

SENATE RULES COMMITTEE	SB 115
Office of Senate Floor Analyses	
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THIRD READING

Bill No: SB 115
 Author: Solis (D)
 Amended: 4/14/99
 Vote: 21

SENATE ENV. QUALITY COMMITTEE : 6-3, 4/5/99
 AYES: Sher, Alpert, Chesbro, Hayden, O'Connell, Solis
 NOES: McPherson, Rainey, Wright
 NOT VOTING: Alarcon

SENATE APPROPRIATIONS COMMITTEE : 7-4, 5/10/99
 AYES: Alpert, Bowen, Burton, Escutia, Karnette, Perata,
 Vasconcellos
 NOES: Kelley, Leslie, McPherson, Mountjoy
 NOT VOTING: Johnston, Johnson

SUBJECT : Environmental justice

SOURCE : California League of Conservation Voters

DIGEST : This bill requires, by January 1, 2001, the Office of Planning and Research to recommend proposed changes in, and the Secretary of Resources to California Environmental Quality Act guidelines to provide for the identification and mitigation by public agencies of disproportionately high and adverse environmental effects of projects on minority populations and low-income populations. The bill requires the Office of Planning and Research, by January 1, 2001, in consultation with other state agencies, to review its available data bases and other available data bases and information to identify

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affected communities and populations. The bill requires the Office of Planning and Research, on or before March 1, 2000, to develop an agency-wide environmental justice strategy that addresses disproportionately high and adverse human health or environmental effects of programs, policies, and activities on minority populations and low-income populations. The bill requires the Office of Planning and Research and the Secretary of Resources to coordinate their efforts and to share information with the Council on Environmental Quality and the United States Environmental Protection Agency in implementing those provisions.

ANALYSIS : Existing law, under the California Environmental Quality Act (CEQA):

- 1.Requires lead agencies with the principal responsibility for carrying out or approving a proposed project subject to CEQA to prepare an environmental impact report, negative declaration, or mitigated negative declaration for this action, unless the action is exempt from CEQA.
- 2.Requires the Office of Planning and Research (OPR) to review the CEQA guidelines at least every two years and recommend proposed changes to the Secretary of the Resources Agency, who must certify and adopt the guidelines pursuant to the Administrative Procedure Act.

This bill:

- 1.Provides legislative intent that people of all races, cultures, and income must be fairly treated with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and

policies.

- 2.Requires each state agency to make environmental justice part of its mission.
- 3.Requires OPR to develop an agencywide environmental justice strategy by March 1, 2000.
- 4.Requires OPR to recommend proposed changes to the CEQA guidelines, and the Secretary of the Resources Agency to

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certify and adopt revisions to the guidelines by January 1, 2001, for public agencies to identify and mitigate disproportionately high and adverse environmental effects of projects on minority populations and low-income populations.

- 5.Requires OPR, by January 1, 2001, to review available databases and other information to identify communities and populations affected by disproportionately high and adverse environmental effects. OPR must also identify communities and populations for which existing data or information is insufficient or incomplete and propose strategies for correcting those deficiencies.
- 6.Requires OPR to rely on procedures used to implement federal Executive Order 12898 in meeting the above requirements.
- 7.Requires OPR and the Secretary to coordinate their efforts and share information with the Council on Environmental Quality and the United States Environmental Protection Agency, and use existing databases and information, as a result of its regulatory activities under federal Executive Order 12898.

Comments

Purpose of this Bill . Environmental justice refers to the fair treatment of people of all races, cultures, and income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. On February 11, 1994, President Clinton signed Executive Order 12898 regarding "federal actions to address environmental justice in minority populations and low-income populations." The executive order directs federal agencies to address human health and environmental issues in low-income communities and minority communities, and followed a 1992 Environmental Protection Agency (EPA) report indicating that "communities of color and low-income populations experience higher than average exposures to selected air pollutants, hazardous waste facilities, and other forms of environmental pollution."

The President also directed each federal agency to address

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effects of actions on these communities when analysis is required under the National Environmental Policy Act (NEPA). The Council on Environmental Quality (CEQ) has oversight of federal government compliance with the executive order and NEPA, and the CEQ has developed guidance to assist federal agencies with their NEPA procedures (NOTE : Enacted in 1970, CEQA was modeled after NEPA which was enacted by Congress in 1969).

This bill tracks requirements of federal environmental justice provisions by requiring each state agency to make environmental justice part of its mission, requiring OPR to develop an agencywide environmental justice strategy, and requiring changes to the CEQA guidelines so that environmental justice matters are considered in the CEQA process. Changes to the CEQA guidelines involve public hearings and must comply with the Administrative Procedure Act. To assist public agencies, this bill requires OPR to identify communities and populations disproportionately affected by high and adverse environmental effects. OPR must also identify communities and populations where existing data or information is insufficient or incomplete

and propose strategies for correcting those deficiencies. This bill also requires OPR and the secretary to coordinate their efforts with the CEQ and U.S. Environmental Protection Agency.

Brief Background on CEQA . CEQA provides a process for evaluating the environmental effects of a project, and includes several categorical exemptions in the CEQA guidelines, as well as numerous statutory exemptions. If a project is not exempt from CEQA, an initial study is prepared to determine whether a project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR.

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those

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impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those mitigation measures.

Examples of Environmental Justice Matters . There are a number of factors to be considered in identifying an environmental justice problem. Factors that could be considered include, for example, a concentration of environmental hazards in an affected area because of the lack of public participation, a lack of adequate protection under health and environmental laws, or unusual vulnerability of a community to hazards. Examples of environmental justice problems could include inadequate stormwater protection in a predominately minority populated section of a city compared to systems in other parts of the city, siting a landfill in a community with an overconcentration of other hazards such as Superfund sites, placement of a highway through a low-income and minority community, and unsafe stormwater discharges harming fish that are part of the subsistence diet of Native Americans.

Related Legislation

_ SB 89 (Escutia), requires the Secretary for Environmental Protection to convene a working group by April 1, 2000, to develop an agencywide environmental justice strategy.

Prior Legislation

Previous attempts to address environmental justice issues in California include AB 937 (Roybal-Allard) of 1991 (vetoed), AB 3024 (Roybal-Allard) of 1992 (vetoed), and AB 2212 (Lee) of 1994 (refused passage on Senate Floor). These bills required the submittal of "project site demographics" (e.g. population breakdown by race and ethnicity; percent of persons under age 5, over age 65, and below the poverty level) for a "potentially high-impact development project" (e.g., hazardous waste, solid waste), and prohibited an application for such a facility from

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being accepted as complete, deemed complete, or approved without this information.

Four bills addressed environmental justice issues during the 1997-98 session. SB 451 (Watson) required the general plan land use element to include policies for the equitable distribution of solid, hazardous, and liquid waste facilities that avoid disproportionate effects on low-income communities and minority communities, and feasible implementation measures to achieve these policies.

SB 906 (Lee) required a hazardous waste management plan to include demographic information within a 10-mile radius of each hazardous waste facility, and to include procedures for considering environmental equity issues. SB 1113 (Solis) was similar to this year's SB 115. AB 2237 (Escutia) required "environmental agencies" to consider new selection criteria (e.g., adverse human health or environmental effects faced by an applicant's community, as compared to other applicants' communities; amount of funding commensurate with those effects) for some agency grant and loan programs. SB 451, SB 1113, and AB 2237 were vetoed. Senator Watson canceled an Environmental Quality Committee hearing on SB 906. _

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes
Local: No

According to the Senate Appropriations Committee analysis:

Fiscal Impact (in thousands)

<u>Major Provisions</u>	<u>1999-2000</u>	<u>2000-01</u>
<u>2001-02</u>	<u>Fund</u>	
CEQA revisions/ General information review \$75	Unknown, probably minor costs to revise guidelines; unknown up to	
populations	identify communities and	
Environmental General	Unknown, probably \$75 one time to	

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justice strategy develop strategy

SUPPORT : (Verified 5/12/99)

California League of Conservation Voters (source)
American Lung Association
California Association of Real Estate Brokers
California National Organization for Women
California Nurses Association
California Rural Legal Assistance Foundation
California State Council of Laborers
Californians Against Waste
Communities for a Better Environment
Cities of Irwindale, La Puente and South El Monte
East Bay Municipal Utility District
Hacienda Heights Improvement Association
Law Office of Rose, Klein, and Marias LLP
Latino Children's Action Council
Mothers of East Los Angeles-Santa Isabel
Planning and Conservation League
Sierra Club
Individual letters

OPPOSITION : (Verified 5/12/99)

Agricultural Council of California
American Forestry and Paper Association
California Association of Realtors
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
California Council for Environmental and Economic Balance
California League of Food Processors
California Manufacturers Association
California Mining Association
Chemical Industry Council of California
City of San Diego
Grocery Manufacturers of America
Industrial Environmental Association
The Thursday Group
Western States Petroleum Association

ARGUMENTS IN SUPPORT : Supporters generally note that this bill will ensure that residents are treated fairly

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with respect to the development and enforcement of environmental laws and public policies, and that this bill is vital to the health and well-being of residents as well as other communities potentially affected by "unjust and unfair environmental pollution."

ARGUMENTS IN OPPOSITION : The California Association of Realtors (CAR) believes "'environmental justice' must be adequately defined, and a thorough investigation of the extent of the problem in California must be conducted before passing a bill like SB 115." CAR and the California Council for Environmental and Economic Balance also oppose addressing the issue through CEQA. _

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CP:cm 5/12/99 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****