

After half a century, California legislators on the verge of overhauling a landmark environmental law



Construction on a 48-unit apartment building at Crenshaw Boulevard and 54th Street in Los Angeles near the Metro K line in November. (Myung J. Chun / Los Angeles Times)



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- Long celebrated and derided, the California Environmental Quality Act is facing its strongest overhaul in generations.
- Buoyed by national criticism that the state can no longer build sufficient housing and public infrastructure, Gov. Gavin Newsom and lawmakers said now is the time for major changes.
- Negotiations could lead to new laws taking effect within weeks.

When a landmark state environmental law threatened to halt enrollment at UC Berkeley, legislators stepped in and [wrote an exemption](#). When the Sacramento Kings were about to leave town, [lawmakers brushed the environmental rules aside](#) for the team's new arena. When the law stymied the renovation of the state Capitol, [they acted once again](#).

Lawmakers' willingness to poke holes in the California Environmental Quality Act for specific projects without overhauling the law in general has led commentators to describe the changes as "[Swiss cheese CEQA](#)."

Now, after years of nibbling at it, Gov. Gavin Newsom and the Legislature are going in with the knives.

Two proposals have advanced rapidly through the Legislature: one to wipe away the law for most urban housing developments, the other to weaken the rules for most everything else. Legal experts say the efforts would be the most profound changes to CEQA in generations. Newsom [not only endorsed the bills](#) last month, but also put them on a fast track to approval by proposing their passage as part of the state budget, which bypasses normal committee hearings and means they could become law within weeks.

"This is the biggest opportunity to do something big and bold, and the only impediment is us," Newsom said when announcing his support for the legislation.



HOUSING & HOMELESSNESS

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March 19, 2022

Nearly the entire 55-year history of the California Environmental Quality Act has featured dueling narratives about its effects. On its face the law is simple: It requires proponents to disclose and, if possible, lessen the environmental effects of a project. In practice, this has led to tomes of environmental impact reports, including volumes of soil testing and traffic modeling studies, and sometimes years of disputes in court. Many credit CEQA for helping preserve the state's scenic vistas and waterways while others decry its ability to thwart housing and infrastructure projects, including the long-delayed and [budget-busting high-speed rail](#).

On the latter point, evidence supports both sides of the argument. One study by [UC Berkeley law professors found](#) that fewer than 3% of housing projects in many big cities across the state over a three-year period faced any litigation. But some contend that the threat of a lawsuit is enough to chill development, and examples continue to pile up of CEQA stalling construction of [homeless shelters](#), [a food bank](#) and [child-care center](#).

What's clear is that CEQA has become embedded as a key point of leverage in California's development process. Los Angeles Mayor Karen Bass [once recalled](#) that when she worked as a community organizer in the 1990s, Westside land-use attorneys who were successful in stopping development in their communities taught her how to use CEQA to block liquor stores in South L.A.

Organized labor learned to use the law to its advantage and became one of its most ardent supporters, alongside environmentalists — major constituencies within Democratic politics in the state. Besides carve-outs for individual

projects in recent years, lawmakers have [passed CEQA streamlining for certain kinds of housing](#) and other developments. These fast-track measures can be used only if proponents agree to pay higher wages to construction workers or set aside a portion of the project for low-income housing on land considered the least environmentally sensitive.

POLITICS

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Labor groups' argument is simple, said Pete Rodriguez, vice president-Western District of the United Brotherhood of Carpenters and Joiners: CEQA exemptions save time and money for developers, so some benefit should go to workers.

"When you expedite the process and you let a developer get the TSA pass, for example, to get quicker through the line at the airport, there should be labor standards attached to that as well," Rodriguez said at a Los Angeles Business Council panel in April.

The two bills now under debate — Assembly Bill 609 by Assemblymember Buffy Wicks (D-Oakland) and Senate Bill 607 by Sen. Scott Wiener (D-San Francisco) — break with that tradition. They propose broad CEQA changes without any labor or other requirements.

Wicks' bill would exempt most urban housing developments from CEQA. Wiener's legislation, among other provisions, would in effect lessen the number of projects, housing and otherwise, that would need to complete a full environmental review, narrowing the law's scope.

"Both are much, much more far-reaching than anything that has been proposed in living memory to deal with CEQA," said Chris Elmendorf, a UC Davis law professor who tracks state environmental and housing legislation.

The legislation wouldn't have much of an effect on rebuilding after L.A.'s wildfires, as single-family home construction is exempt and Newsom [already waived other parts of the law](#) by executive order.

The environment inside and outside the Legislature has become friendlier to more aggressive proposals. "Abundance," a recent book co-written by New York Times opinion writer Ezra Klein, makes the case that CEQA and other laws supported by Democrats have hamstrung the ability to build housing and critical infrastructure projects, citing specifically California's affordability crisis and challenges with high-speed rail, in ways that have stifled the American Dream and the party's political fortunes.

The idea has become a cause celebre in certain circles. Newsom [invited Klein onto his podcast](#). This spring, Klein [met with Wicks and Wiener and other lawmakers](#), including Robert Rivas (D-Hollister) and Mike McGuire (D-Healdsburg), the leaders of the state Assembly and Senate, respectively.

Wicks and Wiener are veteran legislators and former chairs of legislative housing committees who have written much of the prior CEQA streamlining legislation. Even though it took bruising battles to pass previous bills, the resulting

production hasn't come close to resolving the state's shortage, Wicks said.

"We need housing on a massive scale," Wicks said.

To opponents of the bills, including dozens of environmental and labor groups, the effort misplaces the source of building woes and instead would restrict one of the few ways community groups can shape development.

Asha Sharma, state policy manager for Leadership Counsel for Justice & Accountability, said her organization uses CEQA to reduce the polluting effects of projects in neighborhoods already overburdened by environmental problems.

The proposed changes would empower public agencies and developers at the expense of those who would be affected by their decisions, she said.

"What folks aren't realizing is that along with the environmental regulations comes a lot of public transparency and public engagement," said Sharma, whose group advocates for low-income Californians in rural areas. "When you're rolling back CEQA, you're rolling back that too."

Because of the hefty push behind the legislation, Sharma expects the bills will be approved in some form. But it remains uncertain how they might change. Newsom, the two lawmakers and legislative leaders are negotiating amendments.



CALIFORNIA

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Wicks said her bill will not require developers to reserve part of their projects for low-income housing to receive a CEQA exemption; cities can mandate that on their own, she said. Wicks indicated, however, that labor standards could be part of a final deal, saying she's "had some conversations in that regard."

Wiener's bill was gutted in a legislative fiscal committee last month, with lawmakers saying they wanted to meet infrastructure and affordability needs "without compromising environmental protections." Afterward, Wiener and McGuire, the Senate leader, released a joint statement declaring their intent to pass a version of the legislation as part of the budget, as the governor had proposed.

Wiener remained committed to the principles in his initial bill.

"What I can say is that I'm highly optimistic that we will pass strong changes to CEQA that will make it easier and faster to deliver all of the good things that make Californians' lives better and more affordable," Wiener said.

Should the language in the final deal be anything like what's been discussed, the changes to CEQA would be substantial, said Ethan Elkind, director of the climate program at UC Berkeley's Center for Law, Energy & the Environment. Still, he said the law's effects on housing development were overblown. Many other issues, such as [local](#)

[zoning restrictions](#), lack of funding and [misaligned tax incentives](#), play a much larger role in limiting construction long before projects can even get to the point where CEQA becomes a concern, he said.

“CEQA is the last resort of a NIMBY,” said Elkind, referring to residents who try to block housing near them. “It’s almost like we’re working backwards here.”

Wicks agreed that the Legislature would have to do more to strip away regulations that make it harder to build housing. But she argued that the CEQA changes would take away a major barrier: the uncertainty developers face from legal threats.

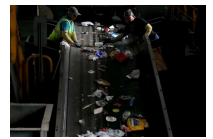
Passing major CEQA reforms would demonstrate lawmakers’ willingness to tackle some of the state’s toughest challenges, she said.

“It sends a signal to the world that we’re ready to build,” Wicks said.

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