

# Unlocking Housing Solutions:

## How CEQA Reform is Reshaping California Development.

THURSDAY, SEPTEMBER 25, 2025 | 12 PM – 1 PM



# THANKS FOR JOINING US TODAY!

## Host & Moderator

**MELISSA KUEHNE**

*Director of Enterprise Programs  
and Special Projects  
Institute for Local Government*



# OVERVIEW

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## Welcome & Introductions

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## Presentation & Discussion on CEQA Reform:

- ◉ Amanda Daams – Best Best & Krieger LLP
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## Audience Q&A

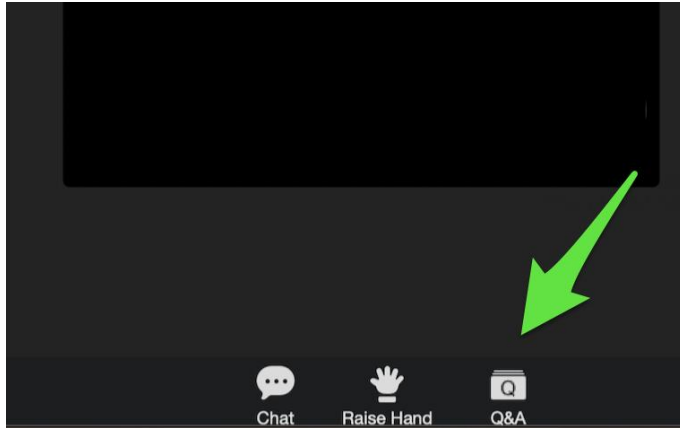
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## Wrap Up & Adjourn

*We welcome your written questions and comments in Zoom's Q&A feature throughout the webinar!*

# TECH OVERVIEW & HOUSEKEEPING

- All webinar participants will be on **MUTE** for the duration of the event.
- Please type any questions for into the **Q&A BOX** at any time during the session.



- A recording of the session will be available shortly after the webinar.

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- The Institute for Local Government is the non-profit training and education affiliate of three statewide local government associations
- Together with our affiliates, we serve over 2,500 local agencies – cities, towns, counties, and special districts
- We provide practical and easy-to-use resources so local agencies can effectively implement policies on the ground



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Convening

# ZOOM POLLING

# TODAY'S SPEAKER



**Amanda Daams**

Partner

Best Best & Krieger LLP's Environmental  
Law & Natural Resources Practice Group

# Agenda

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1. Introduction
2. CEQA Background
3. AB 130
4. SB 131
5. Proposed Legislation
6. Q&A

# CEQA Background

# CEQA Background

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- Approved in 1970
- Broadest environmental law in California
- CEQA's intent is to afford the fullest possible protection to the environment by compelling government to **make decisions with environmental consequences in mind.**

# Purpose of CEQA

1. Inform government decision makers and the public about potential significant environmental impacts of proposed activities.
2. Identify ways that impacts can be avoided or reduced.
3. Prevent avoidable damage by requiring analysis of feasible alternatives and mitigation.
4. ***Disclose why a project is approved notwithstanding its unavoidable, significant environmental impacts.***

# CEQA Reform?

- CEQA is **not** intended to stop projects – even projects with substantial negative environmental consequences.



# CEQA Reform?

- However, it's long been argued that CEQA can be used to stop or stall development.
  - Costly and time consuming process and reports
  - Frequent lawsuits
    - NIMBY concerns
    - Standard of review
    - CEQA misuse?

# CEQA Reform?

- But what about environmental protections?
- Maintaining local governmental control over development decisions?



- *CEQA reform has been and will continue to be a hotly debated issue.*

# Assembly Bill 130

# AB 130

- Effective June 30, 2025
- Signed by Governor Newsom as part of 2025-2026 budget
- Measures aimed at streamlining housing and infrastructure development
  - New exemptions for infill housing projects
  - Strict approval and consultation deadlines
  - Provisions regarding Vehicle Miles Traveled (VMT) analysis

# AB 130 – PRC § 21080.66



- AB 130 creates a new statutory CEQA exemption for qualifying housing development projects
  - Housing Development Project: (1) residential-only projects; (2) certain mixed-use developments that meet specific residential use thresholds (e.g., at least two-thirds of the square footage is for residential use or at least 500 net new units with no hotel uses); (3) transitional or supportive housing; and (4) farmworker housing. (Gov. Code §65589.5)

# AB 130 – PRC § 21080.66

Statutory exemption applies to projects that meet all of the following conditions:

- The site must not exceed 20 acres in size, except for a builder's remedy site, which cannot be more than five acres (PRC § 21080.66(a)(1))
- The project must be located in an incorporated city or urban area, as defined by the United States Census Bureau (PRC § 21080.66(a)(2))
  - To qualify as an urban area, the area must encompass at least 2,000 housing units or have a population of at least 5,000.

# AB 130 – PRC § 21080.66

- The project site must meet one of the following criteria:
  - site previously developed with an urban use,
  - 75 percent or more of the site perimeter adjoins parcels developed with urban uses,
  - 75 percent or more of the area within a quarter-mile of the site is developed with urban uses, or
  - for sites with four sides, three of the four sides are developed with urban uses and at least two-thirds of the site perimeter adjoins parcels developed with urban uses

(PRC §21080.66(a)(3))

# AB 130 – PRC § 21080.66

- The project must be consistent with the applicable general plan and zoning ordinance, as well as any applicable specific plan and local coastal program (PRC § 21080.66(a)(4))
- The project must meet minimum residential density requirements (PRC §21080.66(a)(5)):
  - 5 units per acre in unincorporated nonmetropolitan counties, or
  - 10 units per acre in suburban jurisdictions, or
  - 15 units per acre in metropolitan jurisdictions

# AB 130 – PRC § 21080.66

- The project site must not be located on hazardous or sensitive lands (PRC § 21080.66(a)(6)), including:
  - (i) parcels in the coastal zone that are unzoned for multifamily housing, lack a certified local coastal program, or are vulnerable to five feet of sea level rise;
  - (ii) prime farmland, farmland of statewide importance, grazing land, or land designated for agricultural preservation by local ballot;
  - (iii) wetlands;
  - (iv) very high fire hazard severity zones or state responsibility areas without required mitigation;
  - (v) hazardous waste sites unless remediated or approved for residential use;
  - (vi) delineated earthquake fault zones unless compliant with seismic safety standards;
  - (vii) 100-year floodplains or regulatory floodways unless compliant with FEMA standards;
  - (viii) lands under conservation easements or designated for conservation in habitat or natural resource protection plans; or
  - (ix) habitat for protected, sensitive, or special-status species under federal or state law.

# AB 130 – PRC § 21080.66



- The project must not require demolition of a historic resource that was placed on a national, state, or local historic register before the date a preliminary application was submitted for the project pursuant to Section 65941.1 of the Government Code (PRC § 21080.66(a)(7))
- The project cannot include any transient lodging (e.g., hotel, motel, or bed and breakfast inn) (PRC § 21080.66(a)(8))

# AB 130 – PRC § 21080.66



- The project must include a condition of approval requiring a phase I environmental assessment for hazardous substance releases, with mitigation requirements based upon results (PRC § 21080.66(c))
- The project must comply with specific environmental hazard and air filtration standards if within 500 feet of a freeway (PRC § 21080.66(c))
- The project must comply with labor requirements, including payment of prevailing wage for 100 percent affordable projects and use of a skilled and trained workforce for buildings exceeding 85 feet in height (PRC § 21080.66(d))

# AB 130 – PRC § 21080.66



## Tribal Consultation Requirements (PRC § 21080.66(b))

- The local agency must notify all California Native American tribes traditionally and culturally affiliated with the project site within **14 days** of determining that the application is complete.
- Tribes have **60 days** to request consultation
- If a request is made, the local agency must begin consultation within **30 days**.
- Consultation must conclude within **45 days**, with a one-time **15-day** extension allowed.
- The process must be conducted in good faith and result in binding mitigation conditions to avoid significant impacts to tribal cultural resources, unless waived by the tribe.
- Unless otherwise agreed, the project must allow tribal monitoring during all ground-disturbing activities, avoid tribal cultural resources where feasible, and comply with protocols for the discovery of human remains or burial grounds.

# AB 130 – PRC §§ 21080.43, 21080.44



- VMT Analysis
  - Establishes program as an optional strategy for applicants to mitigate VMT impacts
  - Mitigation can include contribution to Transit-Oriented Development Implementation Fund or facilitating off-site affordable housing or related infrastructure projects that reduce VMT
  - Office of Land Use and Climate Innovation to issue guidance by July 1, 2026 and every three years thereafter

# Senate Bill 131

## **Agricultural employee housing:**

- Exempts new agricultural employee housing projects that meet the requirements of Health & Safety Code § 17021.8 and are publicly funded through programs such as the Joe Serna, Jr. Farmworker Housing Grant Program, the Office of Migrant Services, or local government sources.
- Exempts projects consisting exclusively of repair or maintenance of existing farmworker housing.

# SB 131 – PRC § 21080.48



- **Disadvantaged community water system projects:**
- Exempts non-construction community water system projects funded by the 2024 Bond Act or the State Water Board's Safe and Affordable Funding for Equity and Resilience program.
- The exemption applies only if the project provides long-term climate or biodiversity benefits and includes environmental protection and management measures.
- Sunsets January 1, 2030.

## **Wildfire risk reduction projects:**

- Exempts certain small-scale vegetation management and fire resilience activities if they comply with all other applicable laws and meet defined criteria. Includes:
  - Prescribed burns or fuel reduction projects (less than 50 contiguous acres) near residential subdivisions, with environmental and tribal protections;
  - Defensible space clearance up to 100 feet from public roadways used as evacuation routes;
  - Residential home hardening or defensible space activities within 200 feet of homes in high or very high fire hazard severity zones;
  - Fuel breaks up to 200 feet from structures, clearing flammable vegetation and trees under 12 inches in diameter.

## **Updates to the state's climate adaptation strategy:**

- Exempts updates to the California Climate Adaptation Strategy (the Safeguarding California Plan) adopted by the Natural Resources Agency pursuant to Public Resources Code § 71153.

## **Public park and nonmotorized trail projects funded by the 2024 bond measure:**

- Exempts activities and approvals related to the planning, acquisition, design, construction, operation, or maintenance of public park or trail facilities funded in whole or part by the 2024 Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act.

## **Certain essential services and industrial use projects:**

- Exempts narrowly defined projects that consist exclusively of one of the following uses but does not apply to any project located on “natural and protected lands,” as defined in Public Resources Code § 21067.5.
  - Day care centers (as defined in Health & Safety Code § 1596.76) located outside residential areas;
  - Rural health clinics or federally qualified health centers less than 50,000 square feet in size;
  - Nonprofit food banks or food pantries located on sites zoned exclusively for industrial uses; and
  - Advanced manufacturing facilities (as defined in Public Resources Code § 26003) that are located on sites zoned exclusively for industrial use.

## High-Speed Rail Maintenance and Station Projects:

- Exempts specific high-speed rail–related projects where limited criteria are met but does not apply to projects located on natural and protected lands as defined in Public Resources Code § 21067.5.
  - Development, construction, or operation of maintenance facilities for electrically powered high-speed rail, and
  - Construction or modification of passenger rail stations (or design changes) to serve high-speed rail, but only if the project has already been studied in a prior project-level EIR, all applicable mitigation measures are incorporated, and the facility or station is located within a defined resource study area or within one mile of approved rail right-of-way.

## Rezoning to Implement Housing Elements

- Exempts rezoning actions that implement the provisions of a housing element that were adopted pursuant to Government Code section 65583(c), so long as the rezoning does not authorize distribution centers, oil and gas infrastructure, or development located on natural and protected lands, as defined in Public Resources Code Section 21067.5.
  - PRC § 21060.4 defines “Distribution center” as “warehouse distribution center, as defined in Section 2100 of the Labor Code, that is 50,000 square feet or larger.”
  - PRC § 21064.8 defines “Oil and gas infrastructure” as “a facility used for the production, processing, transmission, storage, or distribution of petroleum or natural gas.”

# SB 131 – The “Near Miss” Provision



- SB 131 establishes a CEQA process for housing development projects that narrowly fail to qualify for a statutory or categorical CEQA exemption due to a single disqualifying condition (PRC § 21080.1(b))
  - CEQA review limited to those environmental effects caused solely by that condition
  - Waives the need for analysis of project alternatives, cumulative impacts, and growth-inducing effects.
  - Does not apply to projects with multiple disqualifying conditions, or to projects involving distribution centers, oil and gas infrastructure, or located on natural and protected lands, as defined in Public Resources Code Section 21067.5.
  - Project has to be “similar in kind” to projects typically qualifying for the requested exemption
- SB 131 defines a “condition” as a “physical” or “regulatory” feature of the project or its “setting” or an effect upon the environment caused by the project.
- The scope and depth of analysis required in an Initial Study or EIR will vary depending on the nature of the disqualifying condition.

# SB 131 – The Administrative Record



- Background
  - In CEQA litigation, the lead agency's record of proceedings relating to the subject of the action ("administrative record") must be compiled and filed with the court.
  - PRC § 21167.6 sets forth an extensive list of materials that must be included in the administrative record, which has been interpreted broadly by the courts.
  - Administrative records can be voluminous and thus costly and time consuming to prepare
- SB 131 provides that, for projects not involving a distribution center or oil and gas infrastructure, the administrative record no longer includes **internal electronic communications**, such as emails that were not presented to the final decisionmaking body unless such emails or documents were reviewed prior to project approval by the lead agency executive, a local agency executive (as defined in Government Code § 3511.1(d)), or another supervisory-level official involved in reviewing the project.
- Under SB 131, the public agency also retains discretion to include other materials not specifically required.

# Proposed Legislation

# SB 158 – “Clean-up” bill

- On Governor’s desk as of September 22, 2025
- Modifies the deadline for a lead public agency to approve or disapprove specified infill housing development projects that are exempt from the California Environmental Quality Act (CEQA) from 30 days after the conclusion of the applicable tribal consultation process to 30 days from the later of:
  - The conclusion of the applicable tribal consultation process; or
  - The time period specified under the Housing Accountability Act.
- Revises the definition of “natural and protected lands” in CEQA to include lands that are identified for conservation in an adopted natural community conservation plan, as specified, or other natural resource protection plan.

# SB 158 – “Clean-up” bill



- Specifies that builder’s remedy projects greater than four acres are not eligible for the limited application of CEQA provided by Public Resources Code Section 21080.1.
- Reduces the eligibility for builder’s remedy projects to receive the CEQA exemption provided by Public Resources Code Section 21080.66 from projects smaller than five acres to projects smaller than four acres.
- Requires the lead agency for any housing project using the CEQA exemption provided by Public Resources Code Section 21080.66 to file a notice of exemption with GO-LCI and the county clerk of the county in which the activity will occur.
- Renumbers and makes non-substantive changes to existing law that exempts from CEQA specified new agricultural employee housing projects and projects consisting exclusively of the repair or maintenance of an existing farmworker housing project.
- Applies CEQA to housing development projects meeting specified conditions related to local population size and proximity to sensitive environmental and historic resources.
- Appropriates \$2,106,000 to GO-LCI to support implementation of Senate Bill 131 (Chapter 24 of the Statutes of 2025).

# AUDIENCE Q&A

What questions or comments do you have for us?



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