

Legislative Update

The year in review

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How Often do Governors Say No to Bills Passed by the California Legislature? In a typical year, the Legislature sends anywhere from 870 to 2,143 bills to the Governor for consideration. However, in 2020, the Legislature passed only 428 bills, which makes this year an outlier when comparing bill outcomes with past years. Of the 428 bills Governor Newsom considered this year, 137 were Senate bills, and 291 were Assembly bills. In total, he signed 372 into law and vetoed 56 bills. This is a veto rate of 13.08% for his second year in office.

The number of vetoes for 2020 is the fourth lowest of all the years reviewed in this report, beginning in 1967. The three years with the lowest number of vetoed bills were under Governor Jerry Brown (1982, 1981, 1978). In 1982, he rejected just 30 of the 1,674 bills he considered, representing a veto rate of 1.79%. Five of the six years with the highest percentage of vetoed bills (2008, 2010, 2009, 2004, 1998) were with Republican governors and Democratic majorities in both legislative houses (the exception was Governor Davis in 2000). Governor Schwarzenegger holds the record for the highest percentage of bills vetoed in a year, 35.17% in 2008. He vetoed more than a quarter (26.4%) of the 7,461 bills he considered over his seven years. Schwarzenegger signed the lowest average number of bills per year (784 per year over seven years).

While the Legislature can override a governor's veto by a two-thirds vote in both houses, this action is rare and has not occurred since 1980. During the 1979–80 session, the Legislature overrode the Governor's veto of two bills and eight items in the budget bill. Before that, the Governor's veto had been overridden on only two occasions since 1973. Source: State Senate Office of Research.

CEQA Reform Jennifer Hernandez, an attorney in the San Francisco office of **Holland and Knight**, studied lawsuits filed under CEQA from 2010 and published her findings in a 2018 edition of the [*Hastings Environmental Law Journal*](#). Among her conclusions, “CEQA lawsuits provide California’s anti-housing holdouts – the political minority of as few as one anonymous party – with a uniquely effective litigation tool to simply say ‘no’ to change. By filing a CEQA lawsuit alleging that the (local) agency approving the project has made a mistake in analyzing one or more of the nearly 100 impact issues that must be addressed after nearly 50 years of evolving regulatory and judicial interpretations of CEQA, this political minority can slow projects or stop them altogether.” In her report, Hernandez found:

- 59% of CEQA lawsuits target housing, public service/infrastructure projects, and agency plans/regulations.

- Most CEQA lawsuits target projects in urban population centers, not rural or remote natural preserve areas.
- Most CEQA lawsuits target infill projects in existing communities, not “greenfield” projects on undeveloped lands.
- Infill housing remains a top target of CEQA lawsuits.

At a 2019 hearing on CEQA, the Planning and Conservation League (PCL), an original sponsor of the implementing CEQA legislation in the early 1970s, agreed that the current CEQA process is “challenged” and believed that the time had come to reform CEQA without reducing the benefits it provides.

Let’s look at the CEQA Bills signed and two the Governor vetoed: Newsom signed [SB 288](#) ([Wiener](#) D-San Francisco) that will provide a CEQA exemption to sustainable transportation projects — public transportation, bike safety, and pedestrian projects; [SB 974](#) ([Hurtado](#) D-Hanger) that exempts from CEQA projects that primarily benefit a small disadvantaged community water system by improving the water system’s water quality, and [AB 2731](#) ([Gloria](#) D-San Diego) that authorizes the San Diego Association of Governments (SANDAG) to obtain site control to support the redevelopment of the Old Town Center site, including a transit and transportation facilities project, in the City of San Diego before completing the environmental review for those actions.

The Governor vetoed [AB 3005](#) ([Rivas](#) D-Hollister) that would have expedited permitting and contracting requirements to facilitate the replacement of the Leroy Anderson Dam and Reservoir (Anderson Dam) in Santa Clara Valley. Newsom said (in part) “the bill sets unrealistic timelines for state entities to expedite deliverables” and “it is problematic to set a precedent for a special process and timeline for one project that may undermine the quality of review by departments. Furthermore, a public works project of this magnitude will have significant environmental impacts, and therefore, review through the full CEQA process is necessary.” Rivas wrote of the veto, “I am deeply disappointed to see AB 3005 returned with a veto from Governor Newsom. My constituents and the greater Silicon Valley region are at risk of a catastrophic flood from a large earthquake due to the current conditions of the Anderson Dam. AB 3005 would have expedited the dam’s seismic retrofit project and was vital to [sic] ensuring the water supply and environmental benefits for the region expeditiously. The safety of my constituents is my highest priority...”

He also vetoed SB 757 ([Allen](#) D-Santa Monica) to establish specified procedures for the administrative and judicial review of the environmental review and approvals granted for the Twenty-Eight by ‘28 Initiative pillar projects located in the County of Los Angeles. Newsom said, “While I support efforts to accelerate transit projects that reduce greenhouse gas emissions and reduce miles traveled, enactment of this bill is contingent on the successful statutory extension of the AB 900 statute by SB 995, which unfortunately failed passage in the Legislature.” This illustrates the danger of linking your bill to one of another author.

Annual Legislation Review on Bills followed by Region 9:

CEQA

[SB 288 \(Wiener D\)](#) will provide a CEQA exemption to sustainable transportation projects — public transportation, bike safety, and pedestrian projects **SIGNED**.

[SB 757 \(Allen D\)](#) Would have established specified procedures for the administrative and judicial review of the environmental review and approvals granted for the Twenty-Eight by '28 Initiative pillar projects in the County of Los Angeles. Requires subcontractors at every tier to use a skilled and trained workforce to perform all work on the project or contract unless there is a PLA in place. **VETOED**. Newsom said: “The provisions of this bill are contingent on the enactment of Senate Bill 995 by Senator Atkins, which did not successfully pass in the Legislature. While I support efforts to accelerate transit projects that reduce greenhouse gas emissions and reduce miles traveled, enactment of this bill is contingent on the successful statutory extension of the AB 900 statute by SB 995, which unfortunately failed passage in the Legislature.”

[SB 974 \(Hurtado D\)](#) Exempts from CEQA projects that primarily benefit a small disadvantaged community water system by improving the water system’s water quality, water supply, or water supply reliability; by encouraging water conservation; or by providing drinking water service to existing residences within a disadvantaged community where there is evidence of contaminated or depleted drinking water wells. **SIGNED**.

Design/build

[AB 2932 \(O’Donnell D\)](#) Allows the City of Long Beach to use the design-build contracting process to award contracts for curb ramps that are compliant with the Americans with Disabilities Act. **SIGNED**.

Housing

[AB 1561 \(Garcia, Cristina D\)](#) Requires cities and counties to evaluate the impact of government actions on the cost of housing and associated impacts to minority communities and extends by 18 months, the time frame for the expiration, effectuation, or utilization of a housing entitlement for any housing entitlement that was issued before, and was in effect on, March 4, 2020, and will expire before December 31, 2021. **SIGNED**

Seismic safety

[AB 100 \(Committee on Budget\)](#) establishes the Alfred E. Alquist Seismic Safety Commission as a separate unit within the Office of Emergency Services. The bill would reduce the number of commissioners from 20 to 15 and provide that the Governor appoint 10 of the 15 commissioners, with two commissioners appointed by the Legislature and three commissioners serving as representatives of specified state agencies. The bill would establish the background qualifications for the commissioners. The bill would also expand the number of public entities that provide regular updates to the commission regarding earthquake preparedness and seismic safety activities. **SIGNED**

Sustainability

[AB 2800 \(Quirk D\)](#) Existing law requires the Natural Resources Agency to update its climate adaptation strategy, known as the Safeguarding California Plan, by July 1, 2017, and every three years after that, by coordinating adaptation activities among lead state agencies in each sector. This bill eliminates the sunset on the Climate-Safe Infrastructure Working Group. **SIGNED**

Transportation

[AB 2038 \(Committee on Transportation\)](#) Transportation omnibus bill. This bill makes several non-substantive, non-controversial changes to provisions of law related to transportation. Specifically, this bill: 1) Makes conforming changes in language related to parking offenses; 2) Removes a reference to an obsolete code section and replaces it with a relevant reference; 3) Deletes an outdated reporting requirement; 4) Repeals provisions related to a two-year pilot program. **SIGNED**

[AB 2285 \(Committee on Transportation\)](#) Makes various non-controversial changes to transportation-related statutes. **SIGNED**

Water

[AB 3005 \(Rivas D\)](#) Expedites permitting and contracting requirements to facilitate the replacement of the Leroy Anderson Dam and Reservoir (Anderson Dam). **VETOED** Newsom said: “Notwithstanding the importance of completing projects at the Anderson Dam, the bill sets unrealistic timelines for state entities to expedite deliverables. This will require staff to be diverted away from other critical projects throughout the state that are going through the CEQA process. Although the Anderson Dam projects are a key element of dam safety, it is problematic to set a precedent for a special process and timeline for one project that may undermine the quality of review by departments. Furthermore, a public works project of this magnitude will have significant environmental impacts, and therefore, review through the full CEQA process is necessary.”

[SB 559 \(Hurtado D\)](#) Would have required the Department of Water Resources to report to the Legislature, no later than March 31, 2021, on federal funding approved by the United States Congress in its 2021 Congressional Budget Resolution and related appropriations bills or otherwise provided to the Friant Water Authority or other government agency to restore the capacity of the Friant-Kern Canal **VETOED** Newsom said: “This bill focuses on a single piece of conveyance and directs DWR to develop a proposal for the state to help fund this specific project. As we address California’s water needs in the coming months and years, we need to evaluate, develop and identify solutions and funding that provide water supply and conveyance for the entirety of the state, not one project at a time.”

Water Quality

[AB 2560 \(Quirk D\)](#) Requires the State Water Resources Control Board to post on its internet website and distribute through e-mail that it has initiated the development of a Notification Level (NL) or Response Level (RL) for a contaminant and the draft NL or RL along with supporting documentation. **SIGNED**

New Reports of Interest

Ellen Hanak is the director and senior fellow at the Public Policy Institute of California Water Policy Center, and Jelena Jezdimirovic is a graduate student in agricultural and resource economics at UC Davis. They write in [Three lessons for California's water funding challenges in today's recession](#), "COVID-19 and climate extremes brought major challenges to water managers in California, and nimble fiscal solutions are needed."

[U.S. Legislators and Regulators Bring New Attention to PFAS](#). Late summer this year has brought a surge of activity related to per- and polyfluoroalkyl substances (PFAS). The U.S. Environmental Protection Agency (EPA) research office reported at an industry conference last week that it evaluated ways to divide PFAS compounds into categories for purposes of risk assessment and risk management. This aligns with the approach supported by industry groups but conflicts with demands from environmental advocates that EPA study each compound separately. Because of the complexity and number of individual PFAS molecules, which number in the thousands, categorization would likely expedite the review process.

California Workforce Development Board released "[Putting California on the High Road: A Jobs & Climate Action Plan for 2030](#)," examines "labor conditions in the industries affected by existing state climate policies," finds "prevalence of blue-collar jobs in the key sectors that must reduce greenhouse gas emissions, such as energy, transportation, and manufacturing," recommends initiatives, such as [High Road Training Partnerships](#), that uses funds from Prop. 39, SB 1, and other sources to build "industry-led partnerships among employers, workers and unions, local workforce development boards, and community-based organizations."

California Hydrogen Coalition has distributed a [report](#) by California Air Resources Board which outlines fuel cell electric vehicle deployment and hydrogen fuel station network development, finds that there are currently 42 open retail hydrogen fueling stations in California, moving toward the goal of 200 stations by 2025 as outlined in an executive order issued by former Gov. Jerry Brown in January of 2018, recommends "Energy Commission fully leverage all funds available for hydrogen fueling stations."

Legislative Analyst's Office released a post on "[Impact of COVID-19 on State Transportation Revenues](#)," finds that transportation maintenance and construction programs "should have sufficient budgetary reserves to sustain them in the near term," while public transit "is expected to face significant funding reductions in 2020-21 as a result of major declines in diesel sales tax revenues;" also finds that "economic impacts stemming from the pandemic have created a more favorable bidding environment, reducing the cost for some Caltrans projects in recent months."

DWR released "[Water Year 2020: Summary Information](#)" in which it finds overall precipitation in the state fell between Oct. 1, 2019, and Sept. 30, 2020, and was "below average" and while "Northern California was mostly dry, parts of Southern California experienced above-average precipitation;" it also says overall reservoir storage through Sept. 30 is projected to be 93% of average or 21.5 million-acre feet.

Appointments of Interest by the Governor:

To the California Water Commission: **Samantha F.V. Arthur**, Sacramento, Working Lands Program Director at Audubon CA since 2019; **Alexandre Makler**, Berkeley, senior vice president, western region, Calpine Corporation since 2014. To the Board of Professional Engineers, Land Surveyors, and Geologists: **Michael Hartley**, Madera, president of Bedrock Engineering Inc. since 2008; **Wilfredo Sanchez**, San Francisco, formerly senior architect at Apple Media Products and current ranger department manager at Burning Man.