



APA CALIFORNIA 2014 LEGISLATIVE UPDATE

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2014 LEGISLATIVE UPDATE

DECEMBER 9, 2014

LEGISLATIVE & REGULATORY RECAP – AGENDA

- + LEGISLATION SIGNED INTO LAW
- + 2015 INTRODUCED AND EXPECTED BILLS
- + REGULATORY UPDATE
- + CEQA UPDATE

2014 LEGISLATION SIGNED INTO LAW

- + The Legislature tackled a number of major planning issues:
- + Environmental Impacts of Tribal Cultural Resources in CEQA
- + Sustainable Groundwater Planning and Water Bond
- + Local Authority over Massage Therapy Businesses
- + Rooftop Solar Permit Streamlining
- + Urban Garden Rights
- + Alternatives to Redevelopment

THREE SUSTAINABLE GROUNDWATER BILLS

- + SB 1168 (Pavley)/AB 1739(Dickinson)/SB 1319(Pavley)
- + FINAL APA POSITION: Support as Amended on All 3
- + ALL SIGNED BY GOVERNOR – Took one year to develop language
- + Gives authority to local sustainable water agencies to plan for sustainable groundwater levels
- + Authorizes the state to step in only if locals don't act
- + Provides 20 years to reach sustainable groundwater levels
- + Requires coordination between GW management plans and GPs

SB 1168 Specifics:

- + Requires adoption of groundwater sustainability plan (GSP) by January 31, 2020 for all high or medium priority basins that are subject to critical conditions of overdraft
– CEQA NOT REQUIRED FOR PLANS
- + Requires a GSP for all other high and medium priority basins by January 31, 2022 unless the basin is legally adjudicated or the local agency establishes the basin is already sustainably managed
- + Requires DWR by 1/31/2015 to prioritize each basin

SB 1168 Specifics:

- + Encourages low and very low priority basins to adopt a GSP
- + Allows any local agency or combination of agencies to establish a groundwater sustainability agency (GSA) to develop and implement a GSP but recognizes existing special groundwater districts
- + Assumes the county is the GSA where there is no other GSA but if the county opts out, reporting goes to DWR

SB 1168 Specifics:

- + Requires by June 1, 2016 that DWR develop regs regarding GSP components; coordination of multiple GSPs for a basin; alternative compliance/functional equivalent plans/management
- + Designed to achieve sustainable groundwater management within 20 years of adoption with progress reports to DWR and the Water Board every 5 years

AB 1739 Specifics:

- + Requires DWR by December 31, 2016 to publish on its website the best estimate of water available for replenishment of GW
- + Requires DWR by January 1, 2017 to publish on the website BMPs for the sustainable management of GW
- + Requires DWR by June 1 2016 to adopt emergency regs for evaluating GSPs, the implementation of GSPs, and coordination agreements

AB 1739 Specifics:

- + Requires GSAs to submit GSPs to DWR for review upon adoption
- + Requires DWR to review submitted GSPs at least every 5 years after initial submission to DWR
- + Authorizes the SWB to designate a basin as a probationary basin and develop a full or partial interim plan after notice and hearing and rescind all or a portion of an interim plan based on local compliance
- + Authorizes the SWB to issue cease and desist orders for violations

AB 1739 PLANNING Specifics:

- + Requires, prior to the adoption or any substantial amendments of a GP, the planning agency to review and consider a GSP, GW management plan, GW management court determination, adjudication of water rights, or Board orders or interim plan
- + Requires the planning agency to refer a proposed action to adopt or substantially amend a GP to any GSA that has adopted a GSP, or other GW management agency

AB 1739 Specifics:

- + Requires a GSA or other GW management agency to provide the planning agency with GW info relevant to that planning agency, including a report on the anticipated effect of the proposed planning action on implementation of a GSP
- + Provides provisions against superseding the land use authority of cities and counties including GPs, and requires GSPs to take into account the most recent planning assumptions stated in GPs overlying the basin
- + Specifies GSA authority to control GW extractions must be consistent with GPs unless there is insufficient sustainable yield in the basin to serve a land use designated in the GP

SB 1319 Specifics:

- + Amends AB 1739 as requested by the Governor to give more time for “good actors” to comply and fill in knowledge gap
- + Delays for 3 years (until 2025) the Water Board’s authority to intervene in a basin or subbasin that is not in overdraft, but is causing significant depletions of interconnected surface waters
- + Clarifies that the SWB is required to exclude from probationary status any portion of a basin or subbasin for which a GSA is in compliance with the sustainability goal

AB 1471 (Rendon/Atkins) WATER BOND

- + **APA Final Position: Support**
- + **SIGNED BY GOVERNOR/APPROVED BY VOTERS**
- + Removed the existing \$11.1 billion water bond from the November 2014 ballot and replaced it with a new one totaling \$7.545 billion
- + Reauthorizes \$425 million in unissued bonds, in addition to authorizing \$7.120 billion in new general obligation bonds, all to fund water resources related programs and projects through expenditures, grants and loans

AB 1471 **Project Allocation** Specifics:

- + \$520 million : clean, safe and reliable drinking water
- + \$1.495 billion: multi-benefit ecosystem and watershed protection and restoration projects
- + \$820 million: regional water security, and climate and drought preparedness pursuant to an adopted integrated regional water management plan
- + \$2.7 billion: statewide water system operational improvement, and drought preparedness and water storage (continuous appropriation)
- + \$725 million: water recycling and advanced treatment technology projects (to the Legislature to allocate)

AB 1471 **Project Allocation** Specifics:

- + \$900 million: groundwater sustainability including groundwater contamination cleanup projects related to health and safety
- + \$395 million: statewide flood management projects and activities for multi-benefit projects that achieve public safety and enhance fish and
- + Includes strong Delta protections
- + Provides no funding for tunnels

AB 52 – CEQA Consultation and Mitigation of Tribal Cultural Resources

- + **Author: Assembly Member Mike Gatto**
- + **Final APA Position: Neutral as Amended**
- + **SIGNED BY GOVERNOR**
- + Sponsored by the federally-recognized tribes
- + Intended to provide a separate statutory process for tribes to engage in the CEQA review process
- + Goal is to avoid or mitigate significant effects on tribal resources early in the process

AB 52 – CEQA Consultation and Mitigation of Tribal Cultural Resources

- + APA agreed with goal but recommended that mitigation impacts on tribal resources be completed PRIOR to CEQA review
- + That was not accepted
- + AB 52 however was substantially amended to be more balanced within the existing CEQA structure and timelines
- + Also ensures that lead agencies retain the ability to make the final decisions on CEQA determinations and mitigation

AB 52 – CEQA Consultation and Mitigation of Tribal Cultural Resources

- + APA still concerned that the bill gives cities and counties very short timelines to make complex determinations about identification of sacred sites and appropriate mitigation with very little guidance
- + But APA agrees that there should be a place at the table for tribes
- + So – we took the neutral as amended position

AB 52 SPECIFICS:

- + Defines tribe to mean a Native American tribe located in CA that is on the NAHC contact list
- + Defines tribal cultural resources (TCRs) to mean:
- + Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a tribe that are either:
 - + (1) Included or determined to be eligible for including in the CA Register of Historical Resources or
 - + (2) Included in a local register of historical resources

AB 52 SPECIFICS:

- + 3) Or a resource determined by the lead agency in its discretion and supported by substantial evidence to be significant as specified
- + Provides that tribes affiliated with a geographic area may have expertise concerning TCRs
- + Authorizes tribes to assist the lead agency in identifying a TCR and whether an impact of a proposed project is significant

AB 52 SPECIFICS:

- + Requires the NAHC to provide each tribe before 7/1/16 with a list of lead agencies within a tribe's culturally affiliated geographic area, the contact info, and how the tribe may request notification of projects for the purpose of requesting consultation
- + Creates consultation requirement that the lead agency begin consultation with a tribe, if the tribe requests it within 30 days of notice – consultation is required within 30 days of the request. (*Note that tribes must submit to lead agency a written request to be notified. A one-time, it appears.*)
- + NAHC required to assist the lead agency to identify tribes affiliated with a project area

AB 52 SPECIFICS:

- + Authorizes consultation parties to propose mitigation measures capable of avoiding or substantially lessening potential significant impacts to a TCR or alternatives that would avoid significant impacts
- + Specifies consultation has concluded when either:
 - + 1) the parties agree to measures to mitigate or avoid a significant effect on a TCR if a significant effect exists or
 - + 2) a party concludes that mutual agreement cannot be reached after demonstrating parties have consulted “*in good faith and after reasonable effort.*”

AB 52 SPECIFICS:

- + Prohibits info submitted by a tribe during consultation from being included in the environmental document if requested by the tribe unless it is in a confidential appendix
- + Requires the lead agency to consider a specified list of mitigation measures if mitigation agreed upon in the consultation process is not included in the environmental document or if there is no agreement and there is substantial evidence the project will cause a significant effect on a TCR
- + Requires OPR by 7/1/2016 to revise the Guidelines to separate the consideration of paleontological resources from TCRs and add consideration of TCRs with relevant sample questions

AB 52 SPECIFICS – MITIGATION:

- + (1) Avoidance and preservation of the resources in place
- + (2) Treating the resource with culturally appropriate dignity:
 - + (A) *Protecting the cultural character and integrity of the resource.*
 - + (B) *Protecting the traditional use of the resource.*
 - + (C) *Protecting the confidentiality of the resource*
- + (3) Permanent conservation easements or other interests in real property for the purposes of preserving
- + (4) Protecting the resource

AB 52 DEFINITIONS WILL BE KEY:

- + *"Consultation"* (Gov. Code 65352.4, per SB 18 [2004])
- + *"Sacred places"* (NAHC Sacred Lands File?)
- + *"Cultural landscapes"* (TCR to the extent that landscape is geographically defined in terms of size and scope of landscape?)
- + *"substantial adverse change in the significance of a tribal cultural resource"*
- + *"Traditionally and culturally affiliated"* geographic area within which a tribe can seek consultation
- + *"Good faith and after reasonable effort"* to conclude consultation without agreement

AB 1147 ENFORCEMENT OF MASSAGE THERAPY BUSINESSES

- + AB 1147 (Bonilla, Gomez, Holden) Massage Therapy Act of 2014
- + Final APA Position: SUPPORT
- + SIGNED BY GOVERNOR
- + Completely revises the law pertaining to massage therapy
- + Gives specific tools back to local governments to regulate these facilities

AB 1147 Specifics:

- + Most importantly to APA, the bill:
- + Returns land use control back to the cities and counties by removing the requirement to “uniformly” regulate massage parlors in the same manner as other professional businesses
- + Explicitly authorizes local governments to adopt ordinances to require massage establishments to obtain a license or permit and to comply with reasonable health and safety standards while also establishing certain statewide criteria that local agencies cannot deviate from.

AB 1147 Specifics:

- + However it clarifies that a city or county may not prevent an individual licensed or authorized under the B&P Code from engaging “in their regulated profession”
- + Clarifies that a city or county cannot enact an ordinance that conflicts with the Act
- + Allows locals to require a license, regulation, or permit for an individual who provides massages for compensation WITHOUT a valid certificate
- + Requires CAMTC to provide locals with info on an applicant or certificate holder and vice versa

AB 1147 Specifics:

- + Prohibits cities and counties from:
- + Defining a massage establishment (ME) as an adult entertainment business
- + Requiring an ME to have windows or walls, lock doors, adhere to a dress code, pass background checks or meet educational or other requirements beyond what is required by the bill or CAMTC

AB 1147 Specifics:

- + Does not replace CAMTC with a board or commission, but does reconstitute the CAMTC's board by adding public members, CSAC and League members, as well as a position for a police chief
- + Extends the CAMTC sunset 2 years to 1/1/17
- + Authorizes jurisdictions to collect regulatory fees in accordance with Proposition 26, as well as require business license taxes

AB 2188 – STREAMLINED SOLAR PERMIT APPROVAL

- + AB 2188 (Muratsuchi)
- + Final Position: Neutral as Amended
- + SIGNED BY GOVERNOR
- + Originally would have required local agencies to adopt new ordinances for residential rooftop solar under 10 kilowatts
- + Ordinance would have had to include a 24-hour over-the-counter permit approval with only one inspection to be conducted within 2 days of a request

AB 2188 Specifics:

- + APA's Original Concerns:
- + Unworkable timelines
- + Safety issues
- + No option for re-inspection
- + Placed solar before other permits already in the queue

AB 2188 Specifics:

- + Due to opposition, final amendments:
- + Requires City/County to adopt an ordinance that creates a checklist that the solar application must meet to be approved
- + In developing the ordinance, the agency must substantially conform its expedited streamlined permitting process with the recommendations for expedited permitting, including the checklists and standard plans in OPR's CA Solar Permitting Guidebook unless:

AB 2188 Specifics

- + there are unique climactic, geological, seismological, or topographical conditions that warrant deviation from the Guidebook recommendations
- + Checklist must be available on agency's website if it has one
- + And electronic submittal of permit applications and electronic signature authorizations should be made available unless the agency states in its ordinance why it cannot accept signatures

AB 2188 Specifics:

- + Specifies an application that meets the requirements in the checklist shall be deemed complete upon receipt provided all required info is provided
- + If the application is incomplete, the local agency must issue a written correction notice detailing the deficiencies and what is required or provide expedited review and issuance
- + As for inspections, the previous timelines (ranging from 2 to 5 days) were dropped from the final version

AB 2188 Specifics:

- + Does require however that only one inspection may be required except that separate fire inspections can be required in some situations
- + If a system fails inspection, further inspections are not subject to the limitations in the bill

AB 1990 (Gordon) Community Food Producers

- + **APA Final Position: Neutral as Amended**
- + **Signed by Governor**
- + Defines “community food producer” as:
 - + a producer of agricultural products on land that is not zoned for agricultural use but is otherwise in compliance with applicable local land use and zoning restrictions,
 - + including, but not limited to, restrictions governing personal gardens, community gardens, school gardens, and culinary gardens

AB 1990 Specifics:

- + Unless a local jurisdiction adopts an ordinance regulating community food production or agricultural production that prohibits the activity,
- + a community food producer or gleaner may sell or provide whole uncut fruits or vegetables, or unrefrigerated shell eggs, directly to the public, to a permitted restaurant, or a cottage food operation
- + if the community food producer meets all of the following requirements in addition to any requirements imposed by an ordinance adopted by a local jurisdiction:

AB 1990 Specifics:

- + (1) Agricultural products shall be grown or produced in compliance with subdivision (b) of Section 113735 (small farm food safety guidelines)
- + (2) Agricultural products shall be labeled with the name and address of the community food producer
- + (3) Conspicuous signage shall be provided in lieu of a product label if the ag product is being sold by the community food producer on the site of production
- + Requires signage to include the name and address of the food producer

AB 1990 Specifics:

- + (4) Best management practices as described by the Dept of Food and Ag regarding small farm food safety guidelines on safe production, processing, and handling of both non-potentially hazardous and potentially hazardous foods
- + (5) Egg production shall be limited to 15 dozen eggs per month
- + Authorizes health enforcement officers to require a community food producer or gleaner to register with the city or county and to provide the name, address, and telephone number of the community food producer or gleaner

AB 1990 Specifics:

- + Authorizes an enforcement officer to inspect the operations of a community food producer or gleaner in response to a food safety recall or food safety complaint and recover reasonable costs associated with the inspection
- + Authorizes an enforcement officer to issue a cease and desist order and penalties for violations, upon which the community food producer or gleaner would be prohibited from further sales until the operations have been re-inspected and cleared by the enforcement officer's agency
- + At any time within 15 calendar days after issuance of the cease and desist order, the community food producer or gleaner may request in writing a hearing to be allowed to sell again

AB 2561 (Bradford) - BY RIGHT URBAN ENTREPRENEURIAL GARDENS

- + Final APA Position: Neutral as Amended
- + SIGNED BY GOVERNOR
- + **Now:** Requires owners of rental housing containing one or two units to allow portable container gardening in the tenants' backyard on the ground level and permits residential properties within a CID to have personal gardens with "reasonable restrictions"
- + Chief concern: original bill allowed by right urban gardening and on site sales mandated in the entire city or county – they may try for this again

AB 2100 (Campos) Watering Requirements

- + Final APA Position: Watch
- + Chaptered – Urgency Clause
- + Prohibits an HOA from imposing a fine against a member who reduces or eliminates watering of vegetation or lawns
- + during any period during which the Governor or local government has declared an emergency due to drought

SB 614 (Wolk) Expanded IFD For Disadvantaged Communities

- + **APA Final Position: Watch**
- + **SIGNED BY GOVERNOR**
- + Requires a proposal for a change of organization or reorganization to include in its submittal to LAFCO a plan for providing services
- + If the effected area includes a disadvantaged unincorporated community, authorizes local agencies to use tax increment financing to fund expanded infrastructure improvements in disadvantaged unincorporated communities

Alternatives to Redevelopment - VETOED

- + **AB 2280 (Alejo) – Community Revitalization and Investment Authorities**
- + **APA Final Position: Support (APA wrote Op Ed in Bee)**
- + **VETOED BY GOVERNOR (AS WERE OTHER REDEVELOPMENT HYBRID BILLS) – Gov willing only to support expanded IFD changes**
- + **Authorized the creation of a new entity, a Community Revitalization Investment Authority (CRIA)**
- + **Provided a limited redevelopment option for the most disadvantaged and poorest areas of the state**

HOUSING BILLS SIGNED BY GOVERNOR

- + **AB 2222 – Nazarian – Density Bonus Changes**
- + **APA Final Position: Oppose as Amended**
- + Prohibits an applicant from receiving a density bonus, initiative or concessions unless the proposed housing development or condominium project maintains the number and proportion of affordable housing units within the proposed development

AB 2222 Specifics:

- + Last minute amendment however changed the requirements for for-sale very-low and low-income units to require only that they be affordable to the first buyer with a equity-sharing agreement -- rather than affordable for 30 years with a resale agreement
- + Why would the state want to reduce the term of affordability when it is so difficult to create very-low and low-income units?
- + Communities will get an equity share but probably will not be able to obtain equivalent units
- + Reason given for amendment: it is simpler for a city to assist another homeowner than to monitor a resale – that is not based on any statistics

AB 1537 (Levine) Default Densities

- + Final APA Position: Watch
- + SIGNED BY GOVERNOR
- + Creates a pilot program for Marin County to utilize a "suburban" default density standard for accommodating its share of affordable housing
- + Specifies for purposes of determining a jurisdiction's "default density", if a county (Marin) has a population of less than 400,000, that county is considered suburban
- + If this county includes an incorporated city that has a population of less than 100,000, this city is also considered suburban

AB 1537 Specifics:

- + Intended to help create momentum for more affordable housing development in areas that have had challenges in getting projects off the ground due to concerns about high density development
- + **Time for reassessment of default densities?**

AB 1690 (Gordon) Adequate Site Option

- + Final APA Position: Watch
- + SIGNED BY GOVERNOR
- + Authorizes a city or county, when it fails to identify adequate sites in its housing element and must adopt a rezoning program, to accommodate the very low and low-income housing need on sites designated for mixed uses **if those sites allow 100% residential use and require that residential use occupy 50% of the total floor area of a mixed-use project**
- + Goal is to allow local cities and counties the option of planning for growth in a way that better integrates new low- and very low-income housing into communities near services

OTHER BILLS SIGNED BY GOVERNOR

+ SB 674 (Corbett) – APA Support

- + Revises the statutory CEQA residential infill exemption by increasing the amount of allowable neighborhood-serving goods, services, or retail uses from 15% to 25% of the building square footage

+ SB 1077 (DeSaulnier) – APA Support

- + Creates a Road Usage Charge (RUC) Technical Advisory Committee to guide development and implementation of a pilot program to study the potential for RUC (originally VMT charge) as an alternative to the gas tax

OTHER BILLS SIGNED BY GOV

+ AB 471 (Atkins) – APA Watch

- + Allows infrastructure financing districts (IFDs) to include portions of former redevelopment project areas
- + Amends several statutes governing the dissolution of redevelopment agencies (RDAs) in order to allow dissolution to occur in a more orderly fashion while still allowing needed economic development

OTHER BILLS SIGNED BY GOV

+ AB 1963 (Atkins) – APA Watch

- + Extends the date, from January 1, 2015, to January 1, 2016, by which the Long Range Property Management Plan (LRPMP) submitted by a successor agency must be approved by the Department of Finance (DOF),
- + and makes several other changes related to successor agencies

OTHER BILLS SIGNED BY GOV

+ AB 2516 (Gordon) APA Support

- + Creates the Planning for Sea Level Rise Database (PSLRD) to be managed by the Natural Resources Agency (NRA)
- + Requires various public and private entities to provide NRA with existing sea level rise planning information that is to be posted and updated biannually on the PSLRD

OTHER BILLS SIGNED BY GOV

+ **SB 1183 (DeSaulnier) APA Watch**

- + Authorizes, until January 1, 2025, local governments to impose vehicle registration surcharges to fund local bicycle infrastructure improvements and maintenance,
- + and requires any local agency that imposes the surcharge to provide reports to the Legislature

OTHER BILLS SIGNED BY GOV

+ AB 2282 (Gatto) APA Watch

- + Directs the California Building Standards Commission to adopt mandatory building standards for the installation of recycled water systems in newly constructed commercial and public buildings and single- and multi-family dwellings, in areas where there is or will be access to a water recycling facility

DEAD BILLS COMING BACK

+ **AB 1330 (PEREZ) APA Oppose Unless Amended**

+ Imposes double-fines and targeted enforcement for facilities with environmental violations in CalEnviroScreen-designated disadvantaged communities, and requires a public website for facilities with violations – redlining rather than helping these areas

+ **AB 1961 (Eggman) Support as Amended**

+ Requires every county to adopt a sustainable farmland strategy

CEQA STREAMLINING IN 2015?

- + **SB 1451 (HILL/ROTH) – APA SUPPORT - DEAD**
- + APA/ECAT proposed a balanced proposal to reduce late comments two years ago but found too much opposition to any change from all sides at that time
- + SB 1451 would have limited very late comments and documents submitted on the day a project is scheduled to be approved if the comments could have been provided much earlier in the process

CEQA STREAMLINING IN 2015?

- + Importantly, SB 1451 did not prevent interested parties from making comments or raising issues to the lead agency at any time during the CEQA process
- + Died anyway
- + So is there a chance for CEQA streamlining in 2015?

CEQA STREAMLINING IN 2015?

- + Senators Hill and Jackson sent out a questionnaire asking for the top three areas or issues in CEQA that need to be improved and how
- + **APA California/ECAT suggested:**
- + 1) **Problem:** CEQA compliance during the planning process is redundant and inefficient as it works down from the GP/Specific Plan level to the site-specific level

CEQA STREAMLINING IN 2015?

- + **Solution:** Reward green projects consistent with approved SCS, general plans, specific plans, and zoning by making CEQA compliance or such projects faster and less costly
- + 2) **Problem:** CEQA case law has made the “tiering” process dysfunctional where a “first tier” EIR is subject to a pending legal challenge
- + **Solution:** Give courts in litigation involving lower-tier environmental documents the discretion to uphold those documents despite judicially identified problems with higher tier documents

CEQA STREAMLINING IN 2015?

- + 3) **Problem:** In spite of recent legislative and regulatory efforts (SB 743's specific plan EIR provisions for qualifying, transit-served infill projects), beneficial infill development can still be thwarted by fear of CEQA litigation, actual CEQA litigation, or by difficulties faced in trying to qualify for the limited existing CEQA infill exemptions
- + **Solution:** Eliminate some of the most onerous and dubious standards that projects must currently meet to qualify for the infill exemption
- + **So – possible Hill/Jackson CEQA bill in 2015????**

NEW 2015 BILLS INTRODUCED

- + AB 1 (Brown) – Prohibits city/county from imposing a fine for failure to water a lawn or having a brown lawn during a drought emergency.
- + AB 2 (Alejo) – The new AB 2280 - State's the intent to authorize a community revitalization authority within a community revitalization and investment area to carry out specified provisions of the Community Redevelopment Law for infrastructure, affordable housing and economic revitalization using tax increment financing.

2015 Bills Introduced

- + AB 10 (Gatto) – Increases the thresholds at which a state or local public official has a disqualifying financial interest in sources of income from \$500 to \$1000, in investments in business entities from \$2000 to \$5000, and in real property from \$2,000 to \$10,000.
- + AB 21 (Perea) – Requires the ARB by 2018 to recommend to the Governor and Legislature a specific target for GHG emission reductions for 2030 to be accomplished in a cost-effective manner, removing the ability of the ARB to adopt future GHG targets.

2015 BILLS INTRODUCED

- + AB 26 (Jones-Sawyer) and AB 34 (Bonta) – Establishes a comprehensive and uniform state regulatory structure to govern medical marijuana.
- + AB 35 (Chiu) – Allows an income tax credit for very-low and extremely-low income housing, new or rehab, and to serve single room occupancy or rural area residents.
- + AB 45 (Mullin) – States intent to establish curbside household hazardous waste collection programs to divert such waste from landfills and waterways.

2015 Bills Introduced

- + AB 57 (Quirk) – States intent to promote the deployment of communications infrastructure by removing barriers to investment. Specifically mentions the need to streamline local permitting requirements “to reduce delay and cost”, and the creation of uniform permitting processes.
- + SB 13 (Pavley) – Groundwater cleanup bill, initially dealing with probationary basins.
- + SB 32 (Pavley) – AB 32 Extension – Requires ARB to approve a statewide GHG emission limit that is equivalent to 80% below the 1990 level to be achieved by 2050, as well as interim targets to be achieved by 2030 and 2040.

OPR CEQA GUIDELINES for VMT (Pursuant to SB 743)

- + **CEQA GUIDELINES** – ECAT provided extensive comments and suggestions.
- + **LEVEL OF SERVICE OUT/VMT IN**
- + OPR makes VMT the statewide metric for CEQA documents in the next few years (by 1/1/16), even amid many strong comments recommending retaining flexibility outside of transit priority areas to retain LOS

OPR CEQA GUIDELINES for VMT

- + **Why?** OPR believes that the definition of TPP is "confusing": some projects might span both a TPP and non-TPP necessitating two different metrics
- + Or, if it is outside, but very near a TPP, its contradictory to allow LOS for one project and VMT for another - it's just easier to mandate VMT statewide
- + OPR is unconvinced that using VMT would create any difficulty or provide any less environmental protection than LOS

OPR CEQA Guidelines for VMT

- + Creates entire new S. 15064.3 and amends Appendix F (Energy Impacts) to describe possible mitigation measures and alternatives
- + Clarifies that the primary consideration in an environmental analysis regarding transportation is the amount and distance that a project might cause people to drive
- + Identifies impacts to transit and the safety of other roadway users as relevant factors in an environmental analysis
- + Clarifies that air quality and noise impacts related to transportation may still be relevant in a CEQA analysis

OPR CEQA Guidelines for VMT

- + Clarifies that automobile delays is not a significant effect on the environment
- + Clarifies that the new procedures apply prospectively to new projects that have not already commenced environmental review
- + Provides that the new procedures will apply immediately upon the effective date of these Guidelines to projects located within 12 miles of major transit stops and high quality transit corridors

OPR CEQA Guidelines for VMT

- + Allows jurisdictions to opt-in to these new procedures, regardless of location, provided they update their own CEQA procedures to reflect the new rules
- + States that after January 1, 2016, the new VMT requirements apply statewide
- + **OPR is now considering extending the deadlines for implementation and statewide application**
- + **And reviewing problems over time if major transit is no longer available in an area**

2014 CEQA Guidelines Update

- + OPR released “Possible Topics to be Addressed in the 2014 CEQA Guidelines Update” (*OPR appears to be scaling back this effort because of other demands.*)
- + ECAT submitted comments and met several times with OPR
- + Guidelines are to be updated sometime?
 - + SB 743 (2015)
 - + Wildfire risk questions (SB 1241, Statutes of 2012) (2015)
 - + Other topics (hard to tell)
 - + AB 52 (2016)
- + No new Guidelines Update draft has been released yet

General Plan Guidelines Update

- + Coming in 2015?
- + OPR has been very busy with CEQA Guidelines updates
- + The new GPGs will represent a change in format and information presentation
- + When the draft is released there will be a 60-day public review period and outreach workshops around the state
- + Will provide an extensive overview of required GP elements, including tips for compliance, best practices, and data resources

General Plan Guideline Update

- + Besides mandatory elements, the GPGs will focus on four key areas:
- + Economics
- + Equity
- + Climate change
- + Healthy communities

General Plan Guidelines Update

- + Will focus on consistency with the State's Environmental Goals and Policy Report
- + Will provide a new GPG Online Mapping Tool for planners with customizable city and county maps with access to state GIS data for each element

OEHHA Air Risk Guidelines

- + Toughens Project Reviews under CEQA pursuant to the Air Toxics Hot Spots Program Risk Assessment Guidelines resulting in a significant increase in the risk estimate (**increases in Hot Spots facility health risk estimates of 1.5 to 3 times current estimates**)
- + New air toxics risk assessment guidelines to be implemented by air districts statewide impact how districts analyze pollution impacts from development projects under CEQA
- + Potential for requiring more aggressive mitigation measures and upgrading of existing EIRs unless thresholds of significance are also raised – even though that risk associated with air toxics has NOT increased – air districts not planning to change thresholds

OEHHA Air Risk Guidelines

- + Fear that some project types may not be buildable: gas stations, mobile sources, near-road projects, projects with high construction emission, oil and gas, toxic metals, bio-fuel, projects proposed near sources with existing toxic emissions
- + Some existing facilities may be required to give warnings to surrounding uses, even if there is no change in actual facility air toxics emissions
- + Will finalize these guidelines later this year which will include an update to the Land Use Handbook

AB 32 Scoping Plan

- + AB 32 Scoping Plan Updated in May
- + Includes a number of measures related to land use
- + Includes near-term cap and trade investment strategies for infrastructure identified in an RTP/SCS, infill housing, goods movement and energy efficiency
- + And, a recommendation to amend the SB 375 emission reduction targets

SB 375 Reduction Target Update

- + ARB is required to update the Senate Bill 375 (SB 375) greenhouse gas (GHG) emissions reduction targets at least every eight years, and may revise them every four years
- + The Board established the initial set of targets in late 2010 for each of the 18 Metropolitan Planning Organizations (MPOs) in the State
- + At that time, the Board requested staff to provide an update every four years to review the progress of target implementation and discuss the need for setting new targets to reflect new data, modeling improvements, and other information relevant to targets

GHG Planning Tool

- + The ARB has also recently released a new tool to assist local governments in estimating the residential energy use and GHG emissions associated with future development based on planned land use scenarios
- + To identify which scenario would result in the lowest GHG emissions
- + Called LURE: Land Use and Residential Energy Tool
- + http://www.arb.ca.gov/research/single-project.php?row_id=65035

FCC Report on Wireless Facilities

- + FCC's Report & Order on wireless facilities siting policies has been released = It is 155 pages long
- + The new rules won't go into effect until 90 days after the FCC publishes the Report & Order in the Federal Register (not sure if that has happened yet)
- + Significantly reduce local police powers to regulate wireless infrastructure including: new special exceptions and exclusions from environmental and historic preservation reviews for DAS and small cells even if project has diesel generator or hydrogen fuel cells, and

FCC Wireless Requirements

- + Mandates that the State and local governments may not deny and shall approve an eligible facilities request so long as the request does “not substantially change the physical dimensions of the existing tower or base station” – not defined yet
- + Imposes a 60-day deadline for the State and local governments to act on a collocation application
- + Imposes a deemed granted remedy for failure to act by the deadline
- + Could preempt building permit requirements

Amicus Committee Update

+ *California Building Industry Association v. Bay Area Air Quality Management District*

- + In the lower courts, the case focused on the BAAQMD's adoption of CEQA thresholds of significance
- + The California Supreme Court took the case on the narrow question of

Amicus Committee Update

- + The California Supreme Court took the case on the narrow question of :
- + Under what circumstances, if any, does the CEQA require an analysis of how existing environmental conditions will impact future residents or users (receptors) of a proposed project?

Amicus Committee Update

- + BAAQMD's counsel approached APA CA's Amicus Committee regarding the filing an amicus brief in support of the position that CEQA does envision analysis of impacts of the environment on a project.
- + The Amicus Committee and the Board agreed to file a brief.

Amicus Committee Update

- + APA California coordinate with AEP regarding filing a joint brief
- + William Parkin, of Wittwer Parkwin LLP, drafted the brief on behalf of APA California
- + The goal of the brief was to share with the Court the perspectives of planners and environmental consultants who implement CEQA on a day to day basis

Amicus Committee Update

- + CBIA argued that undertaking the analysis was not feasible
 - + The brief pointed out that CEQA practitioners have been doing the analysis
- + Impacts of the environment on the project are important considerations – Fire Hazards, sea level rise, and CEQA existing mandate to consider “substantial adverse effects on human beings, either directly or indirectly.” (Pub. Res. Code Sec. 21083(b)(3).)

Amicus Committee Update

- + CBIA argued that disaster would result if agencies were required to consider the impacts of the environment on a project.
- + However, many agencies already undertake that analysis, and have done so for years. The brief informed the court of this, so it would understand the state of the practice.

Amicus Committee Update

- + The application for permission to file the brief was granted, and the brief was filed on April 28, 2014.
- + Pending oral argument by the Court, so stay tuned!

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