December 10, 2025

Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative to modify existing processes related to time limits, environmental reviews, and judicial reviews for certain types of infrastructure projects (A.G. File No. 25-0023, Amendment #1).

BACKGROUND

California Environmental Quality Act (CEQA). Enacted in 1970, CEQA is a California law that requires state and local government agencies to consider and make public the environmental impacts of their decisions when approving or carrying out a project. Unlike other environmental laws that are focused on one issue (such as air quality), CEQA and its implementing guidelines require government agencies to consider a public or private project's total impact on the environment before approving it. CEQA applies to many types of public and private sector projects—from housing development to habitat restoration—if they have the potential to affect the environment and require "discretionary" public approval (where the agency must evaluate the project and exercise judgment).

How the CEQA Environmental Review Process Works. The CEQA process begins when a project application is submitted to a government agency for review and approval. Applicants could be private parties (such as developers) or a local or state government agency. The reviewing agency, known as the lead agency, could be part of local government (such as a city planning department) or state government (such as the California Department of Transportation). In some cases, the project applicant and the lead agency could be the same entity. For example, a city proposing upgrades to its public water system also would serve as the lead agency to identify and find ways to reduce the project's environmental impacts. At a high level, the CEQA environmental review process generally includes the following steps:

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1. ***Determine if CEQA Applies.*** If the project requires discretionary government approval or is supported with public funds and could cause a physical change to the environment, CEQA applies, with some exceptions. For example, certain types of housing projects are statutorily exempt from the CEQA process.
2. ***Conduct Initial Study.*** Generally, if the project is not exempt, the lead agency conducts an initial study to determine whether the project may have a significant environmental impact and what type of environmental document is needed. For example, if the initial study finds the project would not have significant impacts on the environment, then generally no additional environmental analysis is needed. In some cases, the lead agency could require minor project modifications to reduce or avoid environmental impacts. Most projects fall into these categories. Conversely, if the project would have significant environmental impacts, some of which cannot be avoided or mitigated, the agency must develop a more detailed analysis of the environmental effects known as an environmental impact report (EIR). The EIR is the lengthiest and most time-intensive of the environmental documents to prepare, but also the least common.
3. ***Prepare Environmental Review Document and Collect Public Comment.*** If an environmental review document is required, the lead agency oversees it and is responsible for its findings. For example, an EIR provides detailed information to public agencies and the public about the effects the proposed project likely will have on the environment, potential ways to reduce significant effects, and possible alternatives to the project. The EIR must describe a "range of reasonable alternatives" to the project or its location. A reasonable alternative would achieve most of the project goals but reduce the environmental impact. The lead agency releases the draft EIR for public comment and must respond to all public comments before issuing a final EIR.
4. ***Approve the Environmental Review Document and Project.*** The lead agency decides on whether to approve the environmental document and ultimately whether to approve the project or an alternative to the project.

Other Project Permits and the Permit Streamlining Act (PSA). In addition to completing a CEQA review, applicants wishing to implement a new project typically must obtain a number of permits requiring discretionary approval from one or more government agencies. These might include, for example, a local "conditional use" permit. Enacted by the state Legislature in 1977, the PSA sets time limits for state and local government agencies—both lead agencies and responsible agencies—to make decisions about development permit applications. (A responsible agency is a state or local government agency, other than the lead agency, that has responsibility for approving or carrying out part of the project, such as by issuing a permit.) Permits cannot be issued until the CEQA process has been completed.

Legal Challenges to Agency Decisions. A lead agency's CEQA decisions can be challenged in court by project opponents. These lawsuits often argue that the agency used the wrong type of environmental document, did not properly analyze environmental impacts or project alternatives, or did not follow required procedures. If a court finds that a lead agency made a CEQA error, it can order the agency to correct the error and reconsider the project. In some cases, CEQA challenges may continue into later phases of the project, including during construction, if the agency makes later decisions that rely on earlier CEQA approvals.

PROPOSAL

Creates New Environmental Review and Permitting Process for "Essential" Projects. As described below, this measure would modify three components of the existing CEQA- and PSA-related processes—time limits, environmental reviews, and judicial reviews—for a variety of development projects it defines as essential. The following types of projects—and their associated infrastructure—would be considered essential and eligible for the new processes: housing, water systems (not including Delta conveyance facilities), clean energy, medical treatment facilities, public safety (including first responder facilities and wildfire risk reduction, but not including jails or prisons), broadband Internet access, education facilities, and transportation (not including high-speed rail). It would require an applicant choosing to use the new processes for an essential project to comply with certain labor requirements. The measure also allows essential project applicants that had submitted their applications prior to this measure taking effect to withdraw their applications and resubmit them in order to use the new process.

Time Limits

The measure would set new time limits in state law for environmental review, permitting, and court proceedings. While certain time limits would be somewhat similar to those in current law, the measure would create options for the project applicant to challenge the agency on missed deadlines or negative decisions. The major changes proposed are described below.

Applies 30-Day Application Completeness Time Limit to More Projects. The measure would apply a 30-day time limit for lead or responsible agencies to determine whether an application for an essential project is complete, including those projects needing local general plan or zoning changes. (General plans and zoning rules—which require approval by local elected officials—guide land use planning and development at the local level.) Currently, application completeness time limits are in statute in the PSA (not in CEQA), and they do not apply to projects requiring general plan or zoning changes. Under the measure, if the agency fails to make a decision within 30 days, the application would automatically be deemed complete.

Modifies Time Limits for Environmental Review. The measure includes two main changes to how time limits for environmental review are handled. First, it extends time limits by using business days instead of calendar days. For example, it would allow lead agencies 90 business days to determine if a project is exempt from environmental review and 365 business days to determine whether to certify an EIR. Second, the measure provides the project applicant with options should the lead agency fail to meet the time limits. For example, although the applicant could consent to provide the agency additional time, the measure would also allow the applicant the option of requesting a meeting or hearing, which the agency would have to hold within 60 days. The measure would require the lead agency to approve or deny the project at the meeting or hearing. This change could have the ultimate effect of shortening the overall time for environmental reviews compared to current law. In addition, if the agency fails to meet any time limits or denies the project, the applicant could challenge these actions in court. (Currently, nothing specific happens if an agency misses statutory review time limits and they can be extended upon mutual agreement.)

Reduces the Number of Days to Make Permit Decisions. The proposed initiative would establish two different time limits for permit decisions on essential projects—one for lead agencies and one for responsible agencies.

- The measure would require a lead agency to make permit decisions at the same time that it completes its environmental review, or determines the project is exempt from environmental review. This is shorter than existing time limits.
- The measure would require a responsible agency to make permit decisions before one of the following, whichever happens later: either 90 days from the agency determining the permit application is complete, or within one day of the lead agency approving the overall project. This also is shorter than existing time limits.

Additionally, under the measure, if an agency misses its deadline, the applicant could consent to provide it with additional review time. Alternatively, the applicant could request a meeting or hearing, which the agency then must hold within 45 days. The agency must make a final decision at this meeting or hearing. If the agency misses any deadlines or denies the permit, the applicant could challenge these actions in court.

Sets a Time Limit for Court Proceedings Review. For essential projects, the initiative would require courts to resolve all legal challenges to project approvals, including appeals, within 270 days. The court would have the option to extend this deadline by an additional 90 days. Otherwise, the deadline could only be extended if all parties agreed to do so. Under current law, the court generally has no time limit for reaching a decision when an agency is challenged for environmental review or permitting decisions. (An exception concerns certain housing and large environmental projects that have been certified by the Governor, which currently have a 270-day time limit, to the extent feasible by the courts.)

Environmental Review

The measure would modify the environmental review process in several key ways, including:

Changes Public Comment Periods. For essential projects, the initiative would make several changes to current public comment rules. Two of the more significant changes include capping the number of days an agency must provide for public comment—such as 45 days for draft EIRs—and specifying that these periods may only be extended by a court order. By comparison, current law sets a minimum number of days for public comment (not a maximum) and allows extensions without court orders.

Offers Optional Preliminary Scoping and Single Alternative Analysis. The measure includes two notable changes related to the scope of the CEQA analysis. First, it would allow an essential project applicant to use an optional preliminary scoping process, including providing the lead agency with certain information about the project and meeting with the lead agency at least twice to discuss the project, potential alternatives, and potential environmental impacts. Second, the measure would allow the applicant, upon completing the preliminary scoping process, to develop a single project alternative. When the lead agency later prepares the EIR, it would consider this single alternative and would not be required to develop other alternatives. (Under current law, if an EIR is required, the lead agency must develop and consider a range of reasonable alternatives to the project or its location to avoid or reduce environmental impacts to less than significant levels.)

Modifies How Public Agencies Determine the Environmental Impacts of a Project. The measure requires public agencies to evaluate a project's environmental impacts—including the significance of these impacts and potential ways to reduce them—based on the project's compliance with existing laws and existing "thresholds of significance," if the agency has adopted or used such benchmarks for

assessing the magnitude of various environmental impacts. This differs from existing law in that agencies currently have flexibility in selecting which thresholds to use in their environmental impacts reviews, including standards that might be developed after a project application is submitted. In addition, thresholds currently can be adopted on a project-specific basis.

Modifies Tribal Consultation Requirements. Consistent with current law, the measure requires that California native tribes be consulted about potential projects as part of the CEQA process. However, the measure makes several changes to these requirements. First, it would require applicants and lead agencies to base their tribal consultations on the list of federally recognized tribes, rather than on the longer contact list maintained by the state Native American Heritage Commission. Second, the measure would require applicants to undergo a new initial screening process with the lead agency and tribes whose cultural resources may be affected by the project. This would include identifying ways to reduce or avoid impacts to these resources. Following initial screening, formal tribal consultation—as required under current law—would take place. The measure would require that any agreed-upon measures to reduce or avoid an impact to a tribal cultural resource be included as an enforceable requirement of the project. It also would make lead agency approval of an essential project contingent on having conducted and concluded "good-faith consultation" with tribes.

Judicial Review

The proposed initiative would make several changes to the grounds on which an entity can legally challenge an agency's approval or authorization of a project and to how the courts review cases.

Changes the Court's Review of Environmental Analysis. The measure changes the legal standard that courts may use when reviewing challenges to a lead agency's decision about what type of environmental review document needs to be developed. The change effectively would give the lead agency more discretion to make this decision, and thereby make it more difficult for project opponents to successfully challenge an agency's decision. In addition, under the measure's new provisions, a petitioner's challenge to an agency's approval of an essential project could only concern an agency's noncompliance with "objective existing laws." The court's scope of review would be limited to the same, more narrow, parameters. Under current law, the court can use its independent judgment to determine whether an agency appropriately applied CEQA.

Limits the Contents of the Administrative Record. Courts use what is called an "administrative record" when reviewing CEQA cases. The measure would limit the administrative record to a specific set of information, including, for example, documents the lead agency is required to make public, public comments (and lead agency responses to them), and applicant responses to the lead agency's questions about project compliance. In contrast, under current law, CEQA requires the administrative record to include all of the information an agency used to comply with CEQA in making its decisions, which in addition to the above information might include further correspondence between the agency and applicant, internal agency communications, and written evidence submitted to the agency, among other information.

Limits the Court's Ability to Delay or Stop Projects. The measure would reduce the court's ability to delay or stop essential projects in three ways. First, if a court finds that a public agency's approval or authorization of a project was not supported by substantial evidence, it cannot rescind project approval. Instead, it could only stop the part of the project that was affected by the agency's noncompliance, and only until the error is corrected. (Currently, courts can void an agency's approval in whole or in part.) In addition, other parts of the project that were not included in the court order could not be challenged

later, as they can currently. Second, if the agency's project approval was not challenged, the initiative would prevent CEQA challenges to later project actions (from implementation through construction). (Currently, CEQA challenges can be brought later in the project, sometimes even after construction has begun.) Third, the measure would allow the court to temporarily stop any part of an essential project that posed a public safety risk (until the issue was addressed), but would not allow the court to stop the project overall.

FISCAL EFFECTS

Initial Costs for State and Local Agencies. In the initial years of implementing the measure, state and local agencies likely would incur some increased administrative and legal costs. These costs would include such things as developing new guidelines and standards that would be used to review essential projects. The measure also could lead to a temporary increase in costs to defend against legal challenges to government lead agencies' CEQA decisions and implementation of the new process. Taken together, these costs could reach the tens of millions of dollars annually during the initial years of implementation. For private projects, government agencies' administrative and legal costs typically would be covered by fees and reimbursements paid by project applicants.

Net Ongoing Effect on State and Local Agencies Unclear, but Likely to Result in Savings. Over the longer term, the measure could result in both costs and savings for the state and local governments' administrative and legal activities. For example, conducting initial screening with applicants and tribes, meeting newly shortened time limits (such as for approving permit applications), and handling a possible increase in the number of projects could require additional staffing. On the other hand, the new process could result in lead agencies experiencing lower costs due to considering only one project alternative, confining tribal consultation to only federally recognized native tribes, and preparing a more limited administrative record. The measure also could reduce the ongoing number of CEQA lawsuits by, for example, increasing the discretion given to lead agency decisions, limiting the administrative record, and restricting the court's ability to rescind a project's approval. The net effects of these changes are uncertain, but likely would result in savings in the longer term.

Net Effect on State Courts Could Be Costs or Savings. This measure could impact state court workload and costs in different ways, leading to uncertain net impacts. Certain provisions of the measure could lead to decreased court workload and costs. For example, the limitations on what materials may be included in the administrative record and on what actions the courts may take would reduce the amount of court time and resources needed. Additionally, the additional decision-making discretion provided to lead agencies could potentially reduce the number of cases that ultimately are filed in court. However, other components of the measure could increase court workload and costs, such as the requirement to process cases more quickly to meet the new time limits. Depending on how these offsetting factors interact, the fiscal impacts of the measure's changes on state courts could range from net annual savings that could reach the tens of millions of dollars to net annual costs that could reach the low tens of millions of dollars. To the degree costs are incurred, some of them could be covered by court filing fees.

Potential for Additional Fiscal Effects. The measure could result in some indirect fiscal effects for state and local governments, however such impacts are subject to considerable uncertainty. For example, if the measure ultimately results in environmental reviews taking less time, the state and local governments might avoid some amount of inflationary cost increases on public infrastructure projects if construction is able to be completed more quickly. Additionally, if the measure results in more essential

projects being completed overall than otherwise would be without the measure, it could lead to an increase in tax revenues, such as property tax revenue. However, if the measure's modified environmental review requirements result in some projects being approved that cause unintended negative environmental impacts, some government agencies might incur costs to mitigate or respond to those impacts.

Summary of Fiscal Effects. We estimate that this measure would have the following major direct fiscal effects:

- State and local government implementation costs in the tens of millions of dollars annually for the first several years. Over the long term, the annual net fiscal effects are uncertain, but state and local governments likely would experience net savings due to reduced administrative and legal workload.
- Net fiscal effects on state trial courts ranging from annual savings of up to the tens of millions of dollars to annual costs of up to the low tens of millions of dollars.

Sincerely,

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for Gabriel Petek
Legislative Analyst

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for Joe Stephenshaw
Director of Finance