

AB 890 (MEDINA): LOCAL LAND USE INITIATIVES: ENVIRONMENTAL REVIEW

POSITION: The Chamber's Infrastructure, Housing & Land Use Committee voted to OPPOSE AB 890 on June 20th, 2017.

STATUS: AB 890 was introduced by Assemblymember Jose Medina on February 16th, 2017. It passed out of the Assembly and is in the Senate Committee on Elections & Constitutional Amendments. On June 20, 2017, the bill was significantly amended. It will be heard in the Senate Governance and Finance Committee on July 19, 2017

AT-A-GLANCE

~~Requires projects proposed by local ballot initiative to be reviewed pursuant to CEQA before appearing on the ballot.~~

Clarifies that only a city council or local board of supervisors may adopt or make changes to a general plan, specific plan, zoning ordinance or other similar document, thereby removing the initiative process as an option for land-use efforts.

SUMMARY

~~AB 890 alters the local initiative process by requiring that any initiative, before appearing on the ballot, be subject to a California Environmental Quality Act (CEQA) review to determine if it meets the definition of a project under CEQA, thereby triggering a full environmental review. Only project receiving a negative declaration under CEQA review would be allowed to appear on the ballot.~~

AB 890 clarifies that only a city council or local board of supervisors may adopt or make changes to a general plan, specific plan, zoning ordinance or other similar document, thereby removing the initiative process as an option for land-use efforts. Specifically, the bills highlights that "a development agreement cannot be approved or amended by an ordinance adopted through the initiative process."

The bill does exempt referendum powers and ordinances that increase residential densities with the goal of encouraging affordable housing units.

ANALYSIS

Currently, local initiatives submitted via the signature gathering process at the local level are not subject to CEQA review per a California Supreme Court case. This case determined that the timelines for initiative approval and CEQA review did not align, and therefore initiatives would not be subjected to the longer CEQA review. Upon receiving the requisite number of signatures to qualify (15 percent of eligible voters), a jurisdiction may approve the initiative outright, place the initiative on the ballot, or request a study of the initiative which may take no longer than 30 days. Under the original language of AB 890, each initiative must be reviewed by the jurisdiction per CEQA and determined to have no environmental impact before it could be approved to appear on the ballot.

CEQA is the state's 1970's environmental protection law that identifies and mitigates environmental impacts of land use projects. Since its introduction, CEQA has become a political tool utilized not in favor of environmental protection, but to slow or completely stop certain developments. Consequently, the

initiative process is increasingly being favored as it is an expeditious and more stable means of getting local approvals for a project. While CEQA's unintended uses that have politicized development have motivated some attempts at significant, statewide CEQA reform, no such efforts have successfully come to fruition.

California considered over 850 initiatives across the state's localities in 2016, including high-profile professional sports stadiums and important projects such as commercial development. It stands to reason that had those initiatives be required to receive a negative declaration per CEQA, they would never have made it in front of voters and never been approved. The author has, in numerous outlets, been clear about the bill's intent, stating in the original bill language that, "local land-use initiative measures are matters in which there is a statewide interest because they have effects beyond the jurisdictional limits of a local agency, and thus are not matters of purely local concern." In sum, not only should all projects be subjected to an infamously slow and litigious process, but local decisions should not be limited to localities.

The Chamber has long supported CEQA reform and maintains that it is the best answer to the current issues including that which AB 890 seeks to fix. If CEQA were amended to meet its original goal and not as a way to subvert the local approval process or discourage investment into communities, it would drastically shorten the process and discourage developers from pursuing the initiative route. The initiative process is appealing to many because the process was intended to be a quick one, which has become all the more important as approval timelines drag on for years, costing project proponents significant resources and making the outcome more unpredictable.

Per the amendments to AB 890, land use decisions will no longer have the option of utilizing the initiative process and instead only a city council or board of supervisors can make such decisions. This could further depress development, particularly market rate housing projects, as there will be no alternative to the lengthy, expensive approval timelines from local government.

SUPPORT

- State Building and Construction Trades Council (Sponsor)
- Association of Environmental Professionals
- CalBike
- California Environmental Justice Alliance
- California Labor Federation
- California League of Conservation Voters
- Coalition for Clean Air
- Environmental California
- Environmental Protection Information Center
- National Parks Conservation Association
- Sierra Club California

OPPOSITION

- African American Farmers of California
- Association Builders and Contractors of California
- California Association of Realtors
- California Building Industry Association
- California Business Properties Association
- California Chamber of Commerce
- California Citrus mutual
- California Dairies, Inc.
- California Fresh Fruit Association
- California Independent Petroleum Association
- California State Association of Counties
- California Strawberry Commission
- California Taxpayers Association

- City of Indian Wells
- City of Riverside
- City of Thousand Oaks
- Far West Equipment Dealers Association
- Greater San Fernando Valley Chamber of Commerce
- League of California Cities
- Nisei Farmers League
- National Federation of Independent Business
- Others