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## Regulatory Update

# California Pushes ‘Abundance’ Agenda With Major CEQA Reforms for Housing and Select Infrastructure

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On June 30, California Governor Gavin Newsom signed two budget trailer bills that deliver the most significant and sweeping reform of the California Environmental Quality Act (CEQA) in the 55-year history of this far-reaching environmental law. Among other statutory changes, Assembly Bill (AB) 130 exempts from CEQA a wide range of housing developments in urban areas. Separately, Senate Bill (SB) 131 exempts specific types of infrastructure and public-serving projects, provided those projects are not in “natural and protected lands” (a broad category of parks and sensitive areas subject to legal protection). These bills also amend California permit streamlining laws to make them more effective in facilitating development.

Although CEQA reform has been an annual topic of discussion in Sacramento for over a decade, few widespread changes to the law have come to pass. Instead, the California Legislature has focused primarily on efforts to streamline environmental review for large infrastructure projects or others with massive economic investments, along with occasionally addressing individual judicial decisions that are poster children for CEQA abuse, such as that involving student housing “noise” at the University of California, Berkeley. These one-off patches have done little to quell the state’s housing crisis or to reduce CEQA litigation.<sup>1</sup>

This legislative session, however, there has been added pressure for real change, especially with the issuance of the “[Final Report of the California Assembly Select Committee on Permitting Reform](#)” in March 2025.<sup>2</sup> AB 130 and SB 131 — introduced as part of the annual budget process as compilations of bills proposed earlier in the session by [Assembly Member Buffy Wicks \(AB 609\)](#), [Senator Scott Wiener \(SB 607\)](#) and others — represent that change. Indeed, the Governor made his approval of the state’s budget contingent on AB 130 and SB 131 being passed for his signature by no later than June 30.

The bills reflect the Legislature’s recognition that CEQA has been used for nonenvironmental purposes: “CEQA should not be used primarily for economic interests, to stifle competition, to gain competitive advantage, or to delay a project for reasons unrelated to environmental protection.” (SB 131, § 2.) It appears that the days of rampant CEQA litigation to preserve parking lots and low-density urban sites are over.

## Legal Context

CEQA requires public agencies to undertake environmental review of proposed projects that require discretionary approval. “CEQA was enacted to advance four related purposes: (1) inform the government and public about a proposed activity’s potential environmental impacts; (2) identify ways to reduce, or avoid, environmental damage; (3) prevent environmental damage by requiring project changes via alternatives or mitigation measures when feasible; and (4) disclose to the public the rationale for governmental approval of a project that may significantly impact the environment.” (*California Building Indus. Assn v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 382.) Although “CEQA was meant to serve noble purposes, ... it [has been] manipulated to be a formidable tool of obstruction, particularly against proposed projects that will increase housing density.” (*Tiburon Open Space Committee v. County of Marin* (2022) 78 Cal.App.5th 700, 782.)

## AB 130’s New CEQA Exemption for Housing Projects

AB 130 exempts housing development projects (projects where at least two-thirds of square footage is residential) from CEQA if the project meets all of the following conditions (Pub. Res. Code, § 21080.66(a)):

1. The project site is less than 20 acres (except for builder’s remedy projects, which cannot have project sites more than five acres);
2. The project site is in an incorporated municipality or a census tract-defined “urban area”;
3. The project site (i) has been previously developed with an urban use, (ii) at least 75% of the site adjoins parcels developed with urban uses or (iii) at least 75% of the area within a quarter miles of the site has been developed with urban uses;
4. The project is consistent with the applicable general plan and zoning ordinance, including any applicable local coastal programs under the California Coastal Act;
5. The project’s density is at least five units per acre for an unincorporated area in nonmetropolitan counties; 10 units per acre in suburban jurisdictions; and 15 units per acre in metropolitan jurisdictions;
6. The project is not on an environmentally sensitive or hazardous site;
7. The project does not require the demolition of an historic structure that was placed on a national, state or local historic register; and
8. The project is not designated for use as a hotel, motel, or other similar lodging.

Housing developments subject to this CEQA exemption will still be subject to certain tribal consultation requirements. Further, as a condition of approval, the project proponent must complete a phase I environmental assessment, and, if a recognized environmental condition (REC) is found, a preliminary endangerment assessment. Effects of hazardous substance releases or potential hazards exposures would need to be mitigated to levels required by current regulatory standards prior to issuance of a certificate of occupancy. Moreover, the exemption does not impact the eligibility of a housing development project for a density bonus, incentives or concessions, waivers or reductions of development standards, and reduced parking ratios under California’s density bonus law.

## Labor Requirements for AB 130 Projects

As with many recently enacted statutes seeking to boost housing construction in California, AB 130 contains specified labor requirements for eligible projects to take advantage of the new exemption.

- For 100% affordable housing projects, construction workers must be paid the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations.

- For projects *over 85 feet in height*, the labor requirements in Gov. Code Section 65913.4(a)(8) apply, including paying prevailing wage as determined by the California Department of Industrial Relations and employing a “skilled and trained construction workforce.” (Of note, projects 85 feet in height and under do not need to comply with these rules.) These standards in effect require union labor for these projects.
- For projects of 50 units or more in San Francisco, if not subject to the skilled and trained construction workforce requirement, workers of certain construction crafts must be paid prevailing wages.

### **AB 130’s Other Changes to Facilitate Development**

- Makes clear that the Permit Streamlining Act (including the 30-day deadline to deem an application complete or request additional information) applies not only to discretionary permits, but also ministerial permits for housing development projects. (Gov. Code, § 65928.)
- Subjects the California Coastal Commission to shortened review timelines for housing development projects that are already applicable to other CEQA responsible agencies. (Gov. Code, § 65952(b).)
- Eliminates the Coastal Commission’s appeal jurisdiction on residential development projects in sensitive coastal resource areas or in unincorporated county areas. (Pub. Res. Code, § 30603(a).)
- Prohibits the California Building Standards Commission (CBSC) and local governments from making changes to or adopting new building standards and green standards from October 1, 2025 until June 1, 2031, unless those changes are (i) necessary as emergency standards for health or safety reasons, (ii) for home hardening or (iii) administrative changes that were previously filed or are necessary to implement a previous action. (Health & Saf. Code, §§ 17958, 18930(a).)
- Provides more flexibility for California’s existing Transit-Oriented Development Implementation Fund, a state initiative designed to increase public transit ridership while addressing the housing shortage. AB 130 authorizes these funds to be used for development of “vehicle miles traveled-efficient affordable housing” and related infrastructure, with new prioritization for “location-efficient areas.” The new legislation authorizes funds to be provided to local jurisdictions and developers to mitigate significant transportation impacts of new projects. (Pub. Res. Code, § 21080.44.) The state will be providing more guidance on this revamped program.

### **SB 131’s New CEQA Exemptions**

SB 131 — the companion bill to AB 130 — reflects the state’s intent to prioritize certain projects with public benefits. The bill exempts the following project types from CEQA, provided that they are not on “natural and protected lands,” which are defined to encompass protected parks, wilderness areas and other environmentally sensitive and legally protected areas. (*Id.*, § 21067.5.)

SB 131 creates CEQA exemptions for the following types of projects (*Id.*, §§ 21080.48(a), 21080.49, 21080.55, 21080.57, 21080.69(a), 21080.70(a)):

- Health centers and rural clinics
- Childcare centers
- Advanced manufacturing facilities (if on a site zoned for industrial use)
- Food banks
- Agricultural employee housing projects

- Community water system projects provided various conditions are met
- Wildfire risk mitigation projects, including, among other things, projects for prescribed fire, defensible space clearance and fuel breaks, provided that the project complies with specified requirements
- Updates to California's climate adaptation strategy planning document
- Parks and nonmotorized recreational trail facilities funded by Proposition 4 of 2024, the Safe Drinking Water, Wildfire Prevention, Drought Preparedness and Clean Air Bond Act of 2024
- High-speed rail stations and maintenance facilities for electrically powered high-speed rail

### **SB 131's Other Changes to Facilitate Development**

- Creates a more streamlined review process for certain housing development projects that meet all of the criteria for a CEQA exemption except for a single condition. Under this new process, the initial study or environmental impact report (EIR) must examine only those effects that the lead agency determines, based upon substantial evidence in the record, are caused solely by the condition that makes the proposed project ineligible for the exemption. For these "near miss" projects, alternative analyses and cumulative or growth inducing impacts also need not be considered. For qualifying projects, this has the potential to reduce litigation risks and will reduce CEQA compliance costs. (*Id.*, § 21080.1.)
- With minor exceptions, excludes staff notes and internal agency communications from the administrative record that must be prepared for CEQA litigation. (*Id.*, § 21167.6(e)(10)(A)(iii).)
- For infill projects, requires the state to update the CEQA Guidelines (regulations) by 2027 and every two years thereafter to (i) to "better incentivize affordable and smart infill development housing growth" and (ii) address any rigid requirements, lack of clarity in vague terminology and potential overexposure to litigation. (*Id.*, § 21094.5.5, SB 131, Legislative Counsel's Digest (3).)

### **Other Legal Constraints Remain**

Local governments may try to impose environmental review requirements to fill in those no longer required by the state. The state could argue that such local gap fillers are preempted as a matter of significant statewide concern.

Additionally, various agencies (e.g., the California Coastal Commission or the Department of Toxic Substances Control) charged with environmental protection and with other mandates will remain empowered to assess and mitigate impacts under their respective statutory schemes.

### **Ambiguities in AB 130 and SB 131**

AB 130 and SB 131 are effective today, but questions and ambiguities may limit the effectiveness of these new laws:

- For projects that would be exempt from CEQA pursuant to a statutory exemption except for a single condition, the new scope of CEQA review under SB 131 is limited to the effect caused by that condition. It may not be clear what constitutes a "single condition" and which effects are caused by that single condition.
- SB 131 exempts "advanced manufacturing" if zoned for industrial use. Advanced manufacturing is defined broadly, creating uncertainty and litigation risk.<sup>3</sup> Moreover, environmental groups singled out this new exemption for especially strenuous objection.

- SB 131 exempts rezoning actions that implement a state-approved housing element (as required by state law). However, there may be disagreement regarding which actions actually implement an approved and compliant housing element.

A flurry of new applications could create delays in local governments' processing of these applications. Local governments may also be hesitant to process projects under these exemptions until they better understand these new laws.

### The Next Chapter

We expect opposition from environmental organizations to shift into litigation challenging these new laws' ambiguities and their application to specific projects. Nevertheless, these CEQA reforms mark a major step forward in the battle to produce housing and some types of infrastructure for Californians.



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- <sup>1</sup> Previous California law reform efforts intended to facilitate development have been subject to numerous carve-outs and requirements, which limited the scope and effectiveness of those reforms. AB 130 and SB 131 remain subject to some limitations, (e.g., carve-outs for environmentally sensitive areas in the California coastal zone), but ultimately have much broader applicability, particularly in urban areas.
- <sup>2</sup> We previously wrote about these efforts in [Permitting Reform Ramps Up in California With Introduction of 'Housing Package'](#), March 31, 2025.
- <sup>3</sup> "Advanced manufacturing" means manufacturing processes that improve existing or create entirely new materials, products, and processes through the use of science, engineering, or information technologies, high-precision tools and methods, a high-performance workforce, and innovative business or organizational models utilizing any of the following technology areas ..." (Pub. Res. Code, § 26003(a)(a).)

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