

Date of Hearing: April 20, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 323 (Olsen) – As Amended April 6, 2015

SUBJECT: California Environmental Quality Act: exemption: roadway improvement

SUMMARY: Extends the January 1, 2016, sunset date, until January 1, 2020, on an exemption from the California Environmental Quality Act (CEQA) for projects to repair, maintain, and make minor alterations to existing roadways.

EXISTING LAW:

- 1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this project, unless the project is exempt from CEQA.
- 2) Exempts from CEQA, until January 1, 2016, minor roadway repairs, maintenance and minor alterations meeting the following conditions:
 - a) The project is carried out by a city or county with a population of less than 100,000 to improve public safety.
 - b) The project does not cross a "waterway" (defined as a bay, estuary, lake, pond, river, slough, or a perennial, intermittent, or ephemeral stream, lake, or estuarine-marine shoreline).
 - c) The project involves negligible or no expansion of an existing use.
 - d) The project is not on a state highway.
 - e) The site of the project does not contain wetlands, riparian areas, or significant wildlife habitat value and does not harm any protected species, impact cultural resources, or affect scenic resources.
- 3) Requires the lead agency to: include measures in the project to mitigate potential vehicular traffic and safety impacts and bicycle and pedestrian safety impacts, hold a noticed public hearing on the project to hear and respond to public comments, and file a notice of exemption with the Office of Planning and Research (OPR).
- 4) Exempts from CEQA any emergency project undertaken by a public agency to maintain, repair, or restore an existing highway that has been damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage.

FISCAL EFFECT: Unknown

COMMENTS: CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the

environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR. Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the project.

Legislation enacted in 2012, AB 890 (Olsen), Chapter 528, Statutes of 2012, exempted from CEQA minor highway repair projects carried out by a local government, until January 1, 2016. This exemption is consistent with other existing CEQA exemptions. For example, CEQA guidelines provide a categorical exemption for work on existing facilities where there is negligible expansion of an existing use, specifically including existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities. Additionally, emergency projects undertaken by a public agency to maintain, repair, or restore an existing highway that has been damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement or landslide are exempt from CEQA if carried out within one year of the damage.

AB 890 included a provision that requires lead agencies claiming the exemption to file a notice with OPR. According to the Assembly Natural Resources Committee analysis, where this bill was heard previously, OPR reports no notices filed to date related to the AB 890 exemption. Consequently, it appears the AB 890 exemption has not been used yet. To preserve the Legislature's ability to periodically evaluate the effects of this exemption, AB 323 includes a four-year sunset, until January 1, 2020.

Supporters assert that, while the need for environmental review on major projects is without question, less intensive safety projects, such as installing or replacing a guardrail within the existing footprint of a local street, have few if any environmental impacts. They support AB 323 because it has the potential to save money and time, especially for local authorities in rural areas of the state.

Double-referral: This bill passed out of the Assembly Natural Resources Committee on March 23, 2015, with a 9-0 vote.

Previous legislation: AB 890 (Olsen), Chapter 528, Statutes of 2012, provided the original CEQA exemption for minor repairs of existing roadwork.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Cities—Orange County
California Central Valley Flood Control Association
California Chamber of Commerce
California Construction Trucking Association
California State Association of Counties
League of California Cities
Rural County Representatives of California
Southwest California Legislative Council
Tuolumne County Board of Supervisors

Opposition

None on file

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