

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 676 (Limón)
Version: March 24, 2025
Hearing Date: April 22, 2025
Fiscal: Yes
Urgency: No
AM

SUBJECT

California Environmental Quality Act: judicial streamlining: state of emergency: fire

DIGEST

This bill makes projects that are located in a geographic area that was damaged by a fire for which the Governor declared a state of emergency on or after January 1, 2023, eligible for expedited administrative and judicial review under the California Environmental Quality Act (CEQA), as provided.

EXECUTIVE SUMMARY

In January 2025, a number of deadly wildfires in Los Angeles, including the Palisades and Eaton fires, collectively burned over 39,000 acres,¹ caused at least 30 deaths,² destroyed over 16,000 structures, and resulted in property damage estimates ranging from \$28 to \$53.8 billion.³ Following these devastating fires, Governor Newsom released an executive order that specified that repair and rebuild for projects damaged by the LA wildfires and future emergency-status fires would be exempt from CEQA in order to speed up recovery from the wildfire.⁴ Under existing law, certain major projects that meet certain environmental standards are eligible for accelerated CEQA review. These provisions are intended to expedite beneficial development but entail potential tradeoffs with respect to the sufficiency of environmental review, the burden on courts, and access to justice for other litigants, a concern magnified by the judicial backlog arising from the COVID-19 pandemic.

¹ Governor's Exec. Order No. N-4-25 (Jan. 12, 2025).

² Jesus Jiménez, *L.A. Fires Death Toll Rises to 30 After Remains Are Found*, L.A. Times, (Apr. 3, 2025), available at <https://www.nytimes.com/2025/04/03/us/la-fires-death-toll.html>.

³ *Palisades and Eaton wildfires caused up to \$53.8 billion in property damage, study finds*, The Orange County Register, (Feb. 27, 2025), available at <https://www.ocregister.com/2025/02/27/palisades-and-eaton-wildfires-caused-up-to-53-8-billion-in-property-damage-study-finds/>.

⁴ Governor's Exec. Order No. N-4-25 (Jan. 12, 2025).

This bill, a part of the Senate's Golden State Commitment legislative package to strengthen wildfire recovery, provides for expedited CEQA judicial review for projects that are located in a geographic area that was damaged by a fire for which the Governor declares a state of emergency on or after January 1, 2023. The bill is author sponsored and is supported by the California Apartment Association, the California Association of Realtors, and the League of California Cities. No timely opposition was received by the Committee. The bill passed the Senate Environmental Quality Committee on a vote of 8 to 0.

PROPOSED CHANGES TO THE LAW

Existing Law:

- 1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed discretionary project to prepare a negative declaration, mitigated declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines). (Pub. Res. Code § 21100 et seq.)⁵
- 2) Sets requirements relating to the preparation, review, comment, approval and certification of environmental documents, as well as procedures relating to an action or proceeding to attack, review, set aside, void, or annul various actions of a public agency on the grounds of noncompliance with CEQA. (§ 21165 et seq.)
- 3) Requires both the superior court and the court of appeal to give CEQA lawsuits preference over all other civil actions. Requires, if feasible, the court of appeal to hear a CEQA appeal within one year of filing. (§ 21167.1(a)).
- 4) Establishes the Jobs and Economic Improvement through Environmental Leadership Act of 2021 (SB 7 (Atkins, Ch. 19, Stats. 2021)).
 - a) Requires, the Judicial Council, on or before January 1, 2023, to adopt rules of court establishing procedures requiring actions or proceedings seeking judicial review of the certification of an EIR for an environmental leadership development project certified by the Governor under the Act or the granting of any project approvals that require the actions or proceedings, including any appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 calendar days of the filing of the certified record of proceedings with the court. (§ 21178 et seq.)
 - b) The Act sunsets on January 1, 2034. (§ 21189.3.)

⁵ All further references are to the Public Resources Code unless otherwise indicated.

- 5) Requires, the Judicial Council, on or before January 1, 2023, to adopt rules of court establishing procedures requiring actions or proceedings seeking judicial review pursuant to CEQA or the granting of project approvals, including any appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 365 calendar days of the filing of the certified record of proceedings with the court to an action or proceeding seeking judicial review of the lead agency's action related to an environmental leadership transit project. This provisions sunsets on January 1, 2026. (§ 21168.6.9 et seq.)

This bill:

- 1) Requires the Judicial Council to adopt a rule of court to establish procedures that require actions or proceedings brought to attack, review, set aside, void, or annul the certification of EIR for a project that is located in a geographic area that was damaged by a fire for which the Governor declared a state of emergency on or after January 1, 2023, including any potential appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.
- 2) Specifies how the preparation and certification of the record must be conducted.
- 3) Specifies that the expedited judicial review provisions only apply to a project that is consistent with the applicable zoning and land use ordinances.
- 4) Specifies that the expedited judicial review provisions do not apply to a project that is proposed after the Governor rescinds the declaration of the state of emergency for that geographic area.

COMMENTS

1. Stated need for the bill

The author writes:

The Los Angeles, Eaton, and Palisades wildfires have reportedly caused property losses close to \$53 billion. In addition, a few weeks prior to the LA wildfires, the Mountain Fire in Camarillo destroyed 243 structures. As wildfire risks continue to rise every year, it is imperative that we ensure affected communities can be restored after a disaster. By adding consistency to the community rebuilding process, SB 676 aims to support the state's wildfire resiliency efforts.

2. CEQA generally

Enacted in 1970, CEQA requires state and local agencies to follow a set protocol to disclose and evaluate the significant environmental impacts of proposed projects and to

adopt feasible measures to mitigate those impacts. CEQA itself applies to projects undertaken or requiring approval by public agencies, and, if more than one agency is involved, CEQA requires one of the agencies to be designated as the “lead agency.” The environmental review process required by CEQA consists of: (1) determining if the activity is a project; (2) determining if the project is exempt from CEQA; and (3) performing an initial study to identify the environmental impacts and, depending on the findings, prepare either a Negative Declaration (for projects with no significant impacts), a Mitigated Negative Declaration (for projects with significant impacts but that are revised in some form to avoid or mitigate those impacts), or an EIR (for projects with significant impacts).

An EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Before approving any project that has received environmental review, an agency must make certain findings pertaining to the project’s environmental impact and any associated mitigation measures. If mitigation measures are required or incorporated into a project, the public agency must adopt a reporting or monitoring program to ensure compliance with those measures. To enforce the requirements of CEQA, a civil action may be brought under several code sections to attack, review, set aside, void, or annul the acts or decisions of a public agency for noncompliance with the act.

“CEQA operates, not by dictating proenvironmental outcomes, but rather by mandating that ‘decision makers and the public’ study the likely environmental effects of contemplated government actions and thus make fully informed decisions regarding those actions. ... In other words, CEQA does not care what decision is made as long as it is an informed one.” (*Citizens Coalition Los Angeles v. City of Los Angeles* (2018) 26 Cal. App. 5th 561, 577.)

3. Expedited judicial review under CEQA

There are several existing statutes that provide for a 270-day judicial review period, if feasible, for environmental leadership projects AB 900 (Buchanan, Ch. 354, Stats. 2011; SB 7 (Atkins, Ch. 19, Stats. 2021); SB 149 (Caballero, Ch. 60, Stats. 2023), for environmental leadership transit projects SB 44 (Allen, Ch. 44, Stats. 2021), as well as for specified stadium projects.⁶

Unlike other environmental laws specific to air resources, water resources, or the control of toxic substances, there is no statewide bureaucracy charged with enforcement

⁶ SB 292 (Padilla, Ch. 353, Stats. 2011); SB 743 (Steinberg, Ch. 386, Stats. 2013) (see *Saltonstall v. City of Sacramento* (2014) 231 Cal.App.4th 837, 855-856); AB 734 (Bonta, Ch. 959, Stats. 2018); AB 987 (Kamlager-Dove, Ch. 961, Stats. 2018).

of CEQA. Rather, it is enforced through citizen participation and litigation if necessary. Arguably, this makes the implementation of CEQA more efficient and expeditious than if a state agency were created to administer the law. Thus, CEQA litigation could more appropriately be characterized as mere enforcement.

Several provisions streamline judicial review of challenges to projects under CEQA, including:

- discovery is generally not allowed, as CEQA cases are generally restricted to review of the record;⁷
- concurrent preparation of the record of proceedings to enable judicial review to occur sooner;⁸
- counties with a population of over 200,000 must designate one or more judges to develop expertise on CEQA and hear CEQA cases (§ 21167.1 (b));
- both the Superior Court and the Court of Appeal must give CEQA lawsuits preference over all other civil actions (§ 21167.1(a)); and
- if feasible, the Court of Appeal must hear a CEQA appeal within one year of filing (§ 21167.1(a)).

Additionally, several bills have provided for a 270-day judicial review period for environmental leadership projects,⁹ as well as for specified stadium projects,¹⁰ and a San Diego transit and transportation facilities project.¹¹ The principal framework associated with these provisions is AB 900 (Buchanan, Ch. 354, Stats. 2011); (§§ 21178 et seq.), which established procedures for 270-day expedited judicial review for “environmental leadership” projects with a minimum investment of \$100,000,000 that are certified by the Governor and meet specified conditions. Such projects include clean renewable energy projects, clean energy manufacturing projects, and LEED Gold-certified infill site projects with transportation efficiency 15 percent greater than comparable projects and zero net additional GHG emissions. To date, 19 projects have been certified under this process. AB 900 sunset on January 1, 2021, but was renewed under SB 7 (Atkins, Ch. 19, Stats. 2021) to include housing development projects with a minimum investment of \$15,000,000.

A 2019 report entitled *Review of Environmental Leadership Development Projects* from the Senate Office of Research reviewed litigation under AB 900 and SB 743 (Steinberg, Ch. 386, Stats. 2013), which provided for 270-day review for the Sacramento Kings arena. The report found the following timelines, which under then-existing law began when

⁷ See *Cadiz Land Co. v. Rail Cycle, LP* (2000) 83 Cal.App.4th 74, 122.

⁸ SB 122 (Jackson, Ch. 476, Stats. 2016).

⁹ AB 900 (Buchanan, 2011), Ch. 354, Stats. 2011.

¹⁰ SB 292 (Padilla, Ch. 353, Stats. 2011); SB 743 (Steinberg, Ch. 386, Stats. 2013); (see *Saltonstall v. City of Sacramento* (2014) 231 Cal.App.4th 837, 855-856); AB 734 (Bonta, Ch. 959, Stats. 2018) AB 987 (Kamlager-Dove, Ch. 961, Stats. 2018).

¹¹ AB 2731 (Gloria, Ch. 291, Stats. 2020).

the administrative record was certified¹² and include the trial court, court of appeal, and the Supreme Court's denial of review, for those cases:

Project	Business days	Calendar days
Kings arena	243	352
Warriors arena	257	376
8150 Sunset Boulevard	395	578

The report concludes that these projects were reviewed under a faster timeline than normally would apply, benefiting the developers and providing upfront financial security. The report also states that "the impacts to the court from such a short timeline also should be taken into consideration when determining how fast the Legislature would like [AB 900] cases resolved," and suggests a longer timeline may be appropriate.¹³

4. Expedited judicial review for a project that is located in a geographic area that was damaged by a fire for which the Governor declares a state of emergency on or after January 1, 2023

This bill is brought in response to the LA wildfires and is a part of the Senate's Golden State Commitment legislative package to strengthen wildfire recovery. The bill provides for expedited review for a project that is located in a geographic area that was damaged by a fire for which the Governor declared a state of emergency on or after January 1, 2023, and the project is not otherwise exempt from CEQA under existing law or by a Governor's executive order. The bill specifies that it only applies to a project that is consistent with the applicable zoning and land use ordinances, and does not apply to a project that is proposed after the Governor rescinds the declaration of the state of emergency for that geographic area.

5. Statements in support

The League of California Cities writes in support, stating:

SB 676 would add consistency measures to environmental review procedures under CEQA for projects located in a geographic area that was damaged by fire for which the Governor declared a state of emergency on or after January 1, 2023. The bill would allow a project that is not otherwise exempt from CEQA to be able to prepare the record of proceeding concurrently with the administrative process to transparently share the relevant materials. The record of proceeding, otherwise known as the administrative record, is a series of documentation related to the

¹² *Review of Environmental Leadership Development Projects*, Cal. Sen. Office of Research (Apr. 2019) at pp. 6-8 (noting some uncertainties in the calculation methodology).

¹³ *Id.* at p. 15.

projects environmental review, often serving as the basis for judicial review of the agency's decision. In addition the consistency measures proposed, SB 676 would require an action or proceeding brought to challenge the certification of an environmental impact report or the adoption of a negative declaration or mitigation negative declaration to be resolved within 270 calendar days of the filing of the certified record of proceedings for a project in the above described geographic areas damaged by fire. This streamlined approach will help accelerate any legal challenges to projects impacted by fire and to further support the state's wildfire resiliency efforts.

SUPPORT

California Apartment Association
California Association of Realtors
League of California Cities

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation: *See* Comment 3, above.

PRIOR VOTES:

Senate Environmental Quality Committee (Ayes 8, Noes 0)
