



RURAL COUNTY REPRESENTATIVES  
OF CALIFORNIA

March 28, 2024

The Honorable Roger Niello  
Member, California State Senate  
1021 O Street, Room 7110  
Sacramento, CA 95814

**RE: Senate Bill 1259 – SUPPORT  
As Introduced February 15, 2024**

Dear Senator Niello:

On behalf of the Rural County Representatives of California (RCRC), we are pleased to support your Senate Bill 1259 regarding the California Environmental Quality Act (CEQA). RCRC is an association of forty rural California counties; the RCRC Board of Directors is comprised of elected supervisors from each of those member counties.

Senate Bill 1259 proposes several changes to expedite CEQA litigation review, improve transparency, and ensure that CEQA is not misused for non-environmental purposes. First, SB 1259 seeks to expedite litigation review for major commercial, housing, and public works projects that address longstanding critical needs. Second, it ensures that judicial remedies enjoining project construction and operation are only used as a last resort when there is an imminent threat to public health and safety or the location contains unforeseen important Native American, historical, archaeological, or ecologically values that would be materially, permanently, and adversely affected. Third, it requires judicial approval of CEQA settlements and prohibits inclusion of non-environmental provisions in those settlements. Finally, SB 1259 allows a defendant to file a motion requesting disclosure of every person or entity who made a monetary contribution of \$10,000 or more to the lawsuit.

Counties have been on the forefront of CEQA implementation as both project proponents and as lead agencies, which gives local governments a unique perspective of the benefits, complications, and challenges associated with CEQA implementation. CEQA is an important tool to facilitate disclosure (and mitigation) of a project's significant effects on the environment. Unfortunately, CEQA has also provided ample grounds for opponents to frustrate, delay, and derail important public projects and services.

RCRC supports CEQA's role as an information dissemination and environmental mitigation tool; however, since its enactment in 1970 it has expanded into a complex regulatory obligation with serious consequences resulting from procedural or substantive missteps. As

1215 K Street, Suite 1650, Sacramento, CA 95814 | [www.rcrcnet.org](http://www.rcrcnet.org) | 916.447.4806 | Fax: 916.448.3154

such, CEQA is often rightly criticized today as a litigation trap that can be exploited by those seeking competitive gain or to stop projects altogether. We appreciate SB 1259's efforts to facilitate meaningful discussions on ways to address these challenges while preserving the core information disclosure and mitigation role that CEQA ensures.

***Expedited Litigation Review for Major Projects to Address Longstanding Critical Needs***

SB 1259 seeks to expedite litigation review of major commercial, housing, and public works projects that address longstanding critical needs and result in an investment of at least \$25 million. Aside from the costs and time it takes to prepare CEQA documents, litigation challenging the adequacy of those reports can take years to resolve and add millions of dollars in costs to a project. Indeed, litigation delay is used as a tool by project opponents to delay a project past the point of economic viability. SB 1259 addresses this problem by attempting to reduce the litigation review timeframe. To achieve SB 1259's compressed timeframe, we hope courts will ultimately make CEQA less complex, easier to navigate, and provide clearer expectations for project proponents.

***Relief from Injunctive Relief***

SB 1259 also ensures that judicial remedies enjoining project construction and operation are only used as a last resort. In doing so, SB 1259 broadens applicability of a provision crafted to benefit mega-projects like the Sacramento Kings Arena and the California Capitol Annex. This mechanism ensures that courts do not enjoin continued project construction or operation unless there is an imminent threat to public health and safety or the location contains unforeseen important Native American, historical, archaeological, or ecologically values that would be materially, permanently, and adversely affected. SB 1259 ensures that all projects can enjoy the relief the Legislature provided to itself and to the Sacramento Kings.

***Judicial Review of CEQA Settlements and Bar on Non-Environmental Provisions***

SB 1259 requires judicial approval of CEQA settlements and prohibits inclusion of non-environmental provisions in those settlements. Under CEQA, the bar for delaying a project for years is fairly low. For years, project proponents have complained about project opponents using the threat of CEQA litigation (and the resulting costs and multi-year delay) to extract concessions from developers – often unrelated to the environment. SB 1259 deals with part of the problem and seeks to promote transparency and judicial scrutiny of settlements that arise after a lawsuit is filed. Given how CEQA is often derided and maligned, judicial review of settlements will help ensure that entities are seeking to address legitimate environmental impacts caused by the project. The bar on non-environmental settlement provisions will protect against entities using CEQA to promote their own competitive or pecuniary interests.

While SB 1259 addresses settlements entered into after litigation is filed, pre-litigation threats are another pathway through which entities seek to extract concessions from project proponents. Some have complained about tactics where entities will threaten to sue, but walk away after extracting a quick financial settlement. While we recognize that SB 1259 does not address these challenges, it does send a strong signal that courts will review settlement agreements and that CEQA shall not be used to extract non-environmental benefits from project proponents.

The Honorable Roger Niello  
Senate Bill 1259  
March 28, 2024  
Page 3

***Disclosure of Financial Contributors to Litigation***

Finally, SB 1259 allows a defendant to file a motion requesting disclosure of every person or entity who made a monetary contribution of \$10,000 or more to the lawsuit. While the bill limits the purposes for which that information may be used and provides privacy protections, that information is admissible in requesting a bond for housing projects. CEQA has been used for anti-competitive purposes by businesses seeking to block competitors or by others merely to secure contracts for themselves or their clients. At the same time, it can be challenging to determine just who is funding those actions. SB 1259 will promote transparency about who is behind efforts to challenge projects under CEQA and hopefully prevent its misuse by entities trying to exploit the law for non-environmental purposes.

For these reasons, RCRC supports SB 1259. If you should have any questions, please do not hesitate to contact me at [jkennedy@rcrcnet.org](mailto:jkennedy@rcrcnet.org).

Sincerely,



JOHN KENNEDY  
Senior Policy Advocate

cc: The Honorable Benjamin Allen, Chair, Senate Environmental Quality Committee  
Members of the Senate Environmental Quality Committee  
Brynn Cook, Consultant, Senate Environmental Quality Committee  
Scott Seekatz, Consultant, Senate Republican Caucus

Attachment: [RCRC Written Comments for April 27, 2023, Little Hoover Commission Hearing on the Effects of the California Environmental Quality Act](#)