



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

January 23, 2018

Hon. Timothy Grayson
Member of the Assembly
State Capitol, Room 4164
Sacramento, California 95814

Subject: AB 1905 (Grayson), as introduced January 22, 2018 - Oppose

Dear Assembly Member Grayson:

The Judicial Council regrets to inform you of its opposition to AB 1905. This bill prohibits a court in a judicial action or proceeding under the California Environmental Quality Act (CEQA) from staying or enjoining specified transportation projects unless the court finds either of the following: (1) the continued construction or operation of the transportation project presents an imminent threat to the public health and safety; or (2) the transportation project contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the transportation project unless the court stays or enjoins the construction or operation of the transportation project.

In addition, AB 1905 specifies that if the court finds that either of the above criteria is satisfied, the court shall only enjoin those specific activities associated with the transportation project that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values. It is important to note that the Judicial Council's concerns regarding AB 1905 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

Hon. Timothy Grayson

January 23, 2018

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transportation projects covered by the legislation, as those issues are outside the council's purview.

The provisions in AB 1905 that significantly limit the forms of relief that the court may use in a CEQA action challenging specified transportation infrastructure projects sets a dangerous precedent by interfering with the inherent authority of a judicial officer, which in turn raises a serious separation of powers question.

For these reasons, the Judicial Council regretfully opposes AB 1905.

Sincerely,

Mailed January 23, 2018

Daniel Pone

Attorney

Dp/jh

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California
Mr. Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee
Mr. Ken Alex, Executive Director, Governor's Office of Planning and Research



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March 13, 2018

Hon. Timothy Grayson
Member of the Assembly
State Capitol, Room 4164
Sacramento, California 95814

Subject: AB 1905 (Grayson), as amended March 12, 2018 - Oppose

Dear Assembly Member Grayson:

The Judicial Council regrets to inform you of its opposition to AB 1905. This bill prohibits a court in a judicial action or proceeding under the California Environmental Quality Act (CEQA) from staying or enjoining specified transportation projects¹ unless the court finds either of the following: (1) the continued construction or operation of the transportation project presents an imminent threat to the public health and safety; or (2) the transportation project contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the transportation project unless the court stays or enjoins the construction or operation of the transportation project.

In addition, AB 1905 specifies that if the court finds that either of the above criteria is satisfied, the court shall only enjoin those specific activities associated with the transportation project that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important

¹ As amended March 12, 2018, the bill would apply to “a transportation project that would, based on the lead agency’s findings, reduce total vehicle miles traveled, that is included in a sustainable communities strategy approved by a metropolitan planning organization pursuant to Section 65080 of the Government Code, and for which an environmental impact report has been certified.”

Hon. Timothy Grayson

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historical, archaeological, or ecological values. It is important to note that the Judicial Council's concerns regarding AB 1905 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 transportation projects covered by the legislation, as those issues are outside the council's purview.

The provisions in AB 1905 that significantly limit the forms of relief that the court may use in a CEQA action challenging specified transportation infrastructure projects sets a dangerous precedent by interfering with the inherent authority of a judicial officer, which in turn raises a serious separation of powers question.

For these reasons, the Judicial Council regrettably opposes AB 1905.

Sincerely,

Mailed March 13, 2018

Daniel Pone

Attorney

Dp/jh

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California
Mr. Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee
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March 16, 2018

Hon. Al Muratsuchi, Chair
Assembly Natural Resources Committee
State Capitol, Room 2179
Sacramento, California 95814

Subject: AB 1905 (Grayson), as amended March 12, 2018 - Oppose
Hearing: Natural Resources Committee – April 9, 2018

Dear Assembly Member Muratsuchi:

The Judicial Council is opposed to AB 1905. This bill prohibits a court in a judicial action or proceeding under the California Environmental Quality Act (CEQA) from staying or enjoining specified transportation projects¹ unless the court finds either of the following: (1) the continued construction or operation of the transportation project presents an imminent threat to the public health and safety; or (2) the transportation project contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the transportation project unless the court stays or enjoins the construction or operation of the transportation project.

In addition, AB 1905 specifies that if the court finds that either of the above criteria is satisfied, the court shall only enjoin those specific activities associated with the transportation project that present an imminent threat to public health and safety or that materially, permanently, and

¹ As amended March 12, 2018, the bill would apply to “a transportation project that would, based on the lead agency’s findings, reduce total vehicle miles traveled, that is included in a sustainable communities strategy approved by a metropolitan planning organization pursuant to Section 65080 of the Government Code, and for which an environmental impact report has been certified.”

Hon. Al Muratsuchi

March 16, 2018

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adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values. It is important to note that the Judicial Council's concerns regarding AB 1905 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 transportation projects covered by the legislation, as those issues are outside the council's purview.

The provisions in AB 1905 that significantly limit the forms of relief that the court may use in a CEQA action challenging specified transportation infrastructure projects sets a dangerous precedent by interfering with the inherent authority of a judicial officer, which in turn raises a serious separation of powers question.

For these reasons, the Judicial Council regretfully opposes AB 1905.

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

Sincerely,

Mailed March 16, 2018

Cory T. Jasperson
Director, Governmental Affairs

CTJ/DP/jh

cc: Members, Assembly Natural Resources Committee
Hon. Timothy Grayson, Member of the Assembly
Mr. Lawrence Lingbloom, Chief Counsel, Natural Resources Committee
Mr. John Kennedy, Consultant, Assembly Republican Office of Policy
Mr. Daniel Seeman, 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 6, 2018

Hon. Al Muratsuchi, Chair
Assembly Natural Resources Committee
State Capitol, Room 2179
Sacramento, California 95814

Subject: AB 1905 (Grayson), as amended March 12, 2018—Oppose
Hearing: Assembly Natural Resources Committee—April 16, 2018

Dear Assembly Member Muratsuchi:

The Judicial Council is opposed to AB 1905. This bill prohibits a court in a judicial action or proceeding under the California Environmental Quality Act (CEQA) from staying or enjoining specified transportation projects¹ unless the court finds either of the following: (1) the continued construction or operation of the transportation project presents an imminent threat to the public health and safety; or (2) the transportation project contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the transportation project unless the court stays or enjoins the construction or operation of the transportation project.

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Hon. Al Muratsuchi

April 6, 2018

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The provisions in AB 1905 that significantly limit the forms of relief that the court may use in a CEQA action challenging specified transportation infrastructure projects sets a dangerous precedent by interfering with the inherent authority of a judicial officer, which in turn raises a serious separation of powers question.

For these reasons, the Judicial Council opposes AB 1905.

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

Sincerely,

Mailed April 6, 2018

Cory T. Jasperson
Director

CTJ/DP/lmb

cc: Members, Assembly Natural Resources Committee
Hon. Timothy Grayson, Member of the Assembly
Mr. Lawrence Lingbloom, Chief Counsel, Natural Resources Committee
Mr. John Kennedy, Consultant, Assembly Republican Office of Policy
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California