ARTICLE:

BUILDING FOR ABUNDANCE: THE CEQA REFORMS BEHIND AB 130 AND SB 131

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On June 30, 2025, Governor Newsom signed Assembly Bill 130[1] ("AB 130") and Senate Bill 131[2] ("SB 131") into law, making the most significant changes to the California Environmental Quality Act ("CEQA") in decades. Together, AB 130 and SB 131 represent an ambitious effort to reform and modernize CEQA in service of Governor Newsom's "Abundance Agenda," focused on accelerating the construction of housing, transportation, and key infrastructure that the state desperately needs.[3] The passage of these bills marks a significant milestone on the road to CEQA reform, which has been described by former Governor Jerry Brown as "doing the Lord's work" due to its political difficulty.[4] The CEQA reforms included in these two bills reflect the state's growing recognition that existing environmental laws and procedures, while well-intentioned, have in practice often delayed or obstructed projects that align with California's environmental goals.

This article provides a focused analysis of the CEQA-related provisions of AB 130 and SB 131. These bills, passed as part of the budget trailer bills with the goal of streamlining project approvals and eliminating unnecessary environmental review, provide for a new statutory exemption for infill housing projects, targeted streamlining for projects that narrowly miss CEQA exemption criteria, and exemptions for rezoning to implement housing elements.[5] While these bills also make major changes to state housing laws,[6] such as making the Housing Crisis Act of 2019 ("SB 330")[7] permanent, extending streamlining protections under the Housing Accountability Act ("HAA")[8] and the Permit Streamlining Act ("PSA"),[9] limiting amendments to building codes, and imposing new timelines for acting on ministerial and exempt housing projects, those reforms are outside the scope of this article.[10]

The article is structured as follows—first, it provides background on CEQA, including an overview of the statute's origins, core provisions, shortcomings, and recent reform efforts. This section traces the development of CEQA from its passage in 1970 as a tool for environmental protection, through its evolution into a legal regime that often stymies growth. Next, it examines the CEQA-

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related provisions of AB 130, including the new 20-acre exemption for infill housing, an alternative to Vehicle Miles Traveled ("VMT") mitigation, and the extension of the State Environmental Leadership Development Project ("ELDP") program to a larger pool of residential developments. After that, the article analyzes SB 131's CEQA-related provisions, which include new exemptions for a broad range of infrastructure projects deemed significant by the Legislature, streamlined procedures for near-exempt projects, revisions to the content requirements for CEQA administrative records, and a new requirement that the Governor's Office map infill sites eligible for ministerial approval. Finally, the article concludes with a summary of the key provisions of these bills and discussion of shortcomings that need to be addressed through legislation or agency rulemaking in order to unleash the full potential of these reforms to CEQA.

A. The California Environmental Quality Act

1. Overview of CEQA

Passed in 1970 in response to growing public concern over environmental degradation and development across the state, CEQA has become the state's foundational environmental law.[11] The law was modeled after the National Environmental Policy Act (NEPA), which was enacted just a year earlier in 1969 and requires federal agencies to assess the environmental impact of their actions through environmental reviews.[12] At the time, California was experiencing rapid urbanization, infrastructure expansion, and industrial growth.[13] These environmental conditions prompted action. CEQA emerged as a tool to improve transparency and accountability into how development was processed across the state. In his 1970 State of the State Address, then-Governor Reagan made the case for CEQA and claimed that its passage would create an environment where "the air is going to be cleaner, the water we drink is going to be purer and we are going to alert the people of California to the indisputable fact that the protection of our natural environment must rank as one of our major priorities."[14]

CEQA has both procedural and substantive components. It requires state and local agencies to identify and publicly disclose the environmental impacts of proposed projects before approving them.[15] To this end, public agencies must follow a three-step process.[16] First, they must identify whether a proposed activity constitutes a "project." Under CEQA, the term "project" is defined broadly

to include "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment."[17] Accordingly, CEQA applies to a broad range of activities, such as housing developments, transportation infrastructure, and land use changes.

At the second step of the process, agencies evaluate whether a project qualifies for an exemption to CEQA[18]; if it does not, the lead agency may conduct an initial study to determine whether to prepare a Negative Declaration (ND), a Mitigated Negative Declaration (MND), or a full Environmental Impact Report (EIR), depending on the level of impact.[19] These tiered levels of review correspond to the potential severity of a project's environmental impacts. When there is no substantial evidence supporting a fair argument that there may be any significant environmental effect, the project may proceed with an ND, while one with potentially significant effects that can clearly be mitigated to a level of insignificance can proceed with an MND, which includes enforceable mitigation measures.[20]

However, if the project does not qualify for an ND or an MND, the agency must proceed to the third step and prepare an EIR.[21] An EIR requires the most effort and resources, as it requires an analysis of a wide range of environmental impacts, alternatives, and mitigation measures.[22] The EIR must also be circulated for public comment and may undergo several rounds of revision prior to certification, which can take a significant amount of time and require a considerable financial investment.[23] After an EIR is certified, interested parties can sue the lead agency for failing to adequately study all the environmental impacts of a proposed project, further delaying the project and driving up costs.[24] These claims often center around an EIR being inadequate, incomplete, or failing to consider alternatives.[25] The cost and delays associated with preparing and defending an EIR can be significant and should not be understated.[26]

As CEQA's procedural and substantive requirements have expanded over time to become more complex and more frequently subject to litigation, concerns have mounted over whether the law, which was originally intended to protect the environment, has also become a barrier to critical public priorities such as housing production and infrastructure development.[27]

2. Why CEQA Reform?

While CEQA remains the cornerstone of California's environmental policy, it has also become one of the state's most controversial laws.[28] Once seen as a

procedural safeguard to promote transparency and environmental stewardship, CEQA is now frequently criticized for being used to obstruct projects widely recognized as being in the public interest, most notably housing, clean energy development, and infrastructure modernization.

The U.S. Supreme Court recently levied similar criticism at the law's federal counterpart, NEPA, explaining that is has become "a blunt and haphazard tool employed by project opponents (who may not always be entirely motivated by concern for the environment) to try to stop or at least slow down new infrastructure and construction projects."[29] While NEPA differs from CEQA in that it does not impose substantive requirements,[30] both statutes have been invoked to delay or derail projects through litigation, and the Court's decision signals a shift toward respecting statutory boundaries and curbing the misuse of environmental review as a tool of obstruction.

Leaders in California have also recognized this problem in the Golden State. One of the most high-profile recent examples of CEQA's unintended consequences is the lawsuit against UC Berkeley in *Make UC a Good Neighbor v. Regents of the University of California*.[31] There, a neighborhood group sued the university under CEQA, arguing that the environmental review for its Long Range Development Plan failed to adequately study the impacts of increased student enrollment.[32] The reviewing court agreed and found that the projected student population growth amounted to a physical environmental impact requiring mitigation.[33] As a result, UC Berkeley faced the possibility of freezing enrollment.[34] This prompted an emergency legislative response to clarify that "social noise" generated by occupants of residential developments did not constitute a significant environmental effect under CEQA and that institutions of higher education were not required to consider alternative locations of proposed residential developments as long as the project met the requirements of the campus's long-range planning document.[35] The case drew widespread attention and criticism, including from Governor Newsom, who stated that "a few wealthy Berkeley homeowners should not be able to block desperately needed student housing . . . . "[36] The Berkeley case is not an isolated example. Transit projects, including bike lanes in San Francisco,[37] have been delayed or cancelled after CEQA lawsuits argued that these improvements might increase traffic during construction or alter neighborhood aesthetics.

Another recent case that demonstrates an (ultimately unsuccessful) attempt to use CEQA to block a project is *Hilltop Group, Inc. v. County of San Diego*.[38]

In that case, the County of San Diego originally determined an EIR was needed for a proposed recycling facility (the NCER Project) that was in an area designated for high-impact industrial use under the County's 2011 General Plan Update (GPU). The GPU was accompanied by a Program Environmental Impact Report (PEIR).[39] After additional studies and revisions, county staff concluded the project qualified for an exemption under CEQA Guidelines § 15183 because the project was consistent with the GPU and would implement mitigation measures identified in the PEIR.[40] The Zoning Administrator and Planning Commission agreed, but the Board of Supervisors reversed course and denied the exemption, citing concerns about environmental impacts without identifying substantial evidence of unmitigated, project-specific effects.[41] Ultimately the court of appeal overturned the Board's denial, holding that a CEQA exemption under § 15183 was appropriate,[42] but by then the project had been delayed for years and the process had consumed significant public and private resources. The case serves as a clear example of how the CEQA process can drain time and money without changing the project outcome.[43]

In response to some of these concerns, the Legislature has recently made efforts to reform CEQA and streamline review of certain kinds of projects. These reforms reflect a growing recognition that CEQA's original framework, while essential to protecting the environment, must evolve to meet the demands of the state.

3. Recent Efforts to Reform CEQA

Prior to the 2025 legislative session, California had enacted a series of limited and targeted reforms to CEQA. These reforms largely focused on reducing discretionary review by converting certain project approvals into ministerial actions, thereby exempting them from CEQA altogether. These reforms were particularly concentrated in the housing space, where the state sought to accelerate housing construction in response to the housing crisis.

One of the most significant of these efforts was SB 35 (Wiener), passed in 2017, which established a ministerial approval process for qualifying infill housing projects that met objective zoning and affordability criteria in jurisdictions that failed to meet their Regional Housing Needs Allocation ("RHNA") goals, allowing such projects to bypass CEQA entirely.[44] This approach was expanded in 2022 with AB 2011 (Wicks), which created a pathway for ministerial ap-

proval for affordable and mixed-income housing projects built on underutilized commercial corridors.[45]

While some reforms to CEQA have been successful over the last few years, many other have failed to gain traction. For example, SB 827 (Wiener) proposed to upzone parcels located near major transit corridors, effectively overriding local development regulations. While not a CEQA bill on its face, the bill classified certain project approvals as ministerial acts, and thereby would have substantially reduced CEQA's application. The bill failed to receive enough votes to get out of policy committee, as did Senator Wiener's second attempt to pass this bill the following year through SB 50 (Wiener).

These attempts to streamline CEQA for certain categories of projects, sometimes successful and other times not, have significantly influenced the legislative discourse in Sacramento and highlighted the tensions between CEQA and building key infrastructure. These efforts helped build the momentum that eventually led to the passage of AB 130 and SB 131.

In the months preceding the adoption of AB 130 and SB 131, two earlier legislative proposals, AB 609 by Assemblymember Buffy Wicks and SB 607 by Senator Scott Wiener, sought to reform CEQA in distinct ways. AB 609 focused specifically on exempting infill housing projects from CEQA review under certain conditions.[46] It was crafted with narrower guardrails, including parcel size limits (20 acres, or five for "builder's remedy" sites), requirements for proximity to transit, and restrictions preventing development in wetlands or habitat areas.[47]

In contrast, SB 607 proposed a more sweeping overhaul. It included broader streamlining mechanisms such as a "near-miss" exemption for projects that just barely failed to qualify for existing CEQA streamlining, changes to evidentiary standards of review in CEQA litigation, administrative record limits, and exemptions for rezonings that implement housing elements.[48]

AB 609 and SB 607 were subject to push back from a wide array of interest groups that caused the bills to stall, but many of their provisions were incorporated into AB 130 and SB 131 as part of the final stages of budget negotiations. AB 130 and SB 131 combined elements of both AB 609 and SB 607 but in ways that altered their scope. AB 130 largely mirrored AB 609, while SB 131 incorporated elements of SB 607. Environmental justice and con-

servation groups immediately raised alarms and denounced the use of the budget process as an end-run around democratic norms.[49]

B. AB 130

1. A New Statutory Exemption for Infill Housing

One of the most important parts of both bills is a provision that creates a new CEQA exemption for infill housing on sites up to 20 acres in size.[50] Many of the core provisions of this new exemption were originally proposed in AB 609 (Wicks), which sought to create a statutory CEQA exemption for certain infill housing projects, particularly those located on urban sites up to 20 acres that met a set of labor, affordability, and site conditions. Assemblymember Wicks described the bill as an effort to "refine CEQA for the modern age" and emphasized that it preserved strong environmental standard while accelerating housing delivery.[51] This exemption was incorporated into AB 130 as part of the final stages of budget negotiations.

This new exemption reflects one of the two ways that projects can be exempted from CEQA. The first way is through an act by the California State Legislature. These statutory exemptions extend to various kinds of projects that the Legislature has expressly identified as being urgent, necessary, or in the public interest.[52] The other way that an exemption to CEQA can be created is through agency action. These "categorical exemptions," promulgated through an administrative process initiated by the California Natural Resource Agency ("the Agency"), create exemptions subject to exceptions for classes (or categories) of projects that the Agency believes do not have a significant environmental impact.[53]

AB 130 establishes a new statutory exemption for infill housing projects on sites up to 20 acres in size, which means that eligible projects bypass the CEQA process altogether. To qualify for this exemption, a project sponsor would need to inform the lead agency of its intent to apply for the exemption and the lead agency would confirm eligibility. Once confirmed, the lead agency would file a Notice of Exemption (NOE) to document the exemption.[54] Prospective project applicants would need to meet the following requirements relating to, among other things, siting, labor standards, and land use controls.[55]

First, qualifying sites must be located within incorporated city limits or in U.S. Census Bureau-defined urban areas and not be on environmentally sensi-

tive, hazardous, or conservation sites as defined by Gov. Code, § 65589.5(d)(5). Moreover, the sites must:

(1) Be either previously developed with or predominantly surrounded by urban uses;

(2) Be consistent with either the general plan or zoning ordinance; and

(3) Meet at least 50 percent of the minimum density for housing element sites.[56]

Second, the proposed project must not require the demolition of a historic structure that was placed on a national, state, or local historic register prior to when the preliminary application was submitted.[57]

Third, the project applicant must complete a mandatory but expedited tribal consultation process.[58] Within 14 days of deeming a project application complete, local governments must notify all California Native American tribes that have been traditionally and culturally affiliated with the project site. The tribes then have 60 days to request consultation and then the local government must initiate the consultation within 14 days of receiving this notification. The consultation must conclude within 45 days, with a single 15-day extension option provided to the tribes. Project conditions must include binding cultural protections agreed upon in the consultation, and other provisions require a Sacred Lands Inventory request and cultural records search.

Fourth, as a condition of approval for the development, the local government must require the project applicant to complete a Phase I Environmental Site Assessment.[59] If a recognized environmental condition is found, then a Preliminary Endangerment Assessment must be conducted. If a release of a hazardous substance is found on the site, the effects of the release must be mitigated to levels required by current law. If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, those effects must also be mitigated to levels required under current law.

Lastly, in order for housing development projects to benefit from this CEQA exemption, they must meet certain labor standards.[60] For projects constructing buildings over 85 feet or projects that are 100 percent affordable, project sponsors must pay prevailing wage for all workers on the project. In San Francisco, all projects with 50 or more units, regardless of height, must pay prevailing wage to all workers.

In a version of the bill circulated a week prior to the final language that was signed into law, the bill proposed a new approach to labor standards by allowing regionally available "residential wages" in lieu of traditional prevailing wage requirements.[61] This draft permitted project sponsors relying on this new exemption to pay construction workers as low as $20 per hour in 44 counties, rather than adhering to the long-established practice of prevailing wage schedule. Labor unions swiftly opposed the measure, arguing that it undermined decades of wage protections and created "second class" standards for residential construction.[62]

This approach represented a major break from the standard legislative practice in California, where CEQA reform and housing measures are typically conditioned on project sponsors providing prevailing wages to its construction workers. For example, SB 35 and AB 2011 both included the traditional prevailing wage language.[63] By contrast, the prior draft of AB 130 attempted to decouple CEQA reform and changes to housing law away from the prevailing wage regime, often viewed as politically untenable. The backlash led to the revision of the labor standards in AB 130, which removed the regional wage language and restored the prevailing wage language, but only for projects above 85 feet, 100 percent affordable projects, and projects with 50 units or more in San Francisco.

For Builder's Remedy projects, project sponsors will receive the same CEQA exemption as long as the aforementioned requirements are met, but only for projects on up to five-acre sites.[64]

2. Fee-Based Mitigation Option for Vehicle Miles Travelled ("VMT")

AB 130 also creates a mechanism for project sponsors to mitigate VMT impacts through contributions to the Transit-Oriented Development Implementation Fund ("the Fund").[65] VMT is a metric that measures the amount and distance of automobile travel generated by a proposed project.[66] Under CEQA, VMT has become the primary method for evaluating a project's transportation-related environmental impacts, replacing the older Level of Service (LOS) standard that focused on traffic congestion and delay. This shift, established by the passage SB 743 (Steinberg) in 2013, aligned CEQA transportation analysis with the state's climate goals.[67]

Under CEQA, a project that results in a significant increase in VMT may

trigger the need for mitigation to reduce the VMT to produce a less than significant environmental impact.[68] This is particularly true for projects that are located far from existing transit and jobs.[69] Under AB 130, with lead agency approval, project sponsors may mitigate identified significant VMT impacts to a less than significant level by contributing to the Fund. Although not currently known, a fee methodology will be established by the Governor's Office of Land Use and Climate Innovation, which must release initial guidance by July 1, 2026, and adopt final rules by January 1, 2028.[70]

Money deposited in the Fund will be used toward funding for affordable housing or related infrastructure projects, including infrastructure necessary for higher density uses. The bill created a tiered system for prioritizing how the Fund will be spent:

1. First priority: Projects located within a "location-efficient area"[71] within the same region as the contributing development project.

2. Second priority: Projects located within the same region, but not necessarily in a "location-efficient area."

3. Third priority: Projects located in a "location-efficient area" in an adjacent region, with proximity radius to be determined in future guidance from the Department of Housing and Community Development ("HCD").[72]

While innovative and creative, this pathway does not prevent municipalities from layering additional fees and exactions on a project to mitigate VMT. For example, section 58 of the bill clarifies that this new mechanism "shall not preclude the lead agency's use of other mitigation strategies, including, but not limited to, transportation demand management, transit improvements, active transportation infrastructure, road diets, or local or regional mitigation banks and exchanges."[73] The last section of this provision relating to VMT further clarifies that "this section does not prevent[] a local agency from charging local impact fees based on vehicle miles traveled pursuant to the Mitigation Fee Act . . ."[74]

By allowing municipalities to retain discretion to impose additional or alternative VMT mitigation, including impact fees or site-specific measures, this provision of AB 130 may be counterproductive. It may streamline development in jurisdictions that are interested in building more housing, but it can

also be used by anti-housing jurisdictions as an additional tool to stymie housing production.

This is a clear area where legislation or agency action can provide further clarification and guidance to prevent municipalities from instituting policies and practices that undermine the purpose of this new VMT mechanism.

3. Extending California's Environmental Leadership Development Projects to Include Certain Infill Housing

AB 130 expands California's Environmental Leadership Development Projects ("ELDP") program to include specific housing developments that invest at least $15 million and dedicate a minimum of 15 percent of units to lower-income households.[75] AB 130 specifically extends this benefit to a larger range of housing by clarifying that a residential development project includes multifamily housing projects with four or more units.

Originally established under AB 900 (Buchanan) in part to expedite the construction of large projects in the state,[76] the ELDP program provides expedited litigation timelines for qualified projects challenged under CEQA.[77] In order for a project to become an ELDP project, the Governor must certify that project before an EIR is certified.[78] To qualify to become an ELDP project and receive the benefits associated with it, the project must meet a host of requirements, including enhanced environmental and labor standards. For example, the project must produce no net new greenhouse gas emissions and adhere to prevailing wage requirements.[79]

For years, critics pointed out that the provisions of ELDP only favored large well-financed projects such as tech campuses and arenas at the expense of smaller infill housing projects that faced similar CEQA challenges, but lacked the resources to navigate the ELDP process.[80] Extending the provisions of this program to a greater pool of housing projects clarifies that the state now views infill housing production not only as a priority worthy of judicial streamlining, but also as an environmentally strategic way to build housing without compromising environmental protection.

C. SB 131

AB 130's companion legislation from the Senate—SB 131—made several changes to CEQA to streamline key infrastructure by expanding exemptions, clarifying ministerial approvals and enhancing CEQA streamlining programs.

1. CEQA Exemptions for Infrastructure Projects

While AB 130 largely focused on CEQA exemptions for housing projects, SB 131 supplements those provisions by providing CEQA exemptions for a host of infrastructure projects that the Legislature identified as having significant statewide importance.[81] These exemptions similarly reflect Governor Newsom's broader "Abundance Agenda," signaling a policy shift toward accelerating the necessary and complementary infrastructure to housing production.[82]

The exemptions in SB 131 are below, including some examples of the problem that the bill is addressing:

1. Rezonings that implement the schedule of actions in an approved housing element.[83] Many jurisdictions across the state were failing to meet the state housing element deadlines, which included rezoning sites to reflect the changes to that jurisdiction's housing element. These rezonings often triggered lengthy and costly CEQA review that made it difficult to comply with state law and delayed the construction of housing. By exempting the rezoning process for implementing an approved housing element, it is fair to conclude that this would expedite housing being built on those identified sites.

2. Wildfire risk reduction projects, such prescribed burns, vegetation clearance near evacuation routes, defensible space improvements, and fuel breaks.[84]

3. Agricultural employee housing.[85]

4. Water system improvements and small-scale water and wastewater projects for small or disadvantaged community water systems.[86]

5. Broadband deployment within existing public road rights-of-way.[87]

6. Updates to the state climate adaptation strategy, and certain public parks and nonmotorized recreational trails projects.[88]

7. Day care centers (outside residential zones).[89] In Napa, CEQA was used by residents to challenge the construction of a daycare center.[90] During the city council meeting, neighbors raised concerns about increased traffic congestion and noise impacts on the surrounding neighborhood.[91]

8. Small rural health clinics.[92]

9. Nonprofit food banks on industrial land.[93] In Alameda, a nonprofit food bank's plan to expand on industrial-zoned land was targeted with a CEQA lawsuit, which delayed the project.[94]

10. Advanced manufacturing in industrial zones.[95]

11. Certain high-speed rail maintenance and passenger facility projects.[96] There are numerous examples of the state's high-speed rail program facing CEQA delays. For example, the size of a new maintenance facility in Brisbane was significantly reduced after the city filed a CEQA lawsuit, which ultimately yielded a settlement that shrunk the site by half its originally proposed size.[97]

2. Streamlined Review of Nearly Exempt Projects

One of the most notable elements of the bill is the inclusion of a "near exempt" provision, which introduces a streamlined CEQA review for housing projects that narrowly fail to qualify for an exemption, but for a single disqualifying condition. When a housing project would otherwise qualify for an existing CEQA exemption, but is disqualified because of one condition, SB 131 would allow the project to undergo limited environmental review focused solely on the environmental impacts of that specific condition. Under this process, the environmental analysis would not need to address alternatives, cumulative impacts, or growth inducing effects beyond those tied strictly to the single triggering condition.[98]

However, the term "single disqualifying condition" remains somewhat ambiguous, and its application may vary across jurisdictions. Without a clear definition, agencies and project applicants may adopt differing interpretations about what qualifies as a single, versus multiple, disqualifying factor. This lack of clarity could result in an inconsistent application of this provision, potentially undermining its effectiveness or leading to litigation over eligibility. To ensure the provision is implemented uniformly and as intended, clarifying cleanup legislation or formal guidance from the agencies may be necessary. Standardized criteria would help local agencies apply the provision consistently and give project sponsors greater certainty when relying on this streamlined CEQA pathway.

3. CEQA Administrative Record Contents

One of the more nuanced yet consequential CEQA reforms included in SB 131 is a provision that modifies the scope of what must be included in the administrative record. The bill amends Pub. Resources Code, § 21167.6 to exclude internal agency communications that were not presented to the final decision-making body from the required contents of the administrative record.[99]

Under previous law, CEQA required the administrative record to include nearly all relevant documents in an agency's possession, including internal emails, staff memoranda, and draft documents—even if they were never shared with the public or submitted to the body ultimately responsible for approving the project.[100] In many cases, this requirement significantly expanded the universe of documents that needed to be reviewed by agency staff and/or counsel as part of record preparation, driving up costs of preparation. There were also many disputes regarding whether the record contained all internal communications and whether claims of privilege regarding such communications were valid.

By clarifying that only materials actually presented to or considered by the final decision-making body must be included, SB 131 streamlines the scope of a CEQA administrative record, which should make the process of assembling the record more efficient. In practice, this reform will likely make CEQA litigation faster, less costly, more predictable, and less procedurally onerous, especially for infill housing and infrastructure projects that already face steep regulatory hurdles.

4. Mapping of Eligible Infill Sites by the Office of Land Use and Climate Innovation

SB 131 also establishes a new statutory mandate for the Office of Land Use and Climate Innovation ("OLUCI") to map urban infill sites eligible for the new infill housing exemption created by AB 130. This initiative is intended to provide greater predictability for project sponsors interested in using the new exemption to build housing.

Under this provision of the bill, OLUCI is required to develop and publish an interactive map that identifies parcels that meet the 20-acre CEQA infill exemption.[101] Although it is unclear if the map is to be dispositive of site eligibility for the exemption, it is still likely to facilitate faster site selection for project

sponsors interested in building the kind of housing that fits within the exemption and will.

It likely save significant resources as a result.

CONCLUSION

In sum, AB 130 and SB 131 represent significant steps towards streamlining the CEQA process to facilitate much needed housing and other key infrastructure development. The changes enacted in AB 130 and SB 131 represent some of the most significant procedural and substantive modifications to CEQA in decades. They reflect a growing legislative willingness to pare back CEQA's more burdensome aspects—particularly those seen as barriers to housing, clean energy, and transportation projects aligned with the state's climate goals.

Some have, however, opined that these bills mark the beginning of the end for CEQA, characterizing them as signaling its impending demise. Environmental groups leading the backlash referred to AB 130 and SB 131 as "the worst anti-environmental bill in California in recent memory," calling them "an unprecedented rollback to California's fundamental environmental and community protections."[102] While this rhetoric captures the frustration of those concerned about CEQA's dilution, such characterizations may overstate the actual scope and impact of the recent reforms. These reforms fall far short of eliminating CEQA or fundamentally altering its core structure, as Senator Wiener's SB 607 would have done by eliminating the "fair argument" standard of review for most negative declarations. The EIR process remains intact, and most private development still requires full CEQA review. Public agencies still bear the burden of analyzing, disclosing, and mitigating significant environmental effects. Courts retain the authority to invalidate projects for inadequate CEQA compliance. In that context, calling this a "death knell" for CEQA appears exaggerated.

By refining key provisions, such as introducing targeted exemptions and clarifying certain procedural aspects, these bills will reduce costly delays and regulatory uncertainty that have long hindered progress. Despite these benefits, there are still shortcomings. The VMT measure of AB 130 still leaves an opportunity for jurisdictions to layer additional mitigation requirements, potentially turning this innovative idea into a tool for obstruction. Without further clarification, local agencies may interpret AB 130 as merely one option among many, rather than as a comprehensive and sufficient pathway to address

vehicle miles traveled impacts under CEQA. This risks undermining the bill's intent to provide certainty and streamlining for infill housing projects in location-efficient areas.

Legislative fixes could help preserve the integrity and effectiveness of this provision by converting it into a true payment-in-lieu mechanism. For example, the Legislature could explicitly state that the payment or contribution under AB 130 satisfies all CEQA-related VMT mitigation obligations for qualifying projects. This would prevent local agencies from imposing duplicative or discretionary requirements on top of what AB 130 already allows—requirements that could otherwise be wielded to delay or block projects even in areas identified for infill and transit-oriented development.

Furthermore, the near-miss exemption of SB 131 remains ambiguous and could benefit from further clarification of what constitutes a single environmental condition. For instance, it is unclear whether localized environmental issues such as noise, traffic, or air quality can be treated as discrete conditions, or whether such impacts are properly grouped into a single, broader category that would not disqualify a project from using the "near-exemption" streamlining. Additionally, the statute does not define how cumulative or secondary effects should be evaluated under this provision. In the absence of guidance, agencies may take a conservative approach, either avoiding the exemption altogether or applying it inconsistently across jurisdictions. This uncertainty could deter its use, particularly for infill housing or climate-aligned infrastructure projects that would otherwise qualify. Clarifying what constitutes a "single environmental condition" through statutory amendment or implementing regulations would help standardize interpretation, reduce litigation risk, and promote more confident and consistent use of the exemption.

Addressing these issues will be essential to fully realizing the bills' goals of modernizing CEQA to streamline the development of key infrastructure and much needed housing in the state.

ENDNOTES:

[1]Assemb. Bill No. 130 (2025-2026 Reg. Sess.).

[2]Sen. Bill No. 131 (2025-2026 Reg. Sess.).

[3]Gavin Newsom, Governor of California, *Governor Newsom Signs into Law Groundbreaking Reforms to Build More Housing, Boost Affordability* (June 30,

2025), https://www.gov.ca.gov/2025/06/30/governor-newsom-signs-into-law-groundbreaking-reforms-to-build-more-housing-affordability/ (last accessed Aug. 1, 2025).

[4]KQED News Staff and Wires, *Jerry Brown Says CEQA Reform Unlikely This Year*, KQED (Apr. 16, 2013), https://www.kqed.org/news/94399/jerry-brown-says-unlikely-to-pursue-ceqa-reform-this-year (last accessed Aug. 1, 2025).

[5]Assemb. Bill No. 130 (2025-2026 Reg. Sess.); Sen. Bill No. 131 (2025-2026 Reg. Sess.).

[6]Although these changes to state housing law may be important and, in some cases, have broader and more significant implications than the CEQA provisions, this article limits its analysis to reforms to CEQA. Nonetheless, understanding the CEQA provisions of AB 130 and SB 131 will assist in navigating the new regulatory framework aimed at addressing the state's problems with housing affordability and infrastructure deficits.

[7]Sen. Bill No. 330 (2019-2020 Reg. Sess.).

[8]Gov. Code, § 65589.5.

[9]Gov. Code, §§ 65920, et seq.

[10]For a review of the other reforms included in AB 130 and SB 131, please see Arthur F. Coon, Travis Brooks & Miguel Mauricio, *State Budget Bill Includes Landmark CEQA and Housing Law Changes*, Miller Starr Regalia CEQA Developments Blog (July 15, 2025).

[11]E. W. Wharton & R. A. Lewis, *Legislative History of the California Environmental Quality Act*, UCRL-52188 (Lawrence Livermore Lab. & U.S. Energy Rsch. & Dev. Admin. 1976), 1.

[12]National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852 (1970) (codified as amended at 42 U.S.C.A. §§ 4321-4370h).

[13]*Friends of Mammoth v. Board of Supervisors*, 8 Cal. 3d 247, 255, 104 Cal. Rptr. 761, 502 P.2d 1049 (1972) (disapproved of by, *Kowis v. Howard*, 3 Cal. 4th 888, 12 Cal. Rptr. 2d 728, 838 P.2d 250 (1992)) ("In an era of commercial and industrial expansion in which the environment has been repeatedly violated by those who are oblivious to the ecological well-being of society, the significance of this legislative act cannot be understated . . . .").

[14]Ronald Reagan, *Governor's State of the State Address* (Jan. 7, 1970) (transcript available at California State Archives).

[15]Cal. Code Regs., tit. 14, § 15082; Pub. Resources Code, § 21080.4; see also Miller & Starr, California Real Estate 4th (2024) § 26:1.

[16]Miller & Starr, California Real Estate 4th (2024) § 26:4.

[17]Cal. Code Regs., tit. 14, § 15378.; Pub. Resources Code, § 21065; see also Miller & Starr, California Real Estate 4th (2024) §§ 26:4, 26:7.

[18]Miller & Starr, California Real Estate 4th (2024) §§ 26:4, 26:8; Cal. Code Regs., tit. 14, §§ 15061, 15300 et seq.; Pub. Resources Code, §§ 21080,

21084.

[19]Miller & Starr, California Real Estate 4th (2024) § 26:4; Cal. Code Regs., tit. 14, §§ 15070, 15080, 15121-15132; Pub. Resources Code, §§ 21002.1, 21061, 21064, 21064.5, 21080, subds. (c)-(d), 21080.1, 21080.4, 21081, 21081.6, 21082.1, 21100, 21104, 21153.

[20]Cal. Code Regs., tit. 14, §§ 15070, 15074(d), 15097; Pub. Resources Code, §§ 21064, 21064.5, 21081.6, subd. (b); see also Miller & Starr, California Real Estate 4th (2024) §§ 26:11, 26:12.

[21]Miller & Starr, California Real Estate 4th (2024) § 26:4.

[22]Cal. Code Regs., tit. 14, §§ 15121(a), 15126.2, 15126.4, 15126.6; Pub. Resources Code, §§ 21002.1, subd. (a), 21061, 21081, 21100, subd. (b); see also Miller & Starr, California Real Estate 4th (2024) §§ 26:14, 26:15, 26:17, 26:18.

[23]Cal. Code Regs., tit. 14, §§ 15087-15089, 15088.5; Pub. Resources Code, §§ 21091-21092.5, 21100, 21104, 21157.1.

[24]Cal. Code Regs., tit. 14, § 15151; Pub. Resources Code, § 21168; see also Miller & Starr, California Real Estate 4th (2024) § 26:22.

[25]Cal. Code Regs., tit. 14, §§ 15002(k), 15126.6(a), 15151; Pub. Resources Code, §§ 21002.1, 21100.

[26]When an EIR is required, the cost and delay associated with environmental review is often significant. See, e.g., Heimer & Hitchcock, CEQA: California's Living Environmental Law, CEQA's Role in Housing, Environmental Justice & Climate Change (Oct. 2021), pages 44-45 (discussing mixed-use development in Redwood City for which environmental review took 26 months and cost approximately $700,000). For large projects, post-approval litigation is common and can add years and hundreds of thousands of dollars to the process.

[27]This was the case during the early days of CEQA, where CEQA was eventually expanded to apply to private projects. The landmark California Supreme Court case *Friends of Mammoth v. Board of Supervisors*, 8 Cal. 3d 247, 104 Cal. Rptr. 761, 502 P.2d 1049 (1972) (disapproved of on other grounds by, *Kowis v. Howard*, 3 Cal. 4th 888, 12 Cal. Rptr. 2d 728, 838 P.2d 250 (1992)), significantly expanded CEQA's reach by holding that CEQA applies not only to public projects but also to private projects requiring discretionary governmental approval. Originally, CEQA was intended primarily to regulate environmental review for public agency actions. However, the *Friends of Mammoth* decision clarified that private developments are subject to CEQA review when they need permits or approvals from public agencies. This extension broadened the law's scope considerably, adding layers of procedural and substantive complexity.

[28]*Critics Say California Environmental Law Strangles Housing Supply*, Sacramento Bee (Oct. 2021).

[29]*Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497, 1513, 221 L. Ed. 2d 820 (2025).

[30]See *Friends of Santa Clara River v. United States Army Corps of Engineers*,

887 F.3d 906, 916 (9th Cir. 2018).

[31]*Make UC A Good Neighbor v. Regents of University of California*, 88 Cal. App. 5th 656, 672, 304 Cal. Rptr. 3d 834, (1st Dist. 2023), rev'd and remanded, 16 Cal. 5th 43, 321 Cal. Rptr. 3d 409, 548 P.3d 1051, (2024).

[32]*Id.* at 665.

[33]*Id.*

[34]*Judge Freezes UC Berkeley's Student Enrollment at 2020-21 Levels*, Berkeleyside (Aug. 24, 2021), https://www.berkeleyside.org/2021/08/24/judge-freezes-uc-berkeleys-student-enrollment-at-2020-21-levels (last accessed Aug. 1, 2025).

[35]*Supreme Court Holds Legislature's Case-Driven CEQA Amendments Require Judgment Upholding UC Berkeley's 2021 Long-Range Development Plan EIR and People's Park Housing Project*, CEQA Developments (June 10, 2024), https://www.ceqadevelopments.com/2024/06/10/supreme-court-holds-legislatures-case-driven-ceqa-amendments-require-judgment-upholding-uc-berkeleys-2021-long-range-development-plan-eir-and-peoples-park-housing-project-ag/ (last accessed Aug. 1, 2025).

[36]Gavin Newsom (@CAgovernor), X (Formerly known as "Twitter") (Feb. 22, 2023, 6:40 p.m.), https://x.com/CAgovernor/status/1629602373319688192 (last accessed Aug. 1, 2025).

[37]Cheryl Getuiza, *Are San Francisco's bike lanes green enough for CEQA?*, CALIFORNIA FORWARD (Mar. 18, 2013), https://cafwd.org/news/video-are-san-franciscos-bike-lanes-green-enough-for-ceqa/ (last accessed Aug. 1, 2025).

[38]*Hilltop Group, Inc. v. County of San Diego*, 99 Cal. App. 5th 890, 898, 318 Cal. Rptr. 3d 336 (4th Dist. 2024).

[39]*Id.* at 441.

[40]*Id.* at 444-45.

[41]*Id.* at 448-49.

[42]*Id.* at 451.

[43]For further reading on *Hilltop Group, Inc. v. County of San Diego*, see Arthur F. Coon & Carolyn Nelson Rowan, *Hilltop Group, Inc. v. County of San Diego: Throwing a Judicial Monkey Wrench into the Spin Cycle of Local Agency CEQA Laundering?*, published in Vol. 34, No. 5, Miller & Starr Real Estate Newsalert (May 2024).

[44]Sen. Bill No. 35 (2017-2018 Reg. Sess.).

[45]Assemb. Bill No. 2011 (2021-2022 Reg. Sess.).

[46]Assemb. Bill 609 (2025-2026 Reg. Sess.).

[47]*Id.*

[48]Sen. Bill 607 (2025-2026 Reg. Sess.).

[49]See, Christina McDermott, CEQA Bills in the Budget: What It Will Mean

for Housing in Santa Barbara and Beyond, THE SANTA BARBARA INDEPENDENT (June 30, 2025).

[50]Pub. Resources Code, § 21080.66(a)(1).

[51]Assemblymember Wicks & Senator Wiener, *Assemblymember Wicks, Senator Wiener Applaud Governor Newsom's Support for Their CEQA Reform Bills* (May 14, 2025) (press release), https://a14.asmdc.org/press-releases/20250514-assemblymember-wicks-senator-wiener-applaud-governor-newsoms-support-their (last accessed Aug. 1, 2025).

[52]See Cal. Code Regs., tit. 14, §§ 15260-15285; Pub. Resources Code, § 21080(b)(4).

[53]Cal. Code Regs., tit. 14, §§ 15300-15333.

[54]Cal. Code Regs., tit. 14, § 15062.

[55]Assemb. Bill No. 130 (2025-2026 Reg. Sess.).

[56]Pub. Resources Code, § 21080.66, subd. (a).

[57]Pub. Resources Code, § 21080.66, subd. (f)(7).

[58]Pub. Resources Code, § 21080.66, subds. (f)(1)-(4).

[59]Pub. Resources Code, § 21080.66, subd. (c)(1).

[60]Pub. Resources Code, § 21080.66.

[61]Assemb. Bill No. 130 (2025-2026 Reg. Sess.), as amended June 24, 2025.

[62]Jeremy Kehoe, *IBEW 11, California Unions Unite to Defeat Law That Would Have Decimated Wages*, IBEW Local 11 (July 23, 2025), https://ibew11.org/2025/07/ibew-11-california-unions-unite-to-defeat-law-that-would-have-decimated-wages/ (last accessed Aug. 1, 2025).

[63]Shazia Manji & Ryan Finnigan, *Streamlining Multifamily Housing Production in California: Progress Implementing SB 35*, TERNER CTR. FOR HOUS. INNOVATION, 6 (Aug. 2023).

[64]Pub. Resources Code, § 21080.66, subd. (b)(1)(A).

[65]Health & Saf. Code, § 53561.

[66]Cal. Code Regs., tit. 14, § 15064.3(b).

[67]Sen. Bill No. 743 (2013-2014 Reg. Sess.).

[68]Cal. Code Regs., tit. 14, § 15064.3(b)(2).

[69]Cal. Governor's Office of Planning & Research, *Technical Advisory on Evaluating Transportation Impacts in CEQA*, 19 (Dec. 2018).

[70]Pub. Resources Code, § 21083.11.

[71]The Office of Land Use and Climate Innovation will define what a "location-efficient area" is in future guidance under AB 130, which is to be released on or before July 1, 2026.

[72]Pub. Resources Code, § 21080.44.

[73]Pub. Resources Code, § 21080.44, subd. (b).

[74]Pub. Resources Code, § 21080.44, subd. (g).

[75]Pub. Resources Code, §§ 21178-21189.3.

[76]Notable examples of projects that received ELDP certification include the Golden 1 Center in Sacramento and the Chase Center in San Francisco.

[77]Assemb. Bill 900 (2011-2012 Reg. Sess.).

[78]*Id.*

[79]*Id.*

[80]Eden Housing, *Q&A with Senator Steve Glazer*, https://edenhousing.org/policy-updates/qa-with-senator-steve-glazer/ (last accessed Aug. 1, 2025).

[81]Sen. Bill No. 131 (2025-2026 Reg. Sess.).

[82]Gavin Newsom, Governor of California, *Governor Newsom Signs into Law Groundbreaking Reforms to Build More Housing, Boost Affordability* (June 30, 2025), https://www.gov.ca.gov/2025/06/30/governor-newsom-signs-into-law-groundbreaking-reforms-to-build-more-housing-affordability/ (last accessed Aug. 1, 2025).

[83]Pub. Resources Code, § 21080.085.

[84]Pub. Resources Code, § 21080.44, subd. (i).

[85]Pub. Resources Code, § 21080.44.

[86]Pub. Resources Code, § 21080.47, subd. (a)(6)(A)(ii).

[87]Pub. Resources Code, § 21080.51.

[88]Pub. Resources Code, §§ 21080.55, 21080.57.

[89]Pub. Resources Code, § 21080.44, subd. (h).

[90]Anne Cottrell & Liz Alessio, *California Environmental Law Nearly Killed a Childcare Facility in Our Community. Enough Is Enough*, S.F. Chronicle (May 27, 2025), https://www.sfchronicle.com/opinion/openforum/article/california-ceqa-reform-20342916.php (last accessed Aug. 1, 2025).

[91]*Id.*

[92]Pub. Resources Code, § 21080.69, subd. (a)(1).

[93]Pub. Resources Code, § 21080.44, subd. (i).

[94]J.K. Dineen, *Lawsuit Blocking Bay Area Food Bank's Plan to Move Dismissed*, San Francisco Chronicle (Apr. 24, 2025), https://www.sfchronicle.com/bayarea/article/alameda-food-bank-lawsuit-20292510.php (last accessed Aug. 1, 2025).

[95]Pub. Resources Code, § 21080.69(a)(4).

[96]Pub. Resources Code, § 21080.70.

[97]Joseph Gordon, *Another New Lawsuit Aimed At California High-Speed Rail Project*, Bisnow (Nov. 14, 2022), https://www.bisnow.com/san-francisco/n

ews/other/california-high-speed-rail-project-suffers-setback-as-lawsuits-emerge-116379?utm (last accessed Aug. 1, 2025).

[98]Sen. Bill No. 131 (2025-2026 Reg. Sess.).

[99]Sen. Bill No. 131 (2025-2026 Reg. Sess.).

[100]Pub. Resources Code, § 21167.6(e).

[101]Sen. Bill No. 131 (2025-2026 Reg. Sess.).

[102]Lazo, A. and Becker, J., *California Lawmakers Roll Back Environmental Law. Why is high-tech manufacturing now exempt?*, Cal Matters (Jul. 1, 2025), https://calmatters.org/environment/2025/06/california-budget-sweeping-environmental-law-rollbacks-manufacturing/ (last accessed Aug. 1, 2025).

