



Association of
Environmental
Professionals

Legislative Update 2016

Association of Environmental Professionals
Bay Area Chapter

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2016 Overview



- Numerous CEQA bills introduced
- Regulatory activity stalls
- New Speaker in charge
- Changing climate around climate change

OPR Update

- SB 743 Regulations
 - OPR received substantial comments in opposition to their draft proposal – especially from transportation agencies
- CEQA Guidelines Update
 - Little has been done since the draft proposal release last fall
- Potential additional changes stemming from recent lawsuits

Key Legislation

- AB 1500 (Maienschein)
- AB 1886 (McCarty)
- AB 2788 (Gatto)
- AB 1569 (Steinorth)
- SB 32 (Pavley) / AB 197 (Garcia)
- State Budget – By Right Housing proposal



AB 1500 (Maienschein)

- Exempts from CEQA a "priority housing project," which includes an emergency shelter, transitional housing, or supportive housing project.
- Reflects the larger efforts around:
 - (1) Affordable Housing
 - (2) Combatting Homelessness
- Dead for 2016
 - Gutted in the Senate to be a transportation bill by Asm. Atkins.
 - Concept is expected to be brought back to the Legislature next year.

AB 1886 (McCarty)

- Changed definition of "transit priority project" for
 - Increase the percentage, from 25% to 50%, of a project that may be farther than one-half mile from a major transit stop or high-quality transit corridor.
- Abbreviated review under the Sustainable Communities Strategy provisions of CEQA
- Failed in Senate EQ Committee
 - Committee wanted to allow for recent measures to be implemented first.

AB 2788 (Gatto)

- Promoting the installation of “small cells”:
 - “Small cell” is a permitted use, not subject to discretionary permit or aesthetic review
 - Subject only to building & administrative permits, and require a city or county to issue those permits within 60 days
- Close relative of AB 57 (Quirk) from last year
 - Expedited permit review for certain cell towers
- Gut and Amend in mid-June
 - Failed without a hearing in the Senate due to AEP, local government and environmental opposition



AB 1569 (Steinorth)

- Exempt from the provisions of CEQA a transportation infrastructure project, if the project is located within an existing right-of-way and does not add additional motor vehicle lanes, except auxiliary lanes
- AEP offered a letter of “suggested amendments”
 - Provided clarity in some sections, and explained ambiguities that other sections created
- Bill Failed in Assembly Natural Resources Committee



SB 32 (Pavley) / AB 197 (Garcia)

- Successor to Asm. Pavley's AB 32 (2006)
 - GHG emissions to 1990 level by 2020
- State's long-term targets to reduce GHG's and combat climate change
- CEQA has been linked with Climate Change efforts since SB 97 (2007)
- But first, some background...

Legal Background

- AB 32 (2006)
 - Specifically permitted a “market-based compliance mechanism” through 2020
- Executive Order B-30-15 (Gov. Brown, 2015)
 - target of 40% below 1990 levels by 2030
- Cap & Trade Program
 - Chamber of Commerce lawsuit claiming illegal tax (2/3 vote)

Political Background

- GGRF important politically
- Rise of the Moderate Democrats in the Assembly (New Dems Caucus)
 - SB 32 failed on the Assembly Floor in August, 2015
 - SB 350 (De Leon) had to be amended to avoid the same fate
- Opposition to SB 32 efforts have three primary categories:
 - (1) Oil industry
 - (2) Builders and similar groups opposed to restrictions on growth
 - (3) Legislators and others that oppose giving broad authority to Agencies



2016 Bills

- SB 32 (Assembly Appropriations)
 - Only creates a 2030 emissions reduction target
 - Also adds SLCP's under the definition of GHGs
- AB 197 (Senate Appropriations)
 - Contains "Legislative Oversight" and "Transparency" measures to address opposition arguments
 - Adds Legislative non-voting members to the Board
 - Requires ARB to "prioritize" programs and efforts that directly reduce emissions at large sources and in the transportation sector.
 - ARB must "rank" all efforts based on effectiveness: (1) reductions & (2) cost.

Future remains up in the air

- Governor & Legislators want to see update to AB 32 this year
- ARB announcing a path for Cap & Trade beyond 2020 without legislation
- Debate over best approach
 - Is 2/3 needed?
 - Prioritize targets and address Cap & Trade at a later date?
 - Is Legislation needed or will EO's withstand legal challenge?

“By Right” Housing Proposal

- Budget Proposal by Governor Brown
- AEP Provided substantial comments to the Proposal and the suggested amendments
- Summary: If a housing project is consistent with the underlying zoning and other “objective standards” and includes specified percentages of affordable units, then the project would not require a discretionary permit
- But, no one is happy:
 - Housing advocates think it is too narrow, environmental and labor groups think it is too broad, environmental justice advocates think it doesn't offer enough.



The End

- Questions?
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