



















































































July 20, 2020

TO: Members, Senate Committee on Environmental Quality

SUBJECT: AB 3279 (FRIEDMAN): CALIFORNIA ENVIRONMENTAL QUALITY ACT: ADMINISTRATIVE

AND JUDICIAL PROCEDURES

SUPPORT - AS AMENDED JULY 1, 2020

The California Chamber of Commerce and the organizations listed are pleased to SUPPORT AB 3279 as amended, which would make improvements to the CEQA process and allow more housing to be built with less unnecessary delays. Specifically, the bill preserves all CEQA substantive environmental requirements while expediting the CEQA litigation process by improving the preparation of the administrative record process, reducing the time petitioners take to file briefs from 3 months to 2 months, and codifying the court's authority to issue interlocutory remand orders. The most recent amendments were taken to address concerns that interlocutory remand orders are not final judgments, to address concerns regarding costs related to administrative record preparation, and to strike the language moving up the time frame a hearing must be requested by petitioners. AB 3279 as amended continues to maintain the statute's existing environmental safeguards while making meaningful changes to CEQA litigation procedures to eliminate known abuses to the statute that delay or block projects for reasons unrelated to environmental protection.

The preparation of the administrative record is notoriously time consuming and susceptible to legal arguments about which party should prepare it. These arguments can lead to costly delays that hinder resolution of the substantive environmental issues pertaining to a project. AB 3279 addresses this problem by revising procedures to reduce inefficiencies and debates over who prepares the record by simply authorizing the lead agency to take on the responsibility of preparing the record so long as the lead agency agrees to waive all costs associated with

preparation. In other words, a lead agency that opts to prepare the administrative record will not be able to seek any reimbursement from petitioners for record preparation.

AB 3279 also recognizes that providing courts with discretion to issue interlocutory remand orders can promote judicial efficiency by providing courts with more remedies under CEQA. One-size fits all remedies that force housing and other projects back to the very beginning of the CEQA process, even for minor errors often unrelated to environmental concerns, is not only inefficient, but extremely time consuming and costly for housing construction. For desperately needed housing in California, delays and added costs results in less housing that is more expensive. Existing remedies pursuant to CEQA are limited. Under these limited options, a single problem can invalidate the approval of an entire project and force projects back to the beginning of the CEQA land use development process. Too often, this results in either more expensive projects that take longer to get approved, or worse, housing projects that never get built.

Some opponents of **AB 3279** incorrectly argue that interlocutory remand orders prevent petitioners from obtaining final judgment necessary to file an appeal. A very recent case, *Alliance of Concerned Citizens Organized for Responsible Development v. City of San Juan Bautista*, (2018) 29 Cal.App.5th 424, the Sixth District Court of Appeal clearly held that the "substance and effect" of a decision labeled by the trial court as an interlocutory remand order <u>constitutes a final judgment</u>. Nevertheless, the amendments to **AB 3279** remove any doubt. The bill now clearly states, that these proposed changes "shall not prevent a court from entering a final judgment, affect the right of parties to appeal that judgment or affect the appropriate determination of attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure."

CEQA serves an important goal of preventing public agencies from approving projects with potentially significant impacts if there are feasible mitigation measures that would eliminate or substantially reduce those impacts. Notwithstanding these benefits, CEQA can be used by special interest and community groups to delay, scale back, or halt projects altogether for reasons unrelated to the environment. **AB 3279** proposes meaningful but narrowly tailored changes to the CEQA process that maintain all of CEQA's robust environmental protections. We support efforts to identify thoughtful ways to expedite the development of housing and other projects in California without compromising the statute's objectives to protect California's natural environment.

For these reasons, CalChamber and the organization listed SUPPORT AB 3279 (Friedman).

Signed,

Adam Regele, Policy Advocate California Chamber of Commerce

On behalf of the following organizations:

Auto Care Association, Aaron Lowe

Bay Area Council, Matt Regan

Bay Area Housing Advocacy Coalition, Todd David

Building Owners and Managers Association-CA, Matthew Hargrove

California Apartment Association, Debra Carlton

California Association of Realtors, Jelisaveta Gavric

California Building Industry Association, Nick Cammarota

California Business Properties Association, Matthew Hargrove

California Business Roundtable. Kirk Clark

California Community Builders. Robert Apodaca

California Port Authority, Kelly Hitt

California YIMBY. Louis Mirante

CAWA – Representing the Automotive Parts Industry, Rodney Perini

Council of Infill Builders, Meea Kang

El Dorado County Chamber of Commerce, David Butler

El Dorado Hills Chamber of Commerce, David Butler

Elk Grove Chamber of Commerce, David Butler

Folsom Chamber of Commerce, David Butler

Greater Coachella Valley Chamber of Commerce, Patrick Swarthout

Habitat for Humanity-California, Debbie Arakel

International Council of Shopping Centers, Matthew Hargrove

Mendocino-Humboldt Redwood Companies, Chris Micheli

Murrieta/Wildomar Chamber of Commerce, Patrick Ellis

NAIOP of California, Matthew Hargrove

North Orange County Chamber of Commerce, Theresa Harvey

Oceanside Chamber of Commerce, Scott Ashton

Official Police Garages Association of Los Angeles, Chris Micheli

Orange County Business Council, Jennifer Ward

Pleasanton Chamber of Commerce, Steve Van Doran

Rancho Cordova Chamber of Commerce, Diann H. Rogers

Roseville Area Chamber of Commerce, David Butler

San Gabriel Valley Economic Partnership, Brad Jensen

San Francisco Bay Area Planning and Urban Research Association (SPUR), Michael Lane

Santa Maria Valley Chamber of Commerce, Glenn Morris

Silicon Valley @ Home, Leslye Corsiglia

Silicon Valley Leadership Group, Vince Rocha

The Two Hundred, Robert Apodaca

Torrance Area Chamber of Commerce, Donna Duperron

United Chamber Advocacy Network, David Butler

West Coast Lumber & Building Material Association, Ken Dunham

Western Electrical Contractors Association Inc., Richard Markuson

Yuba Sutter Chamber of Commerce, David Butler

cc: Rachel Wagoner, Office of the Governor Scott Seekatz, Senate Republican Caucus

AR:mm