

# SB 149 – CEQA: ADMINISTRATIVE AND JUDICIAL PROCEDURES: RECORD OF PROCEEDINGS: JUDICIAL STREAMLINING

## Fact Sheet

### **SUMMARY:**

SB 149 establishes streamlined procedures for the preparation of the California Environmental Quality Act (CEQA) record of proceedings. The bill clarifies and streamlines the administrative record requirements set forth in Public Resources Code (PRC) Section 21167.6.

The bill also provides for expedited judicial proceedings for certain projects certified by the Governor.

### **RECORD OF PROCEEDINGS**

Specifically, SB 149:

- Allows a public agency to prepare the record notwithstanding the petitioner's request to prepare it. If the public agency elects to prepare the record, it must notify the petitioner of this decision within 5 business days of the petitioner's request, must do so at its own expense, regardless of the outcome of the litigation, and may not pass the cost of preparation on to the project applicant.
- If the petitioner elects to prepare the record but fails to do so within the 60-day time limit, then the public agency may assume the duty of record preparation. The petitioner must also notify the public agency within 10 days of filing the action that it is electing to prepare the record.
- If the public agency elects to prepare the record but fails to do so within the 60-day time limit, or any continuances of that time limit, the petitioner may move for sanctions, and the court may grant appropriate sanctions.
- The 60-day time limit may only be extended by agreement of all parties who have been properly served in the action or upon order of the court.

- Requires that the record be submitted in an electronic format.
- Clarifies the scope of “internal agency communications” to exclude certain logistical communications such as meeting invitations and scheduling communications.

## **EXPEDITED JUDICIAL PROCEEDINGS**

SB 149 also provides for expedited judicial proceedings for certain infrastructure projects, including transportation-related projects. The bill provides that agencies using this streamlined judicial process must prepare the administrative record concurrently with the administrative approval process, and any litigation, including appeals, would need to be resolved, to the extent feasible, within 270 days.

The intent of SB 149 is to provide unique streamlining benefits for critical state, regional, and local investments in climate resiliency, safety, and infrastructure maintenance while maintaining the environmental and public engagement benefits of CEQA. The transportation-related projects are intended to help state, regional, and local agencies more quickly meet the goals of advancing safety, rehabilitating the aging transportation infrastructure, and addressing the impacts of climate change and to accelerate critical state, regional, and local “fix it first” projects.

### **What Projects Qualify?**

- The Governor may certify up to 20 transportation-related projects, including up to 10 state projects proposed by Caltrans, and up to 10 local or regional projects.
- Transportation-related project is defined as a “transportation infrastructure project that advances one or more of, and does not conflict with, the following goals related to the Climate Action Plan for Transportation Infrastructure (CAPTI) adopted by Cal-STA:
  - Build toward an integrated, statewide rail and transit network.
  - Invest in networks of safe and accessible bicycle and pedestrian infrastructure.
  - Include investments in light-, medium-, and heavy-duty zero-emission vehicle infrastructure.
  - Develop a zero-emission freight transportation system.
  - Reduce public health and economic harms and maximize community benefits.

- Make safety improvements to reduce fatalities and severe injuries of all users towards zero.
- Assess and integrate assessments of physical climate risk.
- Promote projects that do not significantly increase passenger vehicle travel.
- Promote compact infill development while protecting residents and businesses from displacement.
- Protect natural and working lands.

Additionally, the Governor may certify the project only if the project does NOT result in any net additional emission of greenhouse gases, excluding greenhouse gas emissions from employee transportation. A project can meet this requirement if the applicant demonstrates to the satisfaction of the Governor that the applicant has a binding commitment that it will mitigate impacts resulting from the emission of greenhouse gases, if any, preferably through direct emissions reductions where feasible, but where not feasible, then through the use of offsets that are real, permanent, verifiable, and enforceable, and that provide a specific, quantifiable, and direct environmental and public health benefit to the same air pollution control district or air quality management district in which the project is located, but if all of the project impacts cannot be feasibly and fully mitigated in the same air pollution control district or air quality management district, then remaining unmitigated impacts shall be mitigated through the use of offsets that provide a specific, quantifiable, and direct environmental and public health benefit to the region in which the project is located.

- An applicant may apply to the Governor for certification and shall provide evidence and materials deemed necessary by the Governor in making a decision on the application for certification. The application must be submitted prior to the certification of the Environmental Impact Report (EIR) for the project.
- The Office of Planning and Research (OPR) may charge a fee to an applicant seeking certification.