



JUDICIAL COUNCIL OF CALIFORNIA  
GOVERNMENTAL AFFAIRS

520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368  
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

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

MARTIN HOSHINO  
*Administrative Director*

CORY T. JASPERSON  
*Director, Governmental Affairs*

April 29, 2021

Hon. Luz Rivas, Chair  
Assembly Natural Resources Committee  
State Capitol, Room 2160  
Sacramento, California 95814

Subject: AB 621 (R. Rivas), as amended April 21, 2021 – Withdrawal of opposition

Dear Assembly Member Rivas:

The Judicial Council is pleased to inform you that we have removed our opposition to AB 621, as amended April 21, 2021. We appreciate the amendment to the bill that removes the 270-day expedited judicial review provision that was the basis for the council's prior opposition. The Judicial Council takes no position on the current version of AB 621 as the remaining provisions in the bill do not negatively impact the courts and address issues that are outside the council's purview.

Should you have any questions or require additional information, please contact Kate Nitta at 916-323-3121.

Sincerely,

*Sent April 29, 2021*

Cory T. Jasperson  
Director, Governmental Affairs

CTJ/KN/jh

cc: Members, Assembly Natural Resources Committee  
Hon. Robert Rivas, Member of the Assembly  
Mr. Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee  
Ms. Jessica Devencenzi, Legislative Affairs Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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April 29, 2021

Hon. Robert Rivas  
Member of the Assembly  
State Capitol, Room 5158  
Sacramento, California 95814

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Dear Assembly Member Rivas:

The Judicial Council is pleased to inform you that we have removed our opposition to AB 621, as amended April 21, 2021. We appreciate the amendment to the bill that removes the 270-day expedited judicial review provision that was the basis for the council's prior opposition. The Judicial Council takes no position on the current version of AB 621 as the remaining provisions in the bill do not negatively impact the courts and address issues that are outside the council's purview.

Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,  
*Sent May 3, 2021*

Kate Nitta  
Attorney, Governmental Affairs

KN/jh

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



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*Director, Governmental Affairs*

April 22, 2021

Hon. Luz Rivas, Chair  
Assembly Natural Resources Committee  
State Capitol, Room 2160  
Sacramento, California 95814

Subject: AB 621 (R. Rivas), as amended March 25, 2021 – Oppose unless amended

Dear Assembly Member Rivas:

The Judicial Council regrettably must oppose AB 621 unless amended, which adds expedited judicial review provisions for CEQA review of “environmental leadership hospital projects,” as defined. This bill, among other things, requires the Judicial Council to amend the Rules of Court for any action challenging the certification of an environmental impact report for an environmental leadership hospital project, including any appeals, 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 our concerns are limited solely to the court impacts of this legislation, and that the Judicial Council is not expressing any views on CEQA generally or the underlying merits of any potential projects that may be covered by AB 621, as those issues are outside the council’s purview.

The requirement in AB 621 that all CEQA lawsuits challenging any of the proposed projects that could be covered by the bill, including any appeals therefrom, be resolved within 270 days is problematic as CEQA actions are already entitled under current law to calendar preference “over all other civil actions” pursuant to section 21167.1(a) of the Public Resources Code in both the superior courts and the Courts of Appeal. Imposing a 270-day timeline for the review of potentially a large number of environmental leadership hospital projects, on top of existing CEQA calendar preferences, even with language that references “to the extent feasible,” is an arbitrary and unrealistically short timeframe for California’s trial courts to address all of the issues each CEQA case is likely to present.

There are several reasons why the time frame is, from the outset, not feasible.

- *CEQA cases are complex and time-consuming.* Under normal circumstances and assuming the unrealistic context in which no extensions of time are requested or granted for any aspect of a case, CEQA cases take, on average, an estimated six months to get to hearing, much less to a decision. So, even if the court was able to issue its decision within six months (approximately 180 days), that would leave only three months (the remaining 90 days) for proceedings in the court of appeal, which is impracticable.<sup>1</sup> And, of course, it is more than likely that one or more parties will request, if not stipulate to, continuances, delays, or other procedural extensions. Given these common requests and stipulated delays, a 270-day timeframe is not feasible.
- *Active CEQA cases often include ancillary administrative and non-CEQA judicial causes of action.* Providing expedited judicial review for the projects that may fall under AB 1277 is even more unworkable in light of the common occurrence that CEQA cases involve ancillary motions, administrative review, other causes of action, and other civil actions and appeals in the middle of the CEQA action. These actions proceed under administrative (local governmental) and civil procedure (non-CEQA courtroom) timelines, often resulting in temporary stays or delays in the principal CEQA action. In other words, even if CEQA-specific procedures could be limited to 270 days for one or more of the projects, other, non-CEQA procedures related to the same cases that would occur in non-CEQA courtrooms and administrative hearings cannot be concluded in that same timeframe. These ancillary hearings and procedures make the 270-day goal not feasible.
- *The courts are already experiencing significant civil backlogs as a result of the COVID-19 pandemic.* Given the impacts the COVID-19 pandemic has had on the courts, as discussed comprehensively at the February 23, 2021 joint hearing of the Assembly and Senate Judiciary Committees, placing CEQA cases at the front of the line 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, as well as wage theft cases, unlawful detainer and foreclosures cases, and other important cases on the courts' dockets, will take longer to decide.

For these reasons, the Judicial Council regretfully opposes AB 621 unless amended.

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<sup>1</sup> In a typical civil appeal, it takes more than 95 days from when a trial court decision becomes final just for the record on appeal to be prepared and filed in the Court of Appeal. This does not include any time for briefing, oral argument, analysis of the issues, or preparation of a decision by the court.

Hon. Luz Rivas  
April 22, 2021  
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Should you have any questions or require additional information, please contact Kate Nitta at 916-323-3121.

Sincerely,

*Sent April 22, 2021*

Cory T. Jaspersen  
Director, Governmental Affairs

CTJ/KN/jh

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Hon. Robert Rivas, Member of the Assembly  
Mr. Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee  
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Sincerely,

*Sent April 22, 2021*

Kathleen Nitta  
Attorney

KN/jh

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Mr. Martin Hoshino, Administrative Director, Judicial Council of California