

Metropolitan Transportation Commission
MTC Legislation Committee

July 10, 2020

Agenda Item 4d

Senate Bill 995 (Atkins): Extension of California Environmental Quality Act (CEQA)
Judicial Review Streamlining Authority

- Subject:** Extends the existing authorization for streamlined judicial review by four years and adds as eligible specified housing projects that are consistent with a region’s sustainable communities strategy and dedicates at least 15 percent of the units to lower-income households.
- Overview:** SB 995 extends for four years the Jobs and Economic Improvement Through Environmental Leadership Act of 2011—initially authorized by Assembly Bill 900 (Buchanan, 2011)—until 2025 and adds as a new category eligible for streamlined review housing projects meeting the following criteria:
- Located on an infill site and consistent with the policies specified for the project area in a region’s sustainable communities strategy (in our case, Plan Bay Area)
 - Will invest at least \$15 million in California
 - At least 15 percent of the units dedicated to lower-income households
 - Satisfy specified labor requirements, including that the project be constructed with a “skilled and trained workforce.”¹
- Background:** In 2011, the Legislature enacted AB 900, establishing specified administrative and judicial review procedures for CEQA challenges to certain residential, retail, commercial, sports, cultural, entertainment, or recreational use projects, known as Environmental Leadership Development Projects (ELDP). In April 2019, the Senate Office of Research released a report describing projects that have qualified for expedited CEQA judicial review pursuant to AB 900. According to the report, 10 of the 19 ELDPs have included a housing component.
- Under current law, there is no minimum share of units that must be dedicated to lower-income households and housing projects must be certified as Leadership in Energy and Environmental Design-gold (LEED-gold) or better by the United States Green Building Council. Of the projects that have been subject to AB 900, four projects have been challenged and none of the housing projects have been completed to date.
- Accelerate Affordable Housing*** In addition to simply extending the program for another four years, the most significant change proposed by SB 995 is to add lower-cost affordable housing developments (with a minimum cost of \$15 million instead of \$100 million) and without the LEED-Gold certification as eligible for the streamlined judicial review.

¹ Under the [Public Contract Code 2601](#), skilled and trained is defined as requiring that projects constructed after January 1, 2020 be constructed by a workforce at least 60 percent of whom are graduates of apprenticeship programs for the applicable occupation, with some exceptions.

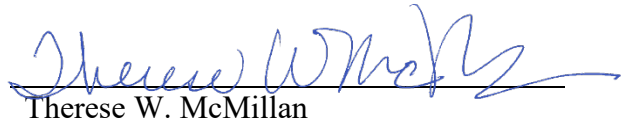
Increased Certainty A crucial part of the expedited judicial review under the current AB 900 statute is a requirement that any CEQA-related judicial review, including appeals, be resolved within 270 days from the certification of the administrative record. SB 995 would make a technical amendment clarifying that the 270-day target for resolution of challenges to CEQA to a certified environmental impact report be resolved in 270 “business days” of filing. The bill also clarifies that the timeline applies to both appeals to the Court of Appeal and the state Supreme Court.

Discussion: As noted in the Senate Floor Analysis, the existing AB 900 process has had a relatively modest impact, likely due to the high threshold requirement of LEED-Gold certification and \$100 minimum investment. With the addition of affordable housing projects resulting in a minimum \$15 million investment in the state and removal of the LEED-Gold certification, many more projects will qualify. Importantly, SB 995 does not exempt affordable housing projects from environmental review under CEQA. Instead, the bill provides a means to expedite the resolution of any legal challenges *after* a project sponsor has completed the environmental review process. Given the urgent need to increase and accelerate the development of affordable housing in the Bay Area and statewide, and consistent with our 2020 Advocacy Program goal to pursue CEQA streamlining for housing projects that are consistent with local and regional plans staff recommends a support position on SB 995.

Recommendation: Support

Bill Positions: See attached

Attachments: Attachment A: Bill Positions


Therese W. McMillan

**Senate Bill 995 (Atkins) Bill Positions
(as of June 19, 2020)**

Support:

1HWY1

Associated Builders and Contractors Northern California Chapter

Bay Area Council

California Apartment Association

California Association of Realtors

Central City Association of Los Angeles

City of San Diego

Civil Justice Association of California

Council President Georgette Gómez, City of San Diego

Downtown San Diego Partnership

Facebook

Habitat for Humanity California

Los Angeles Business Council

Riley Realty, LP

San Diego Regional Economic Development Corporation

SPUR

San Francisco Housing Action Coalition

Schneider Electric

YIMBY Law

Oppose:

City of Torrance

Livable California

Sustainable Tamalmon