



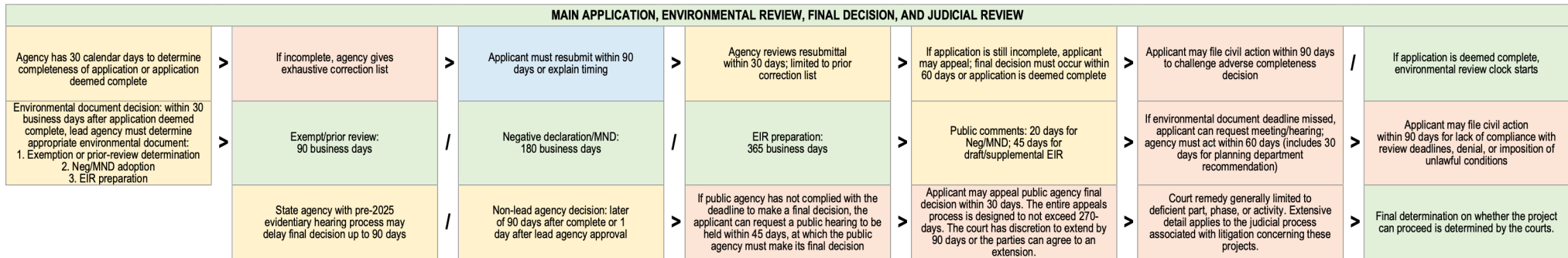
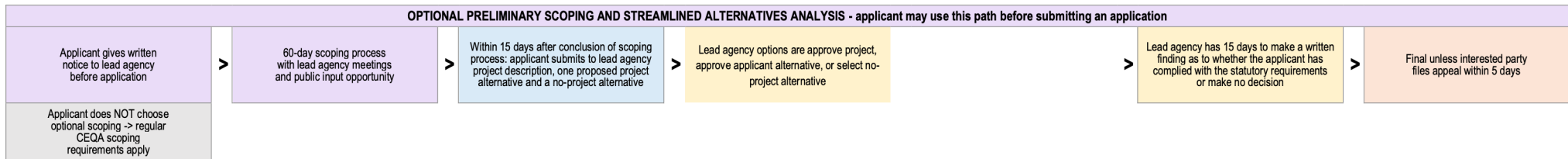
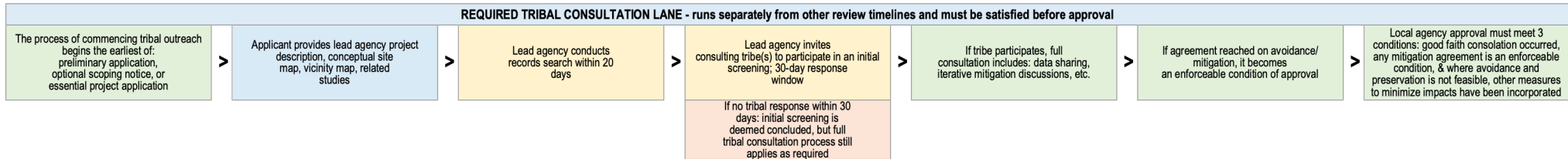
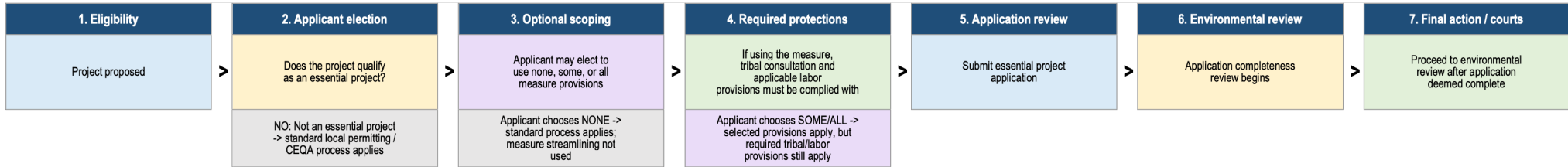
Summary: Building an Affordable California Act

A Ballot Measure sponsored by the
California Chamber of Commerce

June 28, 2026

Building a More Affordable California Act Essential Project Process At a Glance

Shows applicant choices, required protections, main permitting milestones, missed-deadline remedies, and legal off-ramps.



Applicant / project

Required step

Agency decision

Optional applicant path

Remedy / appeal

Standard process / end

Parallel lane

Notes: "Business days" apply to environmental review timelines; most other day counts are calendar days. Applicant/public agency extensions may be available in specified circumstances.

This At a Glance is based on the CaPSA summary report provided by CALED. This chart is an effort to distill a complex measure, and we encourage you to explore the summary, as well as the Building a More Affordable California Act text <https://buildaffordableca.com/read-the-measure/>

Summary

Proposes to expedite permit processing and environmental reviews for a wide spectrum of “essential projects,” as defined. Requires applications submitted by any person, legal entity, public agency, or public utility to construct essential projects,ⁱ to be subject to strict timelines, conditions and limitations for application processing, tribal consultation, CEQAⁱⁱ compliance, and related judicial reviews. Applicants, however, have the option of utilizing none, some, or all of this measure’s provisions.

Purpose and Application of Measure

Purpose: Declares that the purpose of this measure is to make California more affordable by streamlining and speeding up the approval of essential projects. Further declares that the state “occupies the field in the area of review and approval of essential projects” because “the adequacy, availability and affordability of housing, clean energy, water, transportation, broadband internet, education facilities, public safety infrastructure, and public health infrastructure is insufficient to serve the needs of California’s population and economy.”ⁱⁱⁱ

Public Agency Authority: Specifies that the measure does not diminish the ability of public agencies to approve or disapprove essential projects. States that “no outcomes are preordained.”^{iv} Provides that public agencies may impose fees for processing applications. Provides that, unless stated within the measure, nothing in the chapter shall be construed to eliminate or restrict a lead agency’s discretion to determine the appropriate threshold of significance or mitigation measure in preparing environmental documents.

Statutory/Regulatory “Lock-In:” Provides that all references to state statutes and regulations in the measure shall only apply to those statutes and regulations as they existed on December 31, 2025, regardless of any subsequent amendment, repeal, sunset or expiration that takes place after that date.^v The measure makes one exception to this provision, a change made to the Labor Code affecting contractor/subcontractor liability by SB 597 (Cortese) Ch. 774 of 2025.^{vi} This provision, however, is confusing given that other aspects of this measure require projects to comply with “existing laws.”

Future Amendments: Provides that the Legislature may adopt legislation that is “consistent with and furthers the purposes^{vii} of this measure” with a two-thirds vote of each house, and the final version must be available for at least 12 business days before passage in either house.

Application of this Measure: Applies to the review and processing by public agencies^{viii} of any and every application and approval of an essential project, and its accompanying land use entitlements, including without limitation, discretionary adjudicative and/or legislative land use entitlements triggering programmatic, plan-level or project-level environmental reviews under CEQA. In addition, this measure:

- 1) Provides that the provisions of this “chapter”^{ix} shall control and supersede any conflicting requirement for environmental review of an essential project.
- 2) Applicants for essential projects, however, are not required to use this chapter. Further, this measure authorizes applicants to proceed with applications that use none, some or all of these provisions, in combination with other land use and environmental review

laws, when they would provide for more expeditious review and approval [See Sec. 21015(a)].^x

- 3) Authorizes applicants that have not yet received final approvals (prior to this measure's effective date^{xi}) to withdraw their application and resubmit their application under this measure.
- 4) Authorizes an essential project, that is a portion or component of a larger project,^{xii} to be reviewed and approved under this chapter.
- 5) Provides that essential projects may be implemented in multiple phases, and phased applications are not required to individually meet the criteria for an essential project.
- 6) Provides that applicants may agree to grant local agencies additional time (beyond the timelines specified in this measure) to complete environmental reviews, or make a final decision on a project.
- 7) Preserves vested rights and other benefits for housing projects under the Subdivision Map Act, Housing Accountability Act, the Builder's Remedy, and the Housing Crisis Act of 2019 (based on the submitted preliminary application) that are withdrawn and resubmitted to take advantage of the provisions of this measure.^{xiii}
- 8) Provides that applications for essential projects that have been deemed complete prior to this measure's effective date, where the applicant has not altered the project, shall not be subject to additional completeness reviews.
- 9) Provides that to the extent conflicts exist with other statutes, this one is controlling, including for any environmental reviews, except it does not abrogate or limit any other existing statutory or categorical CEQA exemptions.

Essential Project	Definitions	Labor Criteria (If Applicable)	Comments
Housing	Defined as all of the following: • Residential units only • Mixed-use development^{xiv} • Transitional housing, emergency shelters and supportive housing^{xv} • Farmworker housing^{xvi} • Group living accommodations^{xvii} • Student housing units^{xviii} • Senior housing (55+)^{xix} • A subdivision or common interest development.^{xx} • Conversion of an existing commercial building to residential use.	Limits prevailing wage provisions (that were included in the CEQA housing exemption included in AB 130, CH. 22, of 2025) to only apply to buildings over 85 feet in height. Also applies specific labor requirements (from AB 130 of 2025) applicable to projects over 50 units in San Francisco, and enforcement authority for a joint labor-management committee. Provides that if an applicant seeks to use provisions of this measure and another voluntary environmental streamlining statute that requires either	Housing is the only "essential project" in this measure which does not require full compliance with the labor provisions applicable to an "environmental leadership development project" as defined in Section 21183.5. This measure departs from state policies included in statutes which offer housing developers CEQA relief, but require the development to be constructed in infill areas with some included level of affordability. This measure, however, has no infill or affordability requirements.

		prevailing wages or a project labor agreement, the project shall comply with those provisions.	Housing developers may view this measure as offering project streamlining without the need to build in infill locations, and comply with affordability, labor and other requirements that apply to other existing CEQA streamlining statutes and categorical exemptions.
Broadband	Defined as projects to provide mass market internet service by wire, wireless or radio with the capacity to transmit and receive data from all, or substantially all, internet endpoints. These projects shall include, but are not limited to, any capabilities incidental to, or enable, the operation of the communications service.	Requires these broadband projects to comply with all labor requirements applicable to an “environmental leadership development project” as defined in Section 21183.5. The labor requirements include using a skilled and trained workforce and/or complying with a project labor agreement.	The reference to “wireless” and “radio” in this definition picks up cell towers, radio towers, and satellite-related infrastructure. This is helpful to private telecom companies and utilities installing this infrastructure. This also erodes the ability of residents with health, visibility and other concerns with cell towers to use CEQA as a means of raising issues with their location and installation.
Clean Energy	Defined as projects that support California’s climate, energy efficiency, reliability, electrification, sustainability, or clean energy objectives through one or more of the following: Producing, generating or storing electricity from renewable or sustainable energy. These projects include, but are not limited to^{xxi}, solar, wind, geothermal, fuel cells that comply with specified ARB emissions standards, small hydroelectric of less than 30 megawatts, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, tidal current. Also includes	Requires these clean energy projects to comply with labor provisions (listed above) for an “environmental leadership development project”	The definition of “clean energy” projects is extremely broad. Nuclear power facilities, however, are excluded from the applicability of this measure. Local and state agencies may face difficulty in defining projects that are <i>not</i> covered by these expansive definitions.

	transmission lines associated with the above projects required for the interconnection or delivery of electricity. • Producing, generating, storing or distributing clean hydrogen, provided it is not derived from fossil fuel feedstock. • Developing, constructing or installing microgrids and associated infrastructure, which meet a specified definition in the Public Utilities Code. • Capturing, transporting and/or storing carbon dioxide emissions for permanent isolation from sources including, but not limited to, energy production, manufacturing, or refining facilities. • Developing, constructing, upgrading, expanding transmission or distribution components approved by the Independent System Operator or in an Integrated Energy Policy Report. This includes the financing of such projects through sale, lease, assignment, mortgage, or other disposition or encumbrance requiring state agency approval.		
Transportation	Defined as either of the following: 1. The research, planning, construction, improvement, management or operating of either public streets and highways or public mass transit guideways.^{xxii} 2. Electric vehicle charging infrastructure.	Requires these transportation projects to comply with labor provisions (listed above) for an “environmental leadership development project”	State and local street, road, and highway projects [as defined in Article XIX 2)(a) in the CA Constitution] will all benefit from this streamlining. In addition to local transit projects, the reference to public mass transit guideways connects to a definition in [Article. XIX(2)(b) in the CA Constitution]. The measure, however, excludes the High Speed Rail project.

			In addition, because a cross reference picks up a definition of high speed trains exceeding 200mph, it appears to exclude the proposed Brightline train between Southern California and Las Vegas. ^{xxiii}
Water	Defined as any project to construct, expand, repair, replace, or augment any of the following: 1. A public water system^{xxiv} 2. A system that directly or indirectly provides water to a public water system^{xxv} 3. A system generally described and within the scope of the State's Water Resilience Portfolio.^{xxvi}	Requires these water projects to comply with labor provisions (listed above) for an "environmental leadership development project"	Including both systems that "directly or indirectly provide water to a public water system," and projects described in the State Water Resilience Portfolio, picks up a broad range of possible projects. The measure, however, excludes the Delta Conveyance project.
Public Safety	Applies to a "first-responder facility" or a "wildfire risk reduction project." Defines a "first-responder facility" as any of the following: • A fire station owned or operated by the state, a city or county, joint-powers authority, consulting tribe, or special district. • A police or sheriff station owned or operated by a city or county, joint-powers authority, or special district. <i>(Excludes portions of these police and sheriff stations used for jail or detention facilities^{xxvii})</i> • Excludes from the application if this provision: 1. Any facility owned, operated or leased by the U.S. Government. 2. Any state prison. 3. Any facility used for immigration detention. Defines "wildfire risk reduction project" as an activity that reduces wildfire risks to a residential or commercial structure, or both, including but not limited to:	Requires these public safety projects to comply with labor provisions (listed above) for an "environmental leadership development project" Exception: Provides that a "wildfire risk reduction project" limited to vegetation, management, fuel reduction, and maintaining fuel breaks undertaken directly by a public agency using its own employees shall be deemed to comply, if the public employees are covered by collective bargaining or other state civil service laws.	The application of this provision to police/sheriff stations will be challenging given the exclusion of jail and detention facilities, which are usually components of these facilities. This could require a redesign of such facilities so that the jail/detention facility is in a separate building. The wildfire risk reduction provision appears broad enough to capture projects designed to protect urban areas, and could also be interpreted to apply to traditional forestry practices such as "fuel reduction" in rural areas.

	1. Replacing, hardening and undergrounding electrical utility lines and infrastructure. 2. Vegetation management. 3. Fuel reduction. 4. Home hardening. 5. Creating or maintaining fuel breaks 6. Reducing fuel loading		
Education	Defines an “essential education facility project” as the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing and equipping of an educational facility. Educational facilities are defined broadly to capture facilities for local school districts, charter schools, county boards of education, community colleges, CSU and UC facilities, and non-profit colleges.^{xxviii}	Requires these educational projects to comply with labor provisions (listed above) for an “environmental leadership development project”	An expedited process for these facilities could lessen the ability of some communities to address issues through the CEQA process with either the siting of public schools (which technically do not have to conform to local general plans) or the impacts of large universities on the surrounding community.
Public Health	Defines “a medical treatment facility” as: 1) A health treatment facility as defined in H&S Sec. 1250. This cross reference captures a very broad swath of facilities including hospitals, clinics, nursing, hospice and other facilities. 2) A medical office building which provides office space for health care practitioners (doctors, dentists, etc.).	Requires these public health projects to comply with labor provisions (listed above) for an “environmental leadership development project”	Constructing large hospitals and other medical facilities likely already employ union contractors, so the labor requirements in this provision may not mean much of a change. It is less likely, however, that construction of smaller (single and two-story) medical office buildings for doctors, dentists, etc. use union contractors. Thus, those constructing medical office buildings will evaluate the benefits of this CEQA streamlining against potentially increased labor costs

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Tribal Consultation Requirements and Timelines

Requires all essential projects to comply with an extensive initial screening and tribal consultation process, regarding potential impacts on tribal cultural resources^{xxix} which are detailed in over 5 pages of statute. In brief, this process:

- 1) Defines “consulting tribe^{xxx}” as those appearing on the most recent published list of federally recognized tribes, and is culturally and geographically affiliated with the geographic area where the proposed project is located.^{xxxi}
- 2) Describes, in detail, the information that the applicant must make available to the lead agency to be shared with consulting tribes.
- 3) Requires a lead agency, after assembling a list of information from the applicant, as well as information from specified databases, to invite identified consulting tribe(s) to participate in an initial screening. If the consulting tribe(s) do not respond to the lead agency’s invitation within 30 days, the initial screening process is deemed concluded. A tribe’s lack of participation in the initial screening, however, does not impair their ability to participate in consultation.
- 4) Provides that consulting tribes shall be afforded the opportunity to review any technical studies conducted for the essential project that inform analysis measures and/or treatment of tribal cultural resources.
- 5) Provides that tribal traditional knowledge shall be incorporated in the identification, treatment and protection measures concerning tribal cultural measures. Information disclosed by a tribe shall remain confidential.^{xxxii} If traditional tribal knowledge is not incorporated, then that lead agency shall explain its decision in the environmental document for the project supported by substantial evidence.
- 6) Provides that the initial screening and tribal consultation operates separately from other timelines for public agency environmental reviews or project approvals in this measure.^{xxxiii}
- 7) Requires that where the lead agency, consulting tribe and applicant agree in writing on measures to avoid/mitigate a tribal cultural resources, those shall become enforceable conditions of project approval.
- 8) Requires “where feasible” that damaging effects on tribal cultural resources shall be avoided. Provides that where the lead agency demonstrates and documents, with substantial evidence, that avoidance and preservation are not feasible, the Tribe may identify culturally appropriate mitigation measures, which the Lead Agency shall consider and incorporate, to the extent feasible.
- 9) Stipulates that a lead agency may only approve a project where all of the following apply:
 1. Tribal consultation occurred in good faith.
 2. Any agreement involving all parties is included as enforceable project condition.
 3. If lead agency determines avoidance and preservation in place is not feasible, it has incorporated other measures to minimize impacts consistent with CEQA.

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Timelines, Criteria and Remedies for Determining Application's Completeness

Initial Determination:

- 1) Requires the public agency to make a determination within 30 days^{xxxiv} of receipt of an application.
- 2) Prohibits an application from being determined incomplete on the basis of either:
 - a. Information, analytical studies or documents that were not required by the public agency in a written, publicly available checklist, or similar document, in existence when the application was submitted.
 - b. Statutes, regulations, rules, standards^{xxxv} or ordinances that are not "existing laws."^{xxxvi}

Addressing an Incomplete Determination:

- 1) Requires, if an application is determined to be incomplete, that the public agency provide an applicant with an exhaustive written corrections list.
- 2) Requires an applicant to submit additional information, or a revised application, within 90 days^{xxxvii}, or notify the public agency in writing why it is unable to do, with an estimate of when it will be provided.
- 3) Requires the public agency to determine completeness within 30 days of receipt of the additional information or resubmittal.
- 4) Requires the public agency, if application is still determined to be incomplete, to submit a revised list to the applicant based on original corrections list. Prohibits a public agency from introducing new items.
 - a. Authorizes an applicant to submit additional information, or a revised application.
 - b. Requires a public agency to make a final determination on completeness within 30 days of receiving from the applicant either supplemental information or a revised application, otherwise, the application shall be deemed complete.

Appeal Process and Authority to File Civil Action:

- 1) Provides that a public agency's decision that an application is incomplete is appealable to planning commission, planning official or other official with final authority over completeness. If public agency lacks such entities, then final appeal shall be to highest ranking appointed governing body or official.
- 2) Requires a final written decision to be issued within 60 days of the appeal, or the application shall be deemed complete.
- 3) Authorizes an applicant to file a "civil action^{xxxviii}" against the public agency following an adverse determination on an appeal within 90 days.

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Processing Environmental Documents, Public Comments, and Remedies

Environmental Document Timelines:

- 30 (business) days^{xxxix} to decide the type of environmental document for the project after application is deemed complete.^{xl}
- 90 (business) days to determine whether the project is exempt, or impacts have been previously evaluated under a prior environmental document review.
- 180 (business) days to determine whether to certify a negative declaration or a mitigated negative declaration.
- 365 (business) days to determine whether to certify an environmental impact report (EIR).^{xli}

Public Comment Timelines (which cannot be tolled or extended, except by a court):

- 20 (calendar) days for mitigated negative declaration, or other document requiring public circulation under state law.
- 45 (calendar) days for draft EIR, or subsequent or supplemental EIR.
- If a public agency continues a public hearing, or the CEQA review of a project, it shall be continued to a date certain, and upon approval of the continuance close the comment period, which may not be reopened at a subsequent hearing.

Limitations on Public Comments:

Limits public comments only to the following:

- Electronic and written comments received during the above comment periods.
- Electronic and written comments received at least 48 hours before a public hearing or noticed decision on the environmental document.
- Electronic and written comments received at least 48 hours prior to hearings or appeals of a CEQA determination, provided that they could not have been raised during the prior public comment period due to either “significant changes”^{xlii} in the project, or new information that was not known and could not have been known during the public comment period.
- Oral testimony at a noticed and recorded public hearing.
- Excludes and disregards all other comments from the administrative record.
- Requires, notwithstanding any other provision of law, the following to be included “without qualification” in the administrative record:
 - a. A response by a lead agency or applicant to a comment submitted in accordance with the above timelines and criteria.
 - b. Comments from an applicant in response to a question from a public agency.
 - c. Comments from an applicant to demonstrate compliance with CEQA.

Appeal Process and Authority to File Civil Action:

- Authorizes an applicant to request a meeting or public hearing when public agency fails to comply with the above deadlines.
- Requires a public agency (*and states that it has a non-discretionary ministerial duty*) to:
 - Complete all environmental documents, or assemble available environmental review documentation^{xliii} including an applicant-prepared environmental review document,^{xliv} and
 - Hold a meeting or public hearing within 60 (calendar) days^{xlv} of notification by the applicant, where it shall:
 - Make a final written determination on the available environmental review documentation that has been completed as of the date of the hearing.
 - Make a final written determination to approve or disapprove the project.
 - If the lead agency has a planning commission or planning director, the commission/director shall hold a meeting within 30 days (of the request for a public hearing by an applicant) for purpose of making a recommendation, and requires any environmental review documentation to be completed in advance of the date of the meeting.^{xlvi}
- Authorizes an applicant and public agency to mutually agree to cancel the public hearing if, prior to the expiration of the 60-day period, the public agency has completed the environmental documents and approved the project.
- Authorizes an applicant within 90 (calendar) days to file a civil action challenging:
 - An agency's failure to comply with its non-discretionary ministerial duty to finalize the environmental documentation and make a final decision on the project within the timelines described above.
 - The agency's denial, or imposition of unlawful conditions on the project.^{xlvii}

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Timeline Extension for Projects Where Lead Agency is the Project Applicant

Provides that where a lead agency is also the applicant for an essential project that it may extend any deadline applicable the timelines for completing environmental reviews and making a final decision on a project provided it issues a written notice (posted on the agency's website and included in the administrative record) that specifies the duration and reasons for the extension.^{xlviii}

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Optional Preliminary Scoping Process^{xlix}

Provides that an applicant “may, but is not required to” participate in a preliminary scoping and streamlined alternatives analysis provided in this ballot measure.^l Provides that if an applicant chooses not to participate in this scoping/streamlined analysis process, then other scoping requirements set forth in existing CEQA law shall apply. When an applicant “voluntarily chooses” to engage in the preliminary scoping and streamlined analysis contained in this ballot measure, they shall comply with the following^{li}:

Notice and Project Description:

- 1) Provide written notice to the lead agency of the applicant’s intent to participate in a process that shall be completed within 60 days of the applicant providing such notice.
- 2) Requires the notice to include an email address that the lead agency shall post the notice on its website and “prominently identify” on its website where comments to the applicant^{lii} may be submitted.
- 3) Requires the applicant’s notice to include a preliminary overview and description of the project “sufficient to inform the lead agency and the public of the essential features of the project,” and include:
 - a. The project’s location, size and boundaries.
 - b. Principal components and fundamental purpose.
 - c. Land use type, facility or infrastructure proposed.
 - d. Known or foreseeable impacted natural resource areas.
 - e. Anticipated permits or approvals required from public agencies.

Agency Meetings and Public Input:

- 1) Requires the applicant and public agency to engage in at least two meetings to discuss the proposed project, potential alternatives and identify potential impacted natural resource areas, and the lead agency to maintain a record^{liii} of these meetings.
- 2) Requires the applicant to maintain a record of the public input received via email. Provides that an applicant “may, but is not required to” convene one or more public meetings^{liv}, including via virtual and online formats, to obtain additional public input.
- 3) Provides that the applicant shall not be required to respond to any input received (whether in meetings with the lead agency or public comments received)^{lv} in this process.

Prohibition Regarding Application of SB 330 (of 2019):

Prohibits any interpretation of this section from requiring this scoping process to be a prerequisite to filing a preliminary application for an essential housing project under the Housing Crisis Act of 2019. (SB 330).

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Optional Streamlined Analysis and Proposed Alternative:

Requires an applicant that has voluntarily agreed to complete the preliminary scoping process to develop one proposed alternative to the project, which “shall take into consideration” input obtained in the scoping process and comply with all of the following:

- a. Be compatible with the proposed project’s fundamental purpose.
 - b. Be compatible with applicable land use and zoning policies.
 - c. Does not need to be located on a different site.
 - d. Authorizes the alternative to consist of an alternative or additional component to the proposed project, which may include onsite or offsite physical improvements, or alternative operational parameters or programs designed to lessen impacts.
- 2) Requires an EIR for the proposed project to only analyze the following:
 - a. The proposed project, and
 - b. The applicant’s “proposed alternative,” which is defined as a “single, potentially feasible alternative to essential project” developed by the applicant.
 - 3) Requires a proposed alternative to be (presumed ^{lvi}) to lessen impacts to a level of insignificance as long as the finding is supported by substantial evidence.^{lvii} Provides that this “presumption” shall have no bearing on whether the alternative is ultimately feasible or environmentally preferred.
 - 4) Declares that the proposed alternative is sufficient for all purposes of this ballot measure, CEQA, and any other law, and any additional alternatives analysis are “unnecessary” and prohibits a public agency or other body or entity^{lviii} from requiring analysis of “unnecessary” alternatives.
 - 5) Requires the development of a “no project” alternative that considers:
 - a. The reasonably foreseeable environmental conditions that would result if the project is not approved.
 - b. The reasonably foreseeable future potential uses for the site, and
 - c. The benefits resulting from the essential project.^{lix}

Timelines for Submittal/Review:

- 1) Requires an applicant, within 15 days of completion of the preliminary scoping process, to submit to the lead agency:
 - a. Description of the proposed project.
 - b. The applicant’s single proposed alternative.
 - c. A description of the “no project” alternative.^{lx}
- 2) Requires the lead agency to either make a written finding within 15 days of receipt of the developer’s proposed alternative as to whether the developer has complied with the requirements of this measure,^{lxi} or to make no decision. Either way, the process is deemed final unless an interested party files an administrative appeal within five (5) days.^{lxii}

Lead Agency Options:

Provides that, “subject to the requirements of this chapter and any limitations imposed by other provisions of law,” the lead agency shall retain discretion to:

- a. “Approve” the essential project.^{lxiii}
- b. “Approve” the developer’s alternative to the essential project, or
- c. “Select” the “no project” alternative.

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Limitations Applicable to Determining Project Impacts

- 1) Requires a public agency, notwithstanding any law to the contrary, considering whether to approve an essential project shall identify, evaluate, determine significance and mitigate impacts based upon compliance with existing laws.
- 2) Provides that to the extent the public agency has published, adopted, or routinely used thresholds of significance for environmental effects of an essential project (on the earlier of) the date a preapplication or application for the project is filed, the applicant may elect to vest into any such thresholds of significance, which shall then be used by the public agency.
- 3) Provides that an essential projects compliance with CEQA and the CEQA guidelines shall not be interpreted by courts in a manner which imposes procedural or substantive requirements on an essential project beyond those explicitly stated in CEQA, the CEQA guidelines, or this measure.^{lxiv}
- 4) Authorizes an applicant to waive the above requirements, by submitting a written request to the public agency.^{lxv}

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Timelines for Project Approvals and Applicant's Remedies

Timelines, Ministerial Duty to Comply, Applicant's Remedies:

- 1) Requires a public (lead) agency to make a final written decision on any required permit, authorization or approval based upon existing laws, within the following timelines:
 - A. Where a public agency is the lead agency for the essential project, the final decision shall occur concurrently with the certification of an EIR, negative declaration or mitigated negative declaration.
 - B. Where a state agency is the lead agency, it may delay the final decision for up to 90 days if all of the following apply:
 - o The state agency had an established process, prior to December 31, 2025, for conducting evidentiary hearings on the applicable (permit, authorization or approval).
 - o The state agency, prior to the deadline for certifying the environmental document, provides the applicant written notice that it will go forward with an evidentiary hearing.
 - C. Where the applicant seeks approval from a public agency that is not the lead agency during the first instance when the project underwent environmental review, the public agency shall make a final written decision before the later of:
 - o 90 days from (the earlier of) either the date the application was deemed complete, or when it was deemed complete pursuant to any other law.
 - o 1 (One) day has passed^{lxvi} from the date the lead agency approved the project.
- 2) Authorizes an applicant to make a written request for a public hearing if a public agency fails to make a decision within the above timeframes, and the public agency to place the issue on the public agency's agenda within 45 days of receipt of the request. The public agency is required, notwithstanding any other law, to make a final written decision at this hearing.
 - o For multi-member decision-making bodies subject to Bagley-Keene or Brown Act the matter shall be placed on the agenda of the agency's highest-ranking decision-making body.
 - o For public agencies without a multi-member decision-making body subject to either Bagley-Keene or the Brown Act, then the highest ranking official, or their designee, shall hold a hearing with the applicant on the matter.

- 3) Authorizes the above hearing to be waived, upon mutual agreement of the public agency and applicant, if the public agency makes a final written determination (prior to the hearing) to grant the action sought by the applicant.
- 4) Provides that public agencies have a non-discretionary ministerial duty to comply with the above timelines. Authorizes any of the above deadlines to only be extended upon the mutual written consent of the public agency and the applicant.
- 5) Authorizes an applicant within 90 (calendar) days to file a civil action challenging an agency's failure to comply with its non-discretionary ministerial duty to finalize the environmental documentation and make a final decision on the project within the timelines described above, or the agency's denial, or imposition of unlawful conditions.

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Criteria for Judicial Reviews of Essential Projects

Establishes specific criteria for judicial reviews of any action to attack, review, set aside, void or annul a determination, finding, or decision on an essential project by a public agency on the grounds of noncompliance with CEQA or the state CEQA Guidelines.

- 1) **Retroactive Application:** Applies this criteria to any actions pending on, or commenced after the effective date of this ballot measure.^{lxvii}
- 2) **Limits Cause of Actions:** Requires any CEQA action to attack, review, set aside, void or annul a determination, finding, or decision by a public agency on the grounds of noncompliance with CEQA or the state CEQA Guidelines to demonstrate that the decision does not comply with objective existing laws, and a court's review shall be limited to whether the approval or authorization^{lxviii} complies with existing laws. The term "objective" is defined to exclude personal and subjective judgement and uniformly verifiable by reference to an external uniform benchmark or criterion knowable by both the applicant and lead agency before the application was submitted.
- 3) **Limits Timelines:**
 - a. 30 days to file an action challenging a public agency's notice of determination or notice of exemption to approve or authorize an essential project.
 - b. Requires the litigation to be completed within 270 days,^{lxix} (inclusive of original and appellate court proceedings) pursuant to the existing judicial streamlining procedures applicable to environmental leadership development projects.
 - i. Authorizes a Court, in its own discretion, to extend this deadline by up to 90 days.
 - ii. Alternatively, this deadline may be extended by mutual consent of the applicant, public agency and plaintiff/petitioner.
- 4) **Limits Judicial Standards of Review:**
 - a. In actions related to a public agency's approval of an essential projects, limits Courts to deciding whether "substantial evidence" in light of the whole record supports the public agency's decision.
 - b. In actions challenging compliance with public participation requirements, limits Courts to determining whether the public participation procedures^{lxx} were arbitrary and capricious and resulted in a prejudicial error.
 - c. Prohibits Courts from applying or construing procedural or substantive requirements, beyond those specifically listed in CEQA statute or guidelines.
 - d. Provides that nothing in this article (affecting Court reviews) shall be construed to supersede specified statutes governing judicial reviews of decisions of the Public Utilities Commission.

- 5) **Limits Content of Administrative Record:** Limits the administrative record only to notices, studies and documents which are either of the following:
- a. Required under CEQA to be:
 - i. Sent or distributed to members of the public by the lead agency.
 - ii. Made available to the public at a library or other public repository.
 - iii. Included on the agency's website.
 - b. Public comments: requires all comments to be disregarded and excluded from the administrative record except for:
 - i. Comments received in written and electronic form during the public comment period.
 - ii. Comments submitted at least 48 hours prior to a public hearing on the environmental review document.
 - iii. Oral testimony at a noticed and recorded public hearing.
- 6) **Limits on Judicial Remedies:**
- a. States that the intent of this measure that Courts not interpret this measure, CEQA law or CEQA guidelines in a manner which imposes procedural and substantive requirements beyond those explicitly stated in this measure, CEQA statute or CEQA guidelines.^{lxxi}
 - b. Requires a Court, if it finds that a public agency's approval or authorization of an essential project was not supported by substantial evidence, to issue a peremptory writ of mandate explaining the deficiency with specificity to which part, phase or activity of the project, and the Court's remedy shall be limited to prohibiting commencement of the noncompliant part, phase or activity until it is corrected.
 - c. Provides any essential project part, phase or activity not within the scope of the deficiency identified by the Court shall not be subject to the writ, and is not subject to further challenge in an action or proceeding under CEQA.
 - d. Requires a public agency, when the corrective actions have been completed, to file a return to the writ affirming compliance, and the Court to dismiss the action or proceeding.
 - e. Prohibits any lawsuits (actions) or proceedings challenging the implementation through completion of an essential project when any of the following have occurred:
 - i. When the lead agency's project approval was not subject to judicial challenge.
 - ii. When an agency's decision was challenged and upheld.
 - iii. When an agency has filed a return of writ (affirming its compliance with the Court's directive) that has been accepted as satisfactory by the Court.
 - f. Prohibits challenges to minor modifications made to an essential project from being challenged under CEQA which:
 - 1. Do not result in significant new impacts, or
 - 2. Do not substantially worsen previously identified significant impacts.
 - g. Authorizes a Court to order a project be halted with a temporary injunction upon a showing of clear and convincing evidence that a project would have a specific, adverse impact on public safety, and there is no feasible method to satisfactorily mitigate it. Provides that satisfactorily mitigating a project for public safety shall include either of the following:
 - 1. A public agency's subsequent decision to modify the project to avoid or mitigate to a less than significant impact.
 - 2. A public agency's determination, after the preparation of an EIR, or supplemental EIR, (under the timelines and procedures set forth in this chapter) that the adverse impact on public safety cannot be mitigated.

Comments:

- 1) **Pre-emptive and Streamlined Approval Process for “Essential Projects.”** This proposed ballot measure would codify as a separate Chapter in CEQA statute an expansive list of preemptive timelines and requirements for processing applications, performing environmental analysis, and narrowing the permissible scope and focus of related judicial reviews for “essential projects.” Applies this measure to any essential projects pending on the date that this ballot measure takes effect. Should voters approve this measure, both private parties and public agency applicants proposing essential projects could experience reduced costs, timelines and uncertainties, compared to existing law.
- 2) **Applicants Can Decide If/How to Follow:** Applicants for essential projects, however, do not have to follow or use this law. The measure states that applicants can “elect to utilize none, some, or all” of this law, in combination with or as alternatives to “other land use and environmental review laws, mechanisms, or procedures.” However, when an applicant chooses to use some of this law, they are prohibited from opting out of the tribal consultation and labor provisions.^{lxxii} Applicants can also apply this law to “a portion” of their project that meets the definition of an “essential project,” and withdraw projects pending public agency approval then resubmit them under this law. Despite the goal of “streamlining” the approval process, establishing all of these “à la carte” options for applicants may result in more confusion, disputes and litigation.
- 3) **HSR, Delta & Nuclear Projects Carved-Out:** This proposal carves-out from the definition of “essential projects” three controversial projects: High Speed Rail, the Delta Conveyance Project, and nuclear energy projects. These exclusions appear more political than policy driven, because there is no maximum size or other limitation that would prohibit other large private or public essential projects – with potentially similar environmental impacts -- from benefitting from this measure.
- 4) **Ministerial Process, In Effect:** A major focus throughout this proposal is an effort to remove discretion from local agencies, state bodies and courts when considering an application, an environmental analysis, or litigation associated with an essential project. In brief, this measure:
 - a. Requires, notwithstanding any other law, an application to be reviewed based only upon the existing laws and standards in effect on the date the application was submitted, with exceptions for building code updates, and where a public agency makes a finding of necessity due to a “life safety” impact.
 - b. Declares that public agencies have a “non-discretionary ministerial duty to comply” with a detailed timeframe for making a decision on a project.
 - c. Declares that the measure establishes clear CEQA review timelines and procedures and “administrative permit review” for essential projects.^{lxxiii}
 - d. Limits a lead agency’s decision in the “streamlined alternatives analysis” developed by the applicant for an EIR to only the following:
 - i. Approve the applicant’s project as proposed.
 - ii. Approve a single alternative developed by the applicant.
 - iii. Adopt a “no project” alternative, that also is required to include an explanation of the “benefits resulting from the essential project.”
- 5) **“Business Days” for Preparation of Environmental Documents:** The timelines in this measure all refer to “calendar days,” except for those that apply (Sec. 21018 and 21019) to processing environmental documents. This measure excludes Saturdays, Sundays and state holidays from being counted as “days” under the environmental document processing timelines. This significantly extends the time a lead agency has to prepare environmental documents. For example, while the measure requires an EIR to be processed within 365 days, that total amount is increased by 104 Saturdays and Sundays, plus 11 state holidays, to total 480 days.

- 6) **Significantly Limits Court Actions:** One of the most significant effects of this measure is the limitations imposed on legal actions and Courts regarding essential projects. Limits are imposed on cause of actions, contents of the administrative record, timelines, and judicial reviews and remedies. Courts are limited to deciding whether “substantial evidence” in light of the whole record supports the public agency’s decision. To the extent issues are identified, remedies are narrowed to addressing them. Public agencies involved in litigation over an “essential project” should be aware that this revised criteria applies to actions or procedures “pending on” the effective date of this measure.
- 7) **Extensive Tribal Consultation Required:** This measure requires applicants to engage in an extensive tribal consultation process, described in detail over five pages. Applicants will have to consider the potential for delays, disputes and uncertainties in this process compared to seeking approvals for their projects under other laws.
- 8) **Dual Roles for Public Agencies:** Public agencies are affected by this measure in two primary ways, both in their role of processing applications, and when they propose their own projects:
- Processing applications: Affected agencies will be required to process applications, oversee more limited environmental reviews, and make final decisions on essential projects within specified timeframes, or be exposed to potential civil actions. Throughout this process they are limited to applying existing laws and standards and have little independent discretion.
 - Proposing projects: For many “essential projects,” a local or state agency will be the applicant, thus – in theory – this measure allows these projects to take advantage of the stricter timelines, limits on public input, judicial reviews and remedies. Yet, for public agencies, this authority is tempered by other realities. The decisions of public agencies are subject to transparency requirements and political pressures. Public officials are accountable to their appointing bodies and at the ballot box. Even though this measure presents an option, some public agencies may decide to go through the regular CEQA process, or extend applicable deadlines, to provide the public additional transparency and assurances that they are not attempting to bypass public input or avoid environmental mitigation.
- 9) **Authorizing Civil Actions Against Public Agencies:** This measure authorizes project applicants to file “civil actions” against public agencies within 90 days of an adverse decision affecting compliance with the following:
- Determining whether an application is complete.
 - Processing environmental documents.
 - Making a final decision on a project.
- Judicial reviews are the typical way a dispute between an applicant and a public agency are handled. When there is a problem, a judge requires the public agency to address the identified issue, while retaining authority to sanction any lack of compliance with a Court’s order. This measure, instead, allows such matters to be converted into private “civil” disputes between two parties, and brings with it the potential for jury trials and an applicant to be awarded (actual/emotional & punitive) damages for asserted harms.

This civil action proposal may be inspired by recent changes to housing laws. SB 1037 (Wiener), Ch. 293 of 2024, authorized both the Attorney General and the Department of Housing and Community Development to sue local agencies for not complying with ministerial approval laws for housing projects and have them subject to *civil remedies* of between \$10,000 to \$50,000 per month from the date of the violation until it is cured. The extensive 90-day window for an applicant to file a civil action in this measure, could be designed to allow housing project applicants time to coordinate enforcement with state agencies. Moreover, other stakeholders may seek to expand the remedies in SB 1037 to other essential projects.

- 10) Police/Sheriff Stations with No Jails:** This measure includes local police and sheriff stations as "essential facilities," but with the caveat that they can't include a detention facility. Given the realities of law enforcement, this exclusion is unrealistic, and likely renders this option moot for new local law enforcement facilities.
- 11) Labor Costs and Private Facilities:** While public projects are required to pay prevailing wages, private projects do not. Thus, private applicants will have to weigh the potential streamlining and other benefits offered by this measure against potential increases in construction costs associated with the applicable labor requirements.
- 12) Action & Reaction:** Newton's third law of motion describes that for every action there will be an equal and opposite reaction. It is no different in the political realm. While the sponsors of this measure may desire clarity, they should prepare for much more of it. Removing discretion from state and local agencies and courts to evaluate and respond to environmental impacts from such a broad swath of potential "essential projects" (including state highways, electrical transmission lines, schools, clean energy, water projects, etc.) unless they are based upon existing laws and standards will create incentives for all concerned stakeholders to pursue the adoption of more rigorous and detailed written laws, standards, guidelines by state and local agencies.
- 13) Equal Protection?** This measure would result in a two-tiered administrative, environmental and legal framework, with essential projects subject to one standard, and all other projects to another. It's unclear whether a (14th Amendment) "equal protection"^{lxxiv} argument could be raised by applicants of projects not covered in this measure. Why should a shopping center or a manufacturing plant be subject to more lengthy, costly and onerous review than a state highway or a giant solar farm? Alternatively, the Legislature could expand the list of eligible projects via amendment or cross-reference to this chapter.

ⁱ The definition of “essential projects” includes related and ancillary public, private and utility infrastructure and public service facilities required by a utility or public agency, or included in an essential project application, as part of the “whole of the project.” Examples include: electric, telecommunication, gas, water, wastewater, stormwater, transit, police, fire and transportation improvements that provide required public and utility services and infrastructure to the project.

ⁱⁱ California Environmental Quality Act.

ⁱⁱⁱ See statement of “statewide concern” in Sec. 21030.

^{iv} Sec. 21014. It is unclear what meaning, if any, this provision has, because it appears inaccurate. The ability of local public agencies to approve/disapprove projects is clearly “diminished” by the state “occupying the field” and by shifting power to project applicants, removing public agency discretion, limiting options for environmental mitigation to only one alternative proposed by the applicant, and limiting the scope and potential remedies from Court reviews.

^v See Sec. 21031. This “lock in” excludes the application of any potentially applicable new statutes passed by the Legislature in 2025 that took effect January 1, 2026. A more detailed analysis will need to occur on which new laws (effective Jan. 1, 2026) are excluded from by this provision.

Also, this concept appears to conflict internally with other sections of this measure which provide that the existing laws in effect at the time when an application is submitted apply to an essential project. See Sec. 21017 (a)(3)(B) which reads:

*“(3) An application shall not be determined to be incomplete on the basis of (A) informational or analytical studies or documents that were not required by the public agency in a written, publicly available submittal requirement checklist or similar document in existence at the time the initial application was submitted; or (B) statutes, regulations, rules, standards, or ordinances **that are not existing laws.**”*

See also Sec. 21022(a)(1):

“21022. Determination of Impacts.

*Notwithstanding any other provision of law to the contrary: (a)(I) A public agency considering whether to approve an essential project shall identify, evaluate, determine significance, and mitigate the impacts of an essential project based **on compliance with existing laws.**”*

Further, this lock in mechanism to statutes in effect in 2025 can cut both ways. For example, if a section of existing statute the sponsors of this measure don’t like is at some future point repealed, does this mean that it still has to continue to apply to essential projects anyway as it existed in 2025?

^{vi} It is curious why the drafters of this measure picked out only a single code section (Sec. 218.9 of the Labor Code), amended by SB 597 (Cortese), Ch. 774 of 2025, to the exclusion of all other potentially applicable bills, that took effect January 1, 2026.

^{vii} The identified purpose of this measure (See Sec. 21012 below) is quite broad, and gives the legislature flexibility when considering future amendments, with the main obstacle being a 2/3rds vote requirement/and a 12-business day in print requirement:

“21012. Statement of Purpose.

The purpose of this chapter is to make California more affordable by streamlining and speeding approval of essential projects-reducing costs for families and taxpayers, improving quality of life, creating good jobs, and maintaining California’s strongest-in-the-world environmental protections.”

^{viii} Broad definition of “public agency,” Sec. 21028 (z), captures all state and local agencies.

^{ix} This ballot measure is proposed as a new separate “chapter” within the CEQA statute that would be approved by the voters, and require a 2/3rds vote of the Legislature to amend.

^x Allowing applicants to pick and choose some combination between existing laws and this measure, will produce considerable confusion between applicants and public agencies over which provisions actually apply to a project. For example, attempting to reconcile this measure with the maze of recent housing laws will lead to byzantine levels of analysis and legal disputes.

^{xi} The effective date of this measure is when the election is certified by the Secretary of State following the November 3, 2026, general election. According to information on the Secretary of State’s [website](#), the election will be certified on December 11, 2026.

^{xii} The very broad definition of “essential projects” will lead to debates over when and how to apply this “portion” provision. For example, the definition of clean energy projects is prefaced with the “including, but not limited to” phrase when describing electricity producing renewable and sustainable projects.

^{xiii} Combining this proposal with the already muddled assortment of state housing laws, will create additional confusion and disputes over interpretations.

^{xiv} The definition of “mixed use development” mirrors the definition of that term used in the Housing Accountability Act.

1) “Mixed use” is defined as any of the following:

- a) 2/3rds residential in new or converted square footage.
- b) 50% of new or converted square footage for a projects with more than 500 net new residential units. Prohibits any portion of the project from including a hotel, motel, bed and breakfast inn, or other transient lodging. Provides an exception for a residential hotel, as defined. ,
- c) 50% of new or converted square footage for a projects with more than 500 net new residential units, and the project converts 100,000 square feet of non-residential use to residential use, and demolishes at least 50 percent of the existing on-site non-residential uses. Prohibits any portion of the project from including a hotel, motel, bed and breakfast inn, or other transient lodging. Provides an exception for a residential hotel, as defined.

2) Provides that the mixed-use development may include any non-residential uses that are integrated into the development and supportive of its residential components. Unlike the language in the Housing Accountability Act, however, this measure prohibits “heavy industrial, extractive, port, refinery, or hazardous uses” from being included in the project as “non-residential uses. Provides that any minimum distance between non-residential uses included in the project and any off-site residential use shall be determined by state law.

^{xv} As these terms are defined in Gov. Code Section 65582 (g), (n), and (q).

^{xvi} As defined in H&S Code 50199.7 (h).

^{xvii} Includes in the definition of “group living” as those typically without a kitchen and bath in each unit, including convents, monasteries, and other types of organizational housing.

^{xviii} Includes dormitory-style and suite-style housing.

^{xix} Includes residential or group living accommodation of any size for those over 55: intergenerational housing, senior congregate housing, senior citizen housing development [as defined in Civ. Code Sec. 51.3 (b)(4)], residential care facilities for the elderly [as defined in H&S Sec. 1569.2 (o)(1)], and any continuing care retirement community [H&S Sec. 1771 (a)(10)]. This definition of senior housing including 55+ likely picks up large single-family “Sun City” type senior housing subdivision/golf resort developments.

In addition, this “senior” provision states that it shall not be construed to limit the authority of a local agency to categorize senior housing uses as non-residential in its zoning, but shall be deemed a “housing development project” for purposes of the Housing Accountability Act.

^{xx} As defined in Sec. 4100 Civil Code.

^{xxi} This “but not limited to” phrase will open up debates over how broadly this “clean energy” definition can be interpreted.

^{xxii} Defined in Art XIX, Sec. 2 (a) and (b).

^{xxiii} The language in this exclusion [Sec. 21028 (p)(3)] is awkwardly drafted, but due to the cross reference to the definition of “high speed train” in Sec. 2704.01(d), it appears to capture the high speed rail train project Brightline West that is not officially part of the High Speed Rail Bond Act.

^{xxiv} Defined in H&S Sec. 116275 (h).

^{xxv} This vaguely worded provision could potentially be very broad. Could such systems “that directly or indirectly provide water to a public water system” include the Cadiz’ Mojave Water project or a large new reservoir?

^{xxvi} The cross reference to the [Water Resource Portfolio](#) picks up a broad range of projects including the controversial Delta Conveyance Project. A separate provision of this measure, however, excludes the Delta Conveyance Project.

^{xxvii} Excluding jail or detention facilities from this definition is likely aimed at avoiding polarized debates over criminal justice approaches and immigration enforcement. Still, the reality of public safety is that most police and sheriff stations have holding cells for arrested individuals, DUIs, etc. Sheriffs are required by law to operate county jails. Excluding “detention” portions from such facilities makes it more difficult for a local agency to use this provision, because they would have to incur the costs and operational challenges of building, financing and staffing a separate structure.

^{xxviii} See Sec. 21028 (c) for extensive definition.

^{xxix} See Sec. 21028 (ff) for extensive definition of “tribal cultural resource.”

^{xxx} The definition of “consulting tribe” is contained in Sec. 21028 (e).

^{xxxi} The list cited is the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. S. 5131)

^{xxxii} The measure describes, in detail, the measures a lead agency shall take to protect the confidentiality of information disclosed by tribes.

^{xxxiii} This initial screening shall take place (prior to an application being deemed complete) at the earlier of the applicant's: 1) Submittal of a preliminary application, 2) Notification to a public agency of intent to engage in the optional preliminary scoping process described in this measure, or 3) Submittal of an application for an essential project.

^{xxxiv} Refers to calendar days.

^{xxxv} Since many local and state agencies may lack written standards for every conceivable essential project, such as the constantly evolving clean energy field, the passage of this measure could trigger extensive development of statutes, guidelines and other written standards.

^{xxxvi} This measure [Sec. 21028 (r)] contains an expansive definition of "existing laws," which essentially can be distilled into three tiers:

1. Laws, ordinances, standards, rules, etc. in effect when the application was submitted.
2. Any update to the California Building Standards Code that takes effect (the earlier of) either before the environmental review of the project is completed, or before the initial building permit application/plan review package has been submitted to the affected jurisdiction.
3. Laws, ordinances, standards, rules, etc. not in effect when the application was submitted, but where the public agency makes a finding that compliance with the (law, ordinance, standard, rule, etc.) is necessary to mitigate or avoid a specific life-safety impact, including those associated with new and emerging technologies, materials, or grid integration systems. The lead agency is required to notify the applicant within 72 hours of making this finding, and it must occur (the earlier of) either before the environmental review of the project is completed, or before the initial building permit application/plan review package has been submitted to the affected jurisdiction.

^{xxxvii} The references in this section are all to calendar days.

^{xxxviii} Enabling the filing of a civil action is different than a traditional judicial review, because a civil action is a legal case between two private parties seeking a remedy for a non-criminal wrong, such as a dispute over money or property. This is different than a typical action of judicial review which checks a government actions for legality.

^{xxxix} Defines "day" for the purposes of timelines applicable to environmental documents in this measure as meaning (business days) every day except Saturday, Sunday, and state holidays. All other reference to "day(s)" in this measure refers to calendar days.

^{xl} This 30-day timeline mirrors Sec. 15102 of the CEQA guidelines to prepare an initial study.

^{xli} The timelines listed here to complete environmental reviews and documents may be extended upon written request of the applicant. Where the project applicant and the lead agency are the same, the public agency may extend any of these deadlines through a written notice.

^{xlii} Excludes the following from being considered as "significant changes":

- Any changes to the project made in response to public comment.
- Any changes to the project made through the CEQA alternatives process.
- Any changes to the project based upon lead agency concerns identified in the CEQA process.

^{xliii} The terms "environmental review document" and environmental review documentation" are defined very broadly in Sec. 21028(h).

^{xliv} Where applicants are allowed to submit information to lead agencies by PRC 21082.1(b), or any other law.

^{xliv} All the deadlines in this section may be extended by a lead agency that is also the applicant.

^{xlvi} These 60/30 day deadlines may be extended only by written request of the applicant.

^{xlvi} While an applicant is given 90 days to decide whether to file a civil action over an adverse decision, it is unclear what the time window for an interested party would be, other than the five-day window following the findings of the lead agency on whether the applicant complied with the requirements.

^{xlvi} Sec. 21020 (h).

^{xlvi} While an applicant for an essential project may voluntarily choose to use this expedited scoping and streamlined analysis process, it seems more likely that private-sector applicants would choose to use this controversial process rather than a public agencies. Appointed and elected officials from public agencies have deeper responsibilities to the affected community and are exposed to potential replacement, budget sanctions, recall and other political accountability for their actions.

ⁱ It is unclear if this process is also optional on the part of a lead agency. The drafting of this measure is unclear. Some lead agencies may opt not to use this process even when an applicant "voluntarily chooses" to use it, since issues raised by a local agency and public comments do not have to be responded to by the applicant. Comments raised in this process, however, may be taken into consideration by an applicant when drafting their single proposed alternative.

ⁱⁱ Engaging in this preliminary scoping process also triggers tribal consultation [See. Sec. 21016 (c)].

ⁱⁱⁱ Comments go to the applicant, not the public agency.

ⁱⁱⁱ It is unclear what this record is used for, since an applicant does not have to respond to issues raised by the lead agency.

^{liv} Note that it's the applicant's decision whether to convene a public meeting. It is also unclear whether these meetings would need to comply with local and state notice and other requirements, or whether an applicant could simply schedule a Zoom meeting.

^{lv} It seems that there is little value attributed to public comments in this process.

^{lvi} This "determination" applies to the public agency or a court.

^{lvii} The legal standard for "substantial evidence" is: evidence that a reasonable mind could accept as adequate to support a conclusion. It must be more than a mere scintilla and is used by appellate courts to review factual findings made by lower courts or administrative agencies, ensuring the original decision had a proper basis. The evidence must be relevant and credible, but it does not have to be the strongest evidence available or meet the "preponderance of the evidence" standard.

^{lviii} This provision seems intended to limit the applicability of a future law, or a Court's discretion.

^{lix} The required insertion here of information on the benefits resulting from the proposed project appears out of place with the discussion of a "no project" alternative.

^{lx} To the extent that the CEQA process was originally intended to provide an opportunity for credible reviews and analysis of a proposed project to examine and mitigate environmental impacts, this optional "single alternative proposed by the applicant" concepts conflicts with that premise, by reducing the role of public input, and independent analysis and review and recommendations of the public agency, and placing the developer in control of the entire process.

^{lxi} This decision by a public agency appears to be limited to only the ministerial question on whether the applicant complied with the requirements of the section.

^{lxii} Appears to be a ministerial decision. A five-day window is very limited for an interested party to raise questions over compliance with this process. If an interested party raises an issue, it is unclear what would actually be reviewed. The applicant simply has to follow the process and timelines, and does not have to incorporate or respond to the information received in either the meetings with the lead agency or public input as they develop their project alternative.

^{lxiii} Labeling these projects as "essential" is clearly intended to make it much more difficult for an agency to deny. What does "select" the no project alternative mean? Is it a denial?

^{lxiv} See Sec. 21029(b) for limitations applicable to court interpretations.

^{lxv} This option gives an applicant the ability to pick and choose which environmental impacts (*that were not somehow already covered by a previous written law or standard*) to apply to a project. This provides applicants an opportunity to reduce political pressure associated with their projects by including modifications that otherwise would not be legally required or met the "life safety" exception for new laws (statutes, ordinances, standards, etc.) that take effect after submittal of an application

^{lxvi} This "one day has passed" provision seems awkward, and presumes that one public agency has knowledge of the timing of another public agency's final decision. This language should be clarified to avoid confusion.

^{lxvii} As listed above in endnote xi, the Secretary of State is expected to certify the election results on December 11th. Public agencies should consider whether existing housing and other "essential projects" subject to existing litigation could be impacted by the retroactive nature of this provision.

^{lxviii} The term "approval or authorization" is defined broadly in Sec. 21028(b).

^{lxix} Inserting this 270-day litigation window here allows housing projects subject to litigation to benefit from the streamlined litigation timeline applicable to an "environmental leadership development project" as defined in PRC Section 21183.5, while not having to comply with the specific conditions in that section applicable to housing projects: \$15 million project minimum, infill location, 15% of units for lower income households, or the payment of prevailing wages and other labor conditions.

^{lxx} "Public participation procedures" is defined in Sec. 21028 (aa).

^{lxxi} See intent language in Sec. 21029.

^{lxxii} See provision requiring compliance with tribal consultation and labor provisions. Sec. 21015(d).

^{lxxiii} See Sec. 21014 (b).

^{lxxiv} "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Constitution, 14th Amendment.

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