

BILL: AB 1001 (Garcia, D-Downey)
Introduced February 18, 2021
Amended March 15, 2021
Amended April 20, 2021
Amended January 3, 2022
Amended January 24, 2022
Amended March 22, 2022

SUBJECT: AB 1001 would expand the California Environmental Quality Act and make changes to conducting mitigating measure related air quality in disadvantage communities.

STATUS: Pending in the Senate Environmental Quality Committee
Passed the Assembly Floor 43-24
Passed the Assembly Appropriations Committee 12-3
Passed the Assembly Natural Resources Committee 8-2

SUMMARY AS OF JUNE 1, 2022:

The California Environmental Quality Act (CEQA) was established to analyze and reduce impacts projects may have on the environment. As a result of conducting a CEQA analysis on a given project, agencies must identify measures to mitigate those impacts. AB 1001 (Garcia, D-Downey) would require that if a project has an adverse impact on air quality in a disadvantage community, mitigation measures identified in the Environmental Impact Statement or a mitigated negative declaration must include measures for avoiding, minimizing, or otherwise mitigating for the adverse effects on that community. AB 1001 would then require mitigation measures to be conducted at the project site to avoid or minimize to less than significant the adverse effects on air quality and other environmental impacts to the disadvantaged community. Using current practice, the actual mitigation effort could be on a regional scale, not focused on a specific community.

The second component of AB 1001 is to expand CEQA to incorporate “environmental justice” for the first time as a general requirement on all public agencies implementing CEQA. Environmental justice would be defined to include:

- The availability of a healthy environment for all people;
- The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution;
- Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution, and;
- The consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

CEQA already contains extensive procedural requirements to support detailed analysis and public review of as many as 20 different environmental factors that may be significant environmental impacts of a project, of which many include the principles encompassed in environmental justice.

EFFECTS ON ORANGE COUNTY:

The Orange County Transportation Authority (OCTA) is often the lead agency when it comes to performing CEQA analyses for transportation projects. Using the process OCTA started under Measure M2 to provide environmental mitigation at a programmatic level, OCTA has advocated for more efforts to streamline the environmental analysis and permitting processes, to afford more programmatic options. This not only allows for more certainty in project delivery and continued mitigation of project impacts, but also creates the potential for larger scale environmental benefits than can be done programmatically rather than at the individual project level.

As a part of the Southern California Association of Governments (SCAG) region, OCTA has participated in conversations related to SCAG's Regional Advance Mitigation Planning (RAMP) effort to establish a policy framework for advance mitigation. In 2016, AB 2087 (Chapter 455, Statutes of 2016) established the Advance Mitigation and Regional Conversation Investment Strategies (RCIS), which provided voluntary guidance for regional conservation to encourage investments in conservation through advance mitigation. This effort provided for an efficient approach for regional conservation planning that identifies needs and priorities for wildlife and habitat conservation, improve the effectiveness of public investments in wildlife conservation, and assist in guiding infrastructure projects and identifying suitable areas for advance mitigation investments for those projects. SCAG recently released its draft framework for the RAMP and the Advisory Task Group is finalizing the white paper.

AB 1001 would interfere with the RAMP development and eliminate the regional benefit created through the RCIS. Because AB 1001 would change the dynamic of how to mitigate environmental impacts in disadvantaged communities, it would no longer behoove agencies to work efficiently through RAMP since they would have to figure out direct mitigation measures within the affected communities. This change could also significantly stop or delay critical transportation infrastructure projects.

Adding environmental justice as a requirement under CEQA would expand existing law. This could lead to increased litigation on whether these requirements have been met. It can also be argued that CEQA review already deals with environmental justice concerns, including air quality. Adding more layers to CEQA could create more barriers to deliver mobility solutions and transportation infrastructure projects.

An OPPOSE position is consistent with OCTA's 2021-22 State Legislative Platform principles to "Oppose lengthening the California Environmental Quality Act process in a manner that would delay mobility improvements" and "Oppose policies that would limit lead agency discretion in the management and oversight of lands set aside for environmental mitigation purposes while promoting advance mitigation planning programs."

OCTA POSITION:

Staff recommends: OPPOSE

AMENDED IN SENATE MARCH 22, 2022
AMENDED IN ASSEMBLY JANUARY 24, 2022
AMENDED IN ASSEMBLY JANUARY 3, 2022
AMENDED IN ASSEMBLY APRIL 20, 2021
AMENDED IN ASSEMBLY MARCH 15, 2021
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1001

**Introduced by Assembly Member Cristina Garcia
(Coauthor: Assembly Member Reyes)**

February 18, 2021

An act to add Sections 21081.8 and 21098.5 to the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL’S DIGEST

AB 1001, as amended, Cristina Garcia. Environment: mitigation measures for air ~~and water~~ quality impacts: environmental justice.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that

the project, as revised, would have a significant effect on the environment.

This bill would ~~authorize~~ *require* mitigation measures, identified in an environmental impact report or mitigated negative declaration to mitigate the adverse effects of a project on air ~~or water~~ quality of a disadvantaged community, to include measures for avoiding, minimizing, or ~~compensating~~ *otherwise mitigating* for the adverse effects on that community. The bill would require ~~compensating measures, included as mitigation measures, to mitigation measures to include measures conducted at the project site that avoid or minimize to less than significant the adverse effects on the air quality of a disadvantaged community or measures conducted in the affected disadvantaged community that directly mitigate those effects directly in the affected disadvantaged community.~~ effects. The bill would require all public agencies, in implementing CEQA, to give consideration to the principles of environmental justice, as provided, by ensuring the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins. Because the bill would impose additional duties on the lead agency, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21081.8 is added to the Public Resources
2 Code, to read:
3 21081.8. (a) For projects that have adverse effects on the air
4 ~~or water~~ quality of a disadvantaged community as identified
5 pursuant to Section 39711 of the Health and Safety Code,
6 mitigation measures identified in an environmental impact report
7 or mitigated negative declaration to mitigate those adverse effects
8 ~~may shall~~ include measures for avoiding, minimizing, or
9 ~~compensating~~ *otherwise mitigating* for the adverse effects on that
10 community.

1 (b) ~~If the mitigation—~~*Mitigation* measures *shall* include
2 ~~compensating for measures conducted at the project site that avoid~~
3 ~~or minimize to less than significant the adverse effects on the air~~
4 ~~or water quality of a disadvantaged community, the compensating~~
5 ~~community or measures—~~*shall conducted in the affected*
6 *disadvantaged community that directly mitigate those—effects*
7 ~~directly in the affected disadvantaged communities. effects.~~

8 SEC. 2. Section 21098.5 is added to the Public Resources Code,
9 to read:

10 21098.5. In implementing this division, all public agencies
11 shall give consideration to the principles of environmental justice,
12 as set forth in subdivision (e) of Section 65040.12 of the
13 Government Code, by ensuring the fair treatment and meaningful
14 involvement of people of all races, cultures, incomes, and national
15 origins.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act, within the meaning of Section
21 17556 of the Government Code.