



Legislature Considers Weakening Public Health and Environmental Protections to Secure Road Maintenance Funding

In this second of three articles, we outline the ongoing CEQA debate occurring in the special session on transportation. Our [first article](#) reviewed the year's regular session CEQA bills.

The 2015-16 legislative session started with the usual sturm and drang around California Environmental Quality Act legislation, which largely petered out by September when the regular session adjourned for the year. What's unusual this fall, however, is the transportation special session called by Governor Jerry Brown and the continuing opportunity it provides for CEQA opponents.

In June of this year, Brown called a [special session](#) (technically, an "extraordinary session") to raise \$5 - 6 billion annually to fix local roads, highways and other car-related transportation infrastructure. Governors call special sessions to focus legislative attention on a major issue. In addition to the added focus, special session bills are exempt from many of the regular process rules, allowing them to move more quickly. Also, the special session can extend beyond the September 15th end of the regular session.

Assembly Republicans Respond

To no one's surprise, when the Assembly Republican caucus responded to the governor's announcement with their [transportation funding plan](#), CEQA exemptions featured prominently:

"Relief from abuses of the California Environmental Quality Act could reduce costs and delays associated with highway projects and move our transportation projects out of lawsuits and red tape. Under our plan, highway projects would be insulated from injunctions, like the model enacted for the Kings basketball arena.

Highway projects could be expedited by prohibiting a court from staying or enjoining a project unless certain specific factors are present (threat to health and safety, Native American artifacts, etc.). If we can do it for billionaire professional sports team owners, we should be able to do it for Californians who want out of traffic

gridlock and those who will be put to work on the projects. The present and future of our state economy relies on a strong transportation network that can reliably move goods and services. Building and maintaining such a network of roads, highways, and bridges should not get hung up in endless years of CEQA litigation and bureaucracy.”

Normally, sweeping anti-CEQA proposal like this one wouldn't stand much chance in the democratic-controlled legislature – especially since many of the “abuses” cited are actions brought by labor unions that largely support democrats. However, at least three Republican votes are needed to pass any revenue increase, giving them worrisome leverage in these negotiations.

Senate Republicans Join In

In July, Senator Tom Berryhill (R- Twain Harte) jumped into the fray by introducing [SB 11x](#) (the “x” indicating it was introduced in the first extraordinary session). SB 11x would vastly expand an existing major road maintenance exemption to encompass all road maintenance, repair and minor alterations by local and state agencies. PCL [opposed the bill](#), saying:

“This blanket approach belies the state's strong interest in controlling climate change by limiting greenhouse gas emissions....The long-term impact of roads – including the growth-inducing effects of adding new traffic lanes to existing roads – are complicated and hard to anticipate. Environmental review is the tool available to analyze these impacts.”

Senate Transportation and Infrastructure Development Committee twice cancelled a scheduled hearing on SB 11x in August and September.

Governor Piles On

After remaining silent for months, Governor Brown further stoked the anti-CEQA fires when he released his [funding proposal](#) on September 8th. It included a CEQA exemption lifted almost verbatim from Berryhill's SB 11x. Brown all but abandoned the funding proposal when it failed to garner any Republican interest.

What's next?

A two-house conference committee took the reins in mid-September and held its first hearing on October 16. With a focus on various funding options, witnesses and legislators said little about CEQA. However, with Brown's known animosity toward the act and Republican's unusual leverage, advocates expect it will surface again, perhaps in January when the rest of the legislature returns to Sacramento.

In our next issue: drought-related CEQA exemptions adopted in the 2015-16 state budget.

Text, analyses, and vote records on all legislation can be found at www.legislature.leginfo.ca.gov.

Thus far, the republican plan is the only comprehensive framework to emerge from the assembly thus far. Democrats, who control the house, have been oddly silent on their preferred approach.

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