will be crucial to California’s economic recovery, and SB 922 will ensure these funds are more efficiently and effectively utilized.”

- 2) *Look before you leap.* Often groups will seek a CEQA exemption to expedite construction of a particular type of project and reduce costs. Providing an exemption, however, can overlook the benefits of environmental review: to inform decisionmakers and the public about project impacts and identify ways to avoid or significantly reduce environmental damage. Environmental review includes more than just looking at the impacts on a wetland or a threatened species; it looks at things such as air quality, impacts to neighboring facilities such as hospitals and schools, traffic impacts, pressure on underlying infrastructure, and more, and analyzes those impacts in the context of one another.

CEQA is a process. It does not dictate the outcome of a project but rather is a disclosure mechanism that guarantees public involvement and transparency in the project approval process. A CEQA exemption takes away that guarantee. Absent CEQA, a project is assumed to be “fine as is,” without consideration of community concerns or the potential for improvement through public input. Absent CEQA, public participation can vary jurisdiction to jurisdiction and project to project, or sometimes, not be included at all. Under this bill, a noticed public hearing would only be required for projects that exceed \$100,000,000.

“CEQA operates, not by dictating pro-environmental outcomes, but rather by mandating that ‘decision makers and the public’ study the likely environmental effects of contemplated government actions and thus make fully informed decisions regarding those actions. ... In other words, CEQA does not care what decision is made as long as it is an informed one.” (Citizens Coalition Los Angeles v. City of Los Angeles (2018) 26 Cal. App. 5th 561, 577.)

- 3) *Even “environmental” projects can have environmental impacts.* Even projects considered environmentally beneficial may still have significant impacts. For example:
- Installing protected bike lanes could impede driver visibility of cyclists, causing more accidents.
 - Highway shoulder conversion to part-time transit lanes could have traffic impacts and affect the ability of California Highway Patrol or emergency medical personnel to move through heavily congested areas quickly.
 - A new light rail station may result in adverse noise and air quality impacts for nearby residents, or sensitive uses such as schools, senior centers, and hospitals.

Is it appropriate for the public to live with the consequences of exempt projects where the impacts are not mitigated and alternatives not considered regarding matters such as air quality, water quality, noise impacts, or proximity to potentially hazardous situations?

- 4) *Less than 1% of transportation projects are litigated.* The only tool for enforcing CEQA is civil litigation and eliminating the possibility of litigation means taking away the ability to enforce the law. Without CEQA, a project with significant, unknown environmental impacts can proceed without any mitigation measures. Groups such as environmental justice groups or neighborhood groups will be unable to protect communities from being disproportionately impacted by unmitigated, avoidable, significant environmental impacts such as air pollution.

Some cite CEQA litigation as a problem but do not indicate the result of that litigation. For example, were significant impacts that were not initially evaluated ultimately addressed? What would have been the result if those impacts had not been mitigated (e.g. exposure of people to hazards, congestion, or inadequate public services)? Did the project improve as a result of the CEQA process?

The volume of CEQA litigation is low considering the thousands of projects subject to CEQA each year as well as the overall volume of civil litigation statewide. In its 2021 report, *CEQA: California’s Living Environmental Law*, The Housing Workshop found that about 2% of projects were subject to litigation between 2013-2019. These findings are consistent with the CEQA State Agency Survey results for transportation projects. According to those results, over the course of 5 years, less than 1% of DOT transportation projects

were subject to a CEQA challenge.

If a project is the subject of litigation, perhaps the cause of action has merit and CEQA ensures compliance with the law.

- 5) *Almost 90% of transportation projects are exempt from CEQA.* According to the CEQA survey, categorical exemptions apply to 88% of DOT projects (an additional 1.3% were statutorily exempt). SB 288 exemptions made, and the expansion of those exemptions under this bill make, many transit projects that were previously subject to a categorical exemption subject to a statutory exemption instead. The main difference between a categorical and statutory exemption is that a categorical exemption can be challenged if certain conditions are present:

- Project results in damage to scenic resources within a highway officially designated as a state scenic highway.
- Project site is on a hazardous waste site.
- Project may cause substantial adverse change to a historical resource.
- Significant effect on the environment due to unusual circumstances.
- Significant cumulative impacts from projects of the same type.
- For certain categorical exemptions, impacts on a uniquely sensitive environment.

If a transportation project, even if considered sustainable has any of the above environmental impacts, or any other significant environmental impacts, shouldn't those impacts be known and avoided or mitigated?

- 6) *Active transportation plans and pedestrian plans.* SB 922 proposes to build upon an existing exemption for bicycle transportation plans by also exempting active transportation plans and pedestrian plans.

What are they? Neither active transportation plans nor pedestrian plans are defined in code.

Active transportation plans. Active transportation is considered a critical component in developing and implementing sustainable community strategies, reducing greenhouse gas emissions, and increasing public health. Active transportation plans are a relatively new development; some local jurisdictions are just beginning to develop their first iteration, while other jurisdictions do not have one at all. For example, the County of Sacramento just drafted its first Active Transportation Plan this year. Similarly, the Bay Area's Metropolitan Transportation Commission is in the process of developing its

regional active transportation plan, with expected adaptation later this year. Specific projects that are a part of a local jurisdictions' active transportation plan may be eligible for funding through the State's Active Transportation Program.

Pedestrian plans. Different local jurisdictions may describe their pedestrian plans slightly differently, if they have one. Priorities may differ between jurisdictions, with some focusing on existing roadway systems while others seek to bring additional services to underserved areas. Generally speaking, a pedestrian plan identifies and addresses the pedestrian needs of the local jurisdiction through improving pedestrian infrastructure and safety.

Are active transportation plans necessarily environmentally beneficial?

However, not all active transportation plans (and maybe pedestrian plans) are created equal. Some, depending on the jurisdiction, may be significantly less environmentally beneficial compared to others or even lack appropriate environmental considerations. By generally exempting active transportation plans and pedestrian plans of all calibers, shapes, and sizes, what exactly would the Legislature be exempting? Although the plans would be subject to a public hearing, the lead agency is not required to consider environmental factors, let alone include any mitigation measures for significant environmental impacts. While CEQA could still apply to individual projects that are not otherwise exempt, CEQA helps ensure that such plans – from a programmatic level - avoid or mitigate significant environmental impacts from a cumulative perspective. Further, if an active transportation plan is exempt from CEQA *and* so is an individual project that is a part of the exempt plan due to a separate exemption, when will environmental review be done? Without CEQA, an active transportation plan or pedestrian plan could fall woefully short of this bill's intent to promote sustainability.

How about a test run first? The bicycle transportation plan exemption was first enacted in 2014, with a 4-year sunset. This gave the Legislature the ability to evaluate the exemption and any unanticipated consequences. Would it be prudent to indefinitely exempt active transportation plans and pedestrian plans without first doing a trial run?

- 7) *Transportation terms of art.* PRC §21080.25(a)(14)(D), as proposed to be amended by SB 922, exempts, as transit prioritization projects, the following (among other transit prioritization projects):
- Installation of dedicated transit lanes, transit queue jump or bypass lanes, and shared turning lanes and turn restrictions.
 - Conversion of general-purpose lanes to HOV lanes or very high occupancy vehicle lanes.

There has been some confusion on this exemption's application; whether the exemption allows for the *installation* of lanes, despite limiting language which prohibits a project from adding physical infrastructure that increases new automobile capacity on existing rights-of-way. "New automobile capacity" means any new lane mileage of any kind *other than* sidewalks, bike lanes, *transit lanes, or preferential lanes.*

According to the sponsors, "installation" means "conversion" and the intent is to exempt the conversion of already existing lanes into designated transit lanes, not the installation of new lanes. The author and the sponsors may wish to refine this language to help clear up any confusion about what will and will not be exempt under this provision.

- 8) *Adding HOV for good measure.* This bill is predominately about transit, not passenger vehicle cars. However, the bill seeks to exempt the conversion of general purpose lanes into HOV lanes (2 or more occupants). Originally, SB 288 limited this exemption to dedicated transit lanes, very-high occupancy vehicle lanes (6+ occupants), and shared turning lanes.

How does converting HOV lanes promote transit? Some may argue that HOV lanes do not truly change human behavior and could actually detract people from using transit. Other stakeholders may argue it helps get some cars off the road. Others may further argue that a more effective approach would be to limit the exemption to forms of transit that will have greater impacts on VMT and the way people travel.

- 9) *Hydrogen might help us meet our climate goals, but it is also volatile.* SB 922 expands the exemption for zero-emission bus infrastructure to include infrastructure for zero-emission transit vehicles, which, according to the sponsors, would include hydrogen-powered buses, trains, and ferries. (Note that "transit vehicles" is undefined and could refer to other types of vehicles that are yet to be developed).

While safety concerns have been linked to hydrogen, committee staff notes that hydrogen fuel stations for zero emission buses and passenger cars are located throughout the state and safety measures are taken when installing those stations. However, when those stations were constructed, they were subject to public notice and environmental review.

Under this exemption, a fueling station, including a potentially large hydrogen storage tank, could be approved in a sensitive area without public input and the opportunity of nearby residents and business owners to engage has been taken away. Although existing law requires that projects over \$100 million hold noticed public meetings for public comment, it is unknown how many refueling stations would meet this threshold.

While the deployment of zero-emission technology such as hydrogen is appealing from an emissions perspective, the associated environmental impacts of its supporting infrastructure may be significant. Could such infrastructure also include making the hydrogen on-site, which, depending on the type of hydrogen, could present air pollution concerns for neighboring communities? “Green hydrogen,” which is made using 100% renewable electricity is, for now, the only established way to produce hydrogen without emitting air pollution. According to the sponsors, it is not their intent for facilities that generate hydrogen be exempt from CEQA.

According to CEQAnet, no NOEs have been filed for hydrogen fueling bus stations. Would it be prudent to indefinitely exempt from environmental review, community input, or public notice infrastructure projects that involve the use of an energy source known to be flammable or explosive when the exemption has not yet been utilized? Or expand that exemption to include trains and ferries, technology that has yet to be launched in the State? Or, because “transit vehicle” is undefined, to exempt unknown technology and its infrastructure? While hydrogen may play a role in meeting our climate goals, it has the potential for significant risk of damage to surrounding communities.

- 10) *The limit does not exist.* The exemptions provided by this bill and SB 288 contain no restrictions on size. While not as concerning for some projects, such as signal and sign changes, the lack of guardrails for other projects can be concerning due to the associated environmental impacts. For example:
- A project that updates or converts an entire light rail system, such as Bay Area Rapid Transit (BART), into new energy-efficient technology could potentially be exempt. While BART certainly provides an important mode

of public transportation, providing hundreds of thousands of residents and visitors with an affordable way to move throughout the Bay Area, a project that updates its infrastructure to incorporate the new technology could have significant environmental impacts associated with the construction of that transition.

- A project that institutes or increases BRT or light rail service, although on existing public right-of-way or highways right-of-way, could potentially be of any length as long as it is within an urbanized area or urbanized cluster.
- Hydrogen storage tanks used in infrastructure of hydrogen buses, trains, and ferries could be of any size. Does the increased amount of stored hydrogen impact the amount of risk to the surrounding areas?
- Charging stations and maintenance facilities for electric buses and trains could be of any size. Could a facility that is also generating the electricity on-site be exempt? If they are exempt, those facilities could be using nonrenewable energy or diesel generator backups.

11) *What else is exempt?* In addition to the exemptions discussed above, this bill proposes to exempt many more transportation projects, including:

- Bicycle transportation plans that are not in urbanized areas.
- Signal and sign changes, such as signal coordination, signal timing modifications, signal modifications, or installation of traffic signs or new signals.
- Installation of transit queue jump or bypass lanes and of turn restrictions.
- Narrowing of lanes to allow for dedicated transit lanes or transit reliability improvements.
- Widening of existing transit travel lanes by removing or restricting street parking.
- Transit stop access and safety improvements, including, but not limited to, the installation of transit bulbs and the installation of transit boarding islands.
- Designating and converting highway shoulders to part-time transit lanes.
- Increasing existing BRT, bus, or light rail service, including the construction, or rehabilitation of stations, terminals, or existing operations facilities.
- Eliminating minimum parking requirements or instituting parking maximums, removing or restricting parking, or implementing transportation demand management requirements or programs.

Given this extensive list, a person might wonder - *what wouldn't be exempt?* Extremely large-scale projects (those that exceed \$100 million) that fall within the various exempted categories would still be exempt from CEQA, as long as they meet additional requirements such as being incorporated into a plan with programmatic-level environmental review and noticed public meetings. But those large-scale projects are not required to analyze or mitigate environmental impacts other than construction impacts.

- 12) *Is indefinitely exempting SB 288 projects premature?* Sunset dates are applied to CEQA exemptions to provide the Legislature the opportunity to reevaluate the effectiveness of the exemption. They give the Legislature the ability to check-in, address unintentional outcomes and emerging concerns, and to adjust the exemption, if necessary.

As discussed above, 12 NOEs have been filed for projects, indicating their usage of the SB 288 exemptions. However, some exemptions, such as hydrogen fuel bus stations, have not been used at all. Is 12 projects over 15 months sufficient evidence for the Legislature to confidently remove the sunset of the original SB 288 exemptions, plus the expansions under this bill, and not give itself the ability to reevaluate for effectiveness or unintended consequences?

- 13) *Committee amendments.* If the committee agrees that the proposed exemptions under this bill are necessary to expedite transportation-related projects, the committee may wish to amend the bill to do the following:
- a) **Define pedestrian plans as a plan developed by a local jurisdiction that establishes a comprehensive, coordinated approach to improving pedestrian infrastructure and safety.**
 - b) **Define active transportation plans as a plan developed by a local jurisdiction that promotes and encourages people to choose walking, biking, and rolling through the creation of safe, comfortable, connection, and accessible walking, rolling, and biking networks, and encourages alternatives to single-occupancy vehicle trips.**
 - c) **Require the active transportation plan and pedestrian plans include consideration of environmental factors.**
 - d) **Remove language that would statutorily exempt planning and feasibility studies, reverting back to existing law.**
 - e) **Specify that individual projects of active transportation plans and pedestrian plans are still subject to CEQA unless a separately applicable exemption applies.**
 - f) **Define “transit vehicles” to mean buses, light rail, trains, and ferries.**

- g) Amend PRC §21080.25(a)(14)(D) to remove the exemption for HOV conversion.**
- h) Amend PRC §21080.25(b)(5) such that the application of the exemption as it applies to the construction of stations or terminals will be limited to stations or terminals that will be exclusively used by zero-emission, near zero-emission, low NOx engines, clean natural gas fuel, fuel cell, or hybrid powertrains.**
- i) Amend PRC §21080.25(b)(6) to require that a project to construct or maintain infrastructure or facilities to refuel or maintain zero-emission transit vehicles be subject to the same noticed public meeting requirements that are required of projects over \$100,000,000.**
- j) Require the lead agency to file an NOE with both OPR and the county clerk, reverting the language back to existing law.**
- k) Maintain the existing sunset for PRC §21080.20, applying a 7 year sunset to active transportation plans and pedestrian plans.**
- l) Apply a 4-year sunset to PRC §21080.25 (SB 288 projects).**

Related/Prior Legislation

AB 2719 (Fong) would exempt from CEQA highway safety improvement projects. AB 2719 has been referred to the Assembly Natural Resources Agency.

AB 1260 (Chen, 2021) proposed to exempt from CEQA projects to construct or maintain infrastructure to charge or refuel zero-emission trains. AB 1260 was held in Senate Appropriations Committee.

SOURCE: California Transit Association (co-sponsor)
Bay Area Council (co-sponsor)
SPUR (co-sponsor)
Silicon Valley Leadership Group (co-sponsor)
Los Angeles County Metropolitan Transportation Authority (co-sponsor)

SUPPORT:

American Planning Association, California Chapter
Berkeley; City of
California Bicycle Coalition
California State Association of Counties
Circulate San Diego
Climateplan
East Bay Transit Riders Union
Greenbelt Alliance

Marin County Bicycle Coalition
Mayor of City & County of San Francisco London Breed
Metropolitan Transportation Commission
Monterey-Salinas Transit (MST)
Move La, a Project of Community Partners
North Bay Leadership Council
Rails-to-trails Conservancy
Sacramento Area Council of Governments
Safe Routes Partnership
San Diego Metropolitan Transit System
San Francisco Municipal Transportation Agency (SFMTA)
San Joaquin Joint Powers Authority
San Joaquin Regional Rail Commission
Seamless Bay Area
Sunline Transit Agency
Transform
Valley Industry and Commerce Association

OPPOSITION:

Sierra Club California

ARGUMENTS IN SUPPORT: According to California Transit Association, one of the co-sponsors of the bill, "...SB 288 aims to protect development of clean transportation projects that will reduce greenhouse gas emissions by bringing online more public transit and active transportation projects sooner. These clean transportation projects include developing new bus rapid transit projects, expansion of bus or light-rail services, transit prioritization projects (as defined), projects that improve customer information and wayfinding for commuters, projects to construct and maintain infrastructure to charge or refuel zero-emission vehicles, projects to reduce minimum parking requirements, and projects for pedestrian and bicycle facilities."

ARGUMENTS IN OPPOSITION: According to Sierra Club California, "...SB 922 would expand the existing California Environmental Quality Act (CEQA) exemptions for certain transportation projects to include a broad range of projects that could have significant environmental impacts. While we understand and support the need and desire to provide more sustainable transportation projects that decrease VMTs and contribute to combatting the climate crisis, expanding exemptions to these projects from CEQA is unnecessary and potentially harmful."

-- END --