

AB 2840 (Reyes) Qualifying logistics use projects

JOB KILLER





DATE: June 16, 2022

TO: Members, Senate Committee on Government and Finance

**SUBJECT: AB 2840 (REYES) QUALIFYING LOGISTICS USE PROJECTS
HEARING SCHEDULED – JUNE 22, 2022
OPPOSE/**JOB KILLER** – AS AMENDED ON JUNE 13, 2022**

The California Chamber of Commerce and the organizations listed respectfully **OPPOSE AB 2840 (Reyes)**, as amended on June 13, 2022, which the CalChamber continues to label as a **JOB KILLER**. Even with the most recent amends limiting the scope of the bill to two counties, **AB 2840** still has substantial statewide implications that will severely hurt California. Prohibiting local governments from approving any new or expansion of existing logistic use projects within 1,000 feet of sensitive receptors will jeopardize tens of thousands of jobs in the region, exacerbate the existing supply chain problems across the state, increase costs of living for all Californians, add to urban sprawl and kill critically needed housing. The California Building Industry Association has labeled this bill a “Housing Killer” because many projects rely upon mixed use development to pencil out master planned communities containing hundreds of needed homes.

AB 2840 Conflicts with Governor’s Executive Order Addressing Supply Chain Backlogs

Last year amid unprecedented global disruptions to the goods movement supply chain, Governor Gavin Newsom signed Executive Order N-19-21 to alleviate congestion at California ports and ease supply chain issues. Specifically, the Executive Order highlighted that shipping container dwell times and street dwell times for containers were more than double the normal average due to bottlenecks further downstream in the supply chain, including insufficient warehouses to undock cargo. **AB 2840** is inconsistent with the Governor’s Executive order to create short- and long-term solutions to the supply chain problem by depriving local governments of their land use authority to approve critically needed warehouses and other logistic use projects in one of the most important distribution hubs in the country. The Inland Empire is located near the Port of Los Angeles, Port of Long Beach and Port of San Diego where over 40% of imports enter the country and over 30% of the nation’s exports departing through them. The Inland Empire is located near the Port of Los Angeles, Port of Long Beach and Port of San Diego where over 40% of the nation’s imports enter and over 30% of the nation’s exports depart from. The Inland Empire economy is one of the largest and fastest-growing economies in the nation boasting the 13th largest metropolitan market. This bill would depress housing, jobs and economic growth in the region, while simultaneously aggravating supply chain and inflationary problems already plaguing all of California.

Prohibiting Local Government from Exercising Their Land Use Authority to Approve Important Development More Extreme Than California Environmental Quality Act (CEQA)

AB 2840 is an extreme policy that casts aside CEQA, one of the most protective environmental laws in the nation, and all other environmental laws and regulations in California that ensure responsible development, in favor of a wholesale development ban. Existing laws and regulations already require qualifying logistics use projects and warehouses to comply with a plethora of applicable local, state and federal environmental laws, such as the Porter-Cologne Water Quality Control Act, the Clean Water Act, the Clean Air Act, CARB and Regional AQMD rules and regulations, uniform building codes, fire codes, and of course CEQA, which ensures any potential impacts like increased traffic, noise or air impacts are fully disclosed and mitigated.

In other words, existing law already forces new projects or the expansion of an existing facility to undergo the most rigorous environmental analysis and mitigation measures in the country. It is why developing in California, whether it is a housing or a warehouse project, is one of the most difficult places in the country to build in. **AB 2840** creates arbitrary “ban zones” throughout California without any consideration for the specific project and its actual impacts on the communities.

A One-Size Fits All Statewide Labor Mandate Quashes Development

Section 65098 (c) of the bill forces a uniform, statewide “skilled and trained” mandate onto all private logistic use projects not banned under the other provisions of the bill. The proposed policy is not justifiable as it imposes a significant burden on private projects despite the lack of any nexus between the project and the use of state funds. Whether a proposed project utilizes skilled and trained workers, or hires locally, is an issue that should be negotiated at the local level.

Incongruent with Southern California’s New Indirect Source Rule for Warehousing Operations

AB 2840 is incongruent with the most substantial rulemaking related to the siting and operation of warehouses in Southern California. Just last year, the South Coast Air Quality Management District (SCAQMD) [adopted Rules 2305 and 316](#), which for the first time began regulating warehouses greater than or equal to 100,000 square feet, which is the exact size this bill intends to ban, as “indirect” sources of emissions. SCAQMD created the Warehouse Actions and Investments to Reduce Emissions (WAIRE) program to levy fees on warehouse owners in order to reduce NOx, DPM and carbon emissions, and increase visits from zero- and near-zero emissions (ZE and NZE) trucks to warehouses. The WAIRE program provides a menu of implementation measures designed to reduce NOx, DPM and carbon emissions, including acquiring or using zero and near-zero emission trucks, acquiring or using zero emission yard trucks, investing in new on-site equipment, building new charging infrastructure, funding particulate filters, installing solar panels, and installing MERV 16 or greater filters or filtration systems in residences, schools, daycares, hospitals or community centers.

Relies on Outdated 2005 Advisory Document and Ignores California Air Resources Board’s Recent and Pending Regulations

AB 2840 cites a [2005 CARB advisory document](#) recommending that sensitive receptors be situated away from warehouses using a now arbitrary 1,000-foot prohibition as a proxy for environmental protection. Not only is this document nearly 20 years old, CARB and the U.S. Environmental Protection Agency (EPA) have adopted and enforced stricter regulations designed to reduce community exposure around these projects.

For example, the [EPA’s 2007 PM2.5 Implementation Rule](#) and CARB’s [Truck and Bus Regulation](#) require trucks to be retrofitted with the highest level of particulate matter (PM) filters available, which are now commonly installed on all 2007 and newer truck engines. These rules alone have contributed to the capture of 99% PM according to testing programs conducted by EPA, CARB and other environmental agencies. The Truck and Bus Regulation is one of the most far-reaching and important tools used to reduce emissions and protect public health. It is a key element in CARB’s Diesel Risk reduction plan and the State Implementation Plan, both of which are designed to provide clean air for Californians by helping to meet

state and federal health-protective standards. And as of January 1, 2020, Senate Bill 1 only allows vehicles compliant with this regulation to be registered by the California Department of Motor Vehicles (DMV).

Additionally, the California Air Resources Board (CARB) adopted in July 2020 the [Advanced Clean Trucks Rule](#), which requires manufacturers of all Class 2b-8 trucks to begin meeting escalating zero emission sales starting in 2024, and by 2035 requires Class 2b-3, Class 7-8, and Class 4-8 trucks to be 55%, 40%, and 75% zero emission by 2035. Governor Newsom's Executive Order N-79-20 requires CARB to continue that rulemaking, making 100% of all trucks and buses zero emission by 2045 everywhere feasible, and for all drayage trucks to be zero emission by 2035.

Finally, CARB is conducting workshops anticipating the introduction of the [Advanced Clean Fleets Rule](#) by the end of this year, which will require that large public and private fleets be 100% zero emission by 2035. Under that rule, CARB plans to ban the registration of any new non-zero emission vehicle from California's ports and intermodal railyards after 2023. CARB is also developing the [Transportation Refrigeration Unit Rule](#) to address cold storage trucks.

In conclusion, **AB 2840** will worsen the state's supply chain problems by constraining local governments from being able to responsibly permit critically needed warehouses and logistic use projects throughout California, irrespective of any environmental mitigation, electrification or technological investments made to use low or zero-emission equipment on-site, based on outdated standards.

Sincerely,



Adam Regele
Senior Policy Advocate
California Chamber of Commerce

On behalf of the following organizations:

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African American Farmers of California, Will Scott, Jr.
Agricultural Council of California, Tricia Geringer
American Chemistry Council, Tim Shestek
Brea Chamber of Commerce, Lacy Schoen
Building Industry Association of Southern California, Cornelius Burke
Building Owners and Managers Association of California, Matthew Hargrove
California Beer and Beverage Distributors, Victoria Horton
California Builders Alliance, Damon Conklin
California Building Industry Association, Nick Cammarota
California Business Properties Association, Matthew Hargrove
California Business Roundtable, Brooke Armour
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California Cotton Ginners and Growers Association, Roger Isom
California Family Beer Distributors, Luis Sanchez, Miller Cespedes
California Farm Bureau, Taylor Roschen
California Fresh Fruit Association, Ian LeMay
California Grocers Association, Kelly Ash
California Food Producers, Trudi Hughes
California Manufacturers & Technology Association, Robert Spiegel
California Railroads, (BNSF Railway Co./Juan Acosta; Union Pacific Railroad Co./Francisco Castillo, Jr.)
California Retailers Association, Steve McCarthy
California Short Line Railroad Association, Kennan H. Beard III
California Trucking Association, Chris Shimoda
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