



## JUDICIAL COUNCIL OF CALIFORNIA

### GOVERNMENTAL AFFAIRS

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TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
*Chair of the Judicial Council*

MARTIN HOSHINO  
*Administrative Director*

CORY T. JASPERSON  
*Director, Governmental Affairs*

April 1, 2019

Hon. Laura Friedman  
Chair, Assembly Natural Resources Committee  
State Capitol, Room 2137  
Sacramento, California 95814

Subject: AB 1648 (Levine), as amended March 27, 2019—Oppose  
Hearing: Assembly Natural Resources Committee—April 8, 2019

Dear Assembly Member Friedman:

The Judicial Council regrets to inform you of its continued opposition to AB 1648. This bill requires the Judicial Council, on or before September 1, 2020, to adopt a rule of court that applies to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of environmental review documents and approvals granted for certain affordable housing projects for employees of a local educational agency which are located on properties owned by local educational agencies that are zoned for affordable housing. It requires these actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

It is important to note that the Judicial Council's concerns regarding AB 1648 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the particular affordable housing projects covered by the legislation, as those issues are outside the council's purview.

AB 1648's requirement that any CEQA lawsuit challenging specified housing development projects, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference in both

Hon. Laura Friedman

April 1, 2019

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the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

Second, the expedited judicial review for all of the projects covered by AB 1648 will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has historically opposed, setting an extremely tight timeline for deciding this particular type of case has the practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide.

Finally, providing expedited judicial review for all of the projects covered by AB 1648 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

For these reasons, the Judicial Council opposes AB 1648.

Sincerely,

*Mailed April 2, 2019*

Cory T. Jaspersen

Director

Judicial Council Governmental Affairs

DP/jh

cc: Members, Assembly Natural Resources Committee  
Hon. Marc Levine, Member of the Assembly  
Ms. Rachel Wagoner, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee  
Ms. Katie Sperla, Policy Consultant, Assembly Republican Office of Policy  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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March 5, 2019

Hon. Marc Levine  
Member of the Assembly  
State Capitol, Room 5135  
Sacramento, California 95814

Subject: AB 1648 (Levine), as introduced February 22, 2019 - Oppose

Dear Assembly Member Levine:

The Judicial Council regrets to inform you of its opposition to AB 1648. This bill requires the Judicial Council, on or before September 1, 2020, to amend specified rules of court to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of environmental review documents and approvals granted for certain affordable housing projects located on properties owned by local educational agencies that are zoned for affordable housing. It requires these actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

It is important to note that the Judicial Council's concerns regarding AB 1648 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the affordable housing projects covered by the legislation, as those issues are outside the council's purview.

AB 1648's requirement that any CEQA lawsuit challenging specified housing development projects, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference in both

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the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

Second, the expedited judicial review for all of the projects covered by AB 1648 will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has historically opposed, setting an extremely tight timeline for deciding this particular type of case has the practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide.

Finally, providing expedited judicial review for all of the projects covered by AB 1648 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

For these reasons, the Judicial Council opposes AB 1648.

Sincerely,

*Mailed March 7, 2019*

Daniel Pone  
Attorney

DP/jh

cc: Ms. Rachel Wagoner, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California