

California Environmental Quality Act – Recent Developments

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November Ballot Initiative: Building an Affordable California Act

For many years, various interest groups and governmental agencies have discussed the possibility of reforming the California Environmental Quality Act (CEQA). While CEQA serves an important role in public disclosure, informed decision making, and consideration of the environmental effects of a project, it has also been used to delay or block important public and private projects, sometimes driven by “not in my backyard” sentiments. Until recent years, legislative reforms have been relatively limited, leading one former California Governor to comment that the Legislature “should not fool [itself]” into thinking that various adopted CEQA reform bills “even make a dent in the problems caused by CEQA’s spaghetti-like requirements.”

In more recent years, the Legislature’s increasing focus on addressing California’s housing crisis has led to some more significant reforms to help streamline the approval and development of urgently needed housing, particularly affordable housing.

California voters will now have an opportunity to consider the next jump forward in streamlining critical projects, via the “Building an Affordable California Act” (“Act”), an initiative that has qualified for the November 2026 election.

As stated in the preamble to the proposed legislation, “California’s outdated system for approving essential projects is too slow, too bureaucratic, and too costly. Essential projects like clean water, clean energy, hospitals, affordable housing, roads, wildfire prevention, schools, public safety, and other infrastructure improvements are being delayed or blocked by unnecessary red tape, bureaucratic delays, and excessive lawsuits.” The Act proposes to streamline the CEQA and development approval process for the State’s “most essential projects.”

The streamlining would involve a number of components, including limiting the amount of time that a public agency can spend reviewing and issuing determinations related to projects; limiting the time spent on CEQA review; requiring reviewing agencies to make evidence-based decisions that rely on objective standards; and limiting how long a court has to reach a decision in CEQA litigation. These reforms would apply to the various types of critical projects like the ones noted above.

As to schools, the Act applies this streamlining to “essential education facilities projects,” which can include construction and modernization. This would apply to an array of educational facilities, including those of school districts, county offices of education, community college districts, the California State University system, the University of California system, charter schools, and qualified nonprofit colleges and universities.

Lozano Smith will be monitoring the progress of the Act, and if passed, will provide additional information about the significant changes that will take place.

New Case Interprets Commonly Used CEQA Exemption

A recent California Supreme Court decision clarifies the procedural steps required of public agencies under CEQA when determining if formal environmental review is required for a project involving alterations to an existing facility.

The project at issue in *Sunflower Alliance v. Department of Conservation* (June 25, 2026, S287414) __Cal.5th__ involved the proposed conversion of a long-dormant oil and gas extraction well, which had been used to inject treated wastewater, the byproduct of oil and gas drilling, back into the underground aquifer. Opponents voiced concerns about the potential migration of the treated wastewater into clean water sources.

The CEQA Guidelines, contained in title 14 of the California Code of Regulations, provide for various classes of “categorical exemptions,” which allow a project to avoid further CEQA review. Defendants had determined that the well conversion was exempt from CEQA based on the “Class 1” categorical exemption for minor alterations of existing facilities involving negligible or no expansion of an existing or former use. The Court considered whether “negligible” for the purposes of the Class 1 exemption means a minor change in use or instead means a minor risk of environmental harm.

The Court identified three steps required by public agencies in the CEQA decision tree:

Step 1: Determine if the proposed action qualifies as a “project” under CEQA and, if so, move to step 2.

Step 2: Determine if a statutory or categorical exemption applies and, if not, move to step 3. If a public agency properly finds that a statutory or categorical exemption applies, no further environmental review under step 3 is necessary.

Step 3 (Final Step): Determine if there is substantial evidence that the project may have a significant effect on the environment and, if so, whether and to what extent those impacts may be mitigated.

The Court concluded that substantive environmental analysis occurs at the third stage, after the determination has been made that a project is not exempt under CEQA. Further, while environmental effects are expressly included as a factor in other CEQA exemptions, that factor is not mentioned in the Class 1 exemption. This means that the extent of environmental impact of a project was not meant to be a factor in determining if the Class 1 exemption applies. As a result, the focus for a Class 1 exemption is whether there is a negligible change in use, not whether there is a negligible environmental effect.

The Court cited as examples of projects that fall squarely under the Class 1 categorical exemption: (1) adding a bicycle lane to an existing street; (2) converting a single-family residence to office use; or (3) use of a single-family residence as a small day care center.

This decision is important because a public agency making a minor alteration to an existing facility, involving negligible or no expansion of an existing or former use, can rely on the Class 1 exemption under CEQA to avoid further environmental review. This case confirms that the agency does not need to establish that there is no environmental impact in order to rely on this exemption.

Lozano Smith has recently updated its Checklist: [CEQA for School Districts](#), which addresses levels of CEQA review for various types of school related projects. If you have any questions about the Building an Affordable California Act, the Supreme Court's recent decision, or CEQA in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#) and [LinkedIn](#), or download our [mobile app](#).

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