

**BILL:** SB 1410 (Caballero, D-Merced)  
Introduced February 18, 2022  
Amended March 31, 2022  
Amended May 2, 2022

**SUBJECT:** SB 1410 would require an analysis of the impacts of implementing changes to California Environmental Quality Act transportation impact analysis pursuant to SB 743 (Chapter 386, Statutes of 2013), and the creation of a potential grant program upon appropriation

**STATUS:** Pending in the Assembly Natural Resources Committee  
Passed the Senate Floor 39-0  
Passed the Senate Appropriations Committee 5-0  
Passed the Senate Environmental Quality Committee 7-0

**SUMMARY AS OF JUNE 2, 2022:**

SB 1410 (Caballero, D-Merced), seeks to provide increased transparency about the impacts associated with changing the metric to analyze transportation impacts under the California Environmental Quality Act (CEQA) from a traditional level of service metric to one focused primarily on the reduction of vehicles miles traveled (VMT). The changes to the CEQA guidelines resulted from the passage of SB 743 (Chapter 386, Statutes of 2013). Under SB 743, the Governor's Office of Planning and Research (OPR) was required to update the CEQA guidelines to require the use of a new metric to analyze transportation impacts in transit priority areas (TPA), defined as areas within one-half mile of a major transit stop, existing or planned. The new metric was to promote the reduction of greenhouse gas emissions, development of multimodal transportation networks, and a diversity of land uses. Potential metrics included VMT, VMT per capita, automobile trip generation rates or automobile trips generated. Outside of TPAs, it was optional for OPR to require the use of a new metric.

In OPR's revised CEQA guidelines, VMT was identified as the metric to be used to evaluate the transportation impacts of a project, and OPR determined that it should apply statewide, instead of just in TPAs. These guidelines took effect in July 2020. Simultaneously, the California Department of Transportation (Caltrans) initiated its own guidelines to implement SB 743. While Caltrans was not required to issue guidance, the stated purpose was to assist district staff and others responsible for assessing likely transportation impacts as part of the environmental review of proposed projects on the state highway system, by providing guidance on the preferred approach for analyzing the VMT attributable to proposed projects (induced travel) in various project settings.

Recognizing the significance of the shift in metric required by SB 743, and the challenges with applying the metric statewide, SB 1410 was introduced to provide improved clarity not only on how SB 743 is being implemented, but also to provide assistance to those charged with implementation. Under SB 1410, by January 1, 2025, the OPR would be charged with conducting a study on the impacts and implementation of the changes to the CEQA guidelines instituted pursuant to SB 743. The study would be done in

collaboration with other interested entities with demonstrated expertise in transportation impacts and analyzing VMT. Upon appropriation by the Legislature, a grant program would also be created for OPR to provide financial assistance to local jurisdictions to implement the new CEQA guidance, including establishing regional thresholds of significance for transportation impacts.

### **EFFECTS ON ORANGE COUNTY:**

The Orange County Transportation Authority (OCTA), as the lead agency for several multimodal projects, and the primary funding agency for other projects, is subject to the provisions of SB 743 and the resulting CEQA guidance. Furthermore, cities and counties within Orange County also have to abide by these guidelines when implementing projects, in addition to projects undertaken by private developers. Since SB 743 was first enacted, there has been several documents released seeking to provide guidance to lead agencies on how to implement the new metrics under CEQA, including the development of thresholds of significance, mitigation requirements, and modeling guidance. Despite these efforts, significant questions still exist about implementation including applicability of the new metrics to certain environmentally beneficial projects, the appropriateness of various mitigation measures, timing, and how to interpret sometimes conflicting provisions between guidance released by OPR and Caltrans. These uncertainties have the potential to create hurdles to the implementation of projects, even if it can be demonstrated the project is necessary for state environmental goals or other policy goals.

SB 1410 provides an opportunity to analyze these dynamics and provide additional technical assistance for implementation. Through this analysis, there could potentially be improved uniformity in implementation, increased transparency, and an opportunity to demonstrate where there are issues that need to be addressed. In order to help improve this analysis, the bill could potentially be amended to allow for the following:

- Exploration of project types that should be exempt from the analysis required by SB 743 that have a demonstrated environmental benefit. This may include certain transit and rail projects, or projects on the highway system that facilitate state goals including those related to express lanes or high-occupancy vehicle lanes, truck climbing lanes, or integration of intelligent transportation technologies.
- Inclusion of other interested parties in the development of the study by OPR, including those charged with implementation, such as regional transportation agencies and transit agencies.
- Examination of the interaction between the OPR guidance and that released by other agencies such as Caltrans. This could include conflicts in the guidance, and new requirements that Caltrans is enforcing, including that related to the concept of “additionality” which precludes measures identified in a Regional Transportation Plan from being used for mitigation purposes.
- Analysis of the feasibility of various mitigation measures, including mitigation credits for projects that integrate multimodal project components, use of habitat conservation and open-space development, and through the use of mitigation banking.

SB 1410 is sponsored by the California Building Industry Association. Other regional agencies, like the Riverside County Transportation Commission and the Southern California Association of Governments support the bill, and are seeking ways to see if the bill can address some of the concerns detailed above.

A SUPPORT position is consistent with OCTA's 2021-22 State Legislative Platform principle to "Support efforts to ensure local flexibility in meeting the goals of the State's greenhouse gas reduction initiatives, including the creation of incentive-based measures and grant programs to assist with compliance."

**OCTA POSITION:**

Staff recommends: SUPPORT

AMENDED IN SENATE MAY 2, 2022

AMENDED IN SENATE MARCH 31, 2022

**SENATE BILL**

**No. 1410**

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**Introduced by Senator Caballero**  
**(Coauthors: Senators Borgeas and Roth)**  
(Coauthors: Assembly Members Arambula, Gray, Grayson, and  
Patterson)

February 18, 2022

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An act to amend Section 21099 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 1410, as amended, Caballero. California Environmental Quality Act: transportation impacts.

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 the lead agency 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. CEQA establishes a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to CEQA.

CEQA requires the Office of Planning and Research to prepare and develop proposed guidelines for the implementation of CEQA by public

agencies and requires the Secretary of the Natural Resources Agency to certify and adopt those guidelines. CEQA requires the office to prepare, develop, and transmit to the secretary for certification and adoption proposed revisions to the guidelines establishing criteria for determining the significance of transportation impacts of projects within transit priority areas, as defined, that promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. Existing law requires the office to recommend potential metrics to measure transportation impacts, as specified. CEQA authorizes the office to adopt guidelines establishing alternative metrics to the metrics used for traffic levels of service for transportation impacts outside transit priority areas.

~~This bill instead would require the criteria for determining the significance of transportation impacts of projects within transit priority areas to only promote the reduction of greenhouse gas emissions. The bill would require the potential metrics described above to only apply to projects within transit priority areas. office, by January 1, 2025, to conduct and submit to the Legislature a study on the impacts and implementation of the guidelines described above relating to transportation impacts. The bill would require the office, upon appropriation, to establish a grant program to provide financial assistance to local jurisdictions for implementing those guidelines.~~

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

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

1     SECTION 1. Section 21099 of the Public Resources Code is  
2     amended to read:  
3     21099. (a) For purposes of this section, the following terms  
4     mean the following:  
5     (1) “Employment center project” means a project located on  
6     property zoned for commercial uses with a floor area ratio of no  
7     less than 0.75 and that is located within a transit priority area.  
8     (2) “Floor area ratio” means the ratio of gross building area of  
9     the development, excluding structured parking areas, proposed for  
10    the project divided by the net lot area.  
11    (3) “Gross building area” means the sum of all finished areas  
12    of all floors of a building included within the outside faces of its  
13    exterior walls.

1 (4) “Infill site” means a lot located within an urban area that  
2 has been previously developed, or on a vacant site where at least  
3 75 percent of the perimeter of the site adjoins, or is separated only  
4 by an improved public right-of-way from, parcels that are  
5 developed with qualified urban uses.

6 (5) “Lot” means all parcels utilized by the project.

7 (6) “Net lot area” means the area of a lot, excluding publicly  
8 dedicated land and private streets that meet local standards, and  
9 other public use areas as determined by the local land use authority.

10 (7) “Transit priority area” means an area within one-half mile  
11 of a major transit stop that is existing or planned, if the planned  
12 stop is scheduled to be completed within the planning horizon  
13 included in a Transportation Improvement Program or applicable  
14 regional transportation plan.

15 (b) (1) The Office of Planning and Research shall prepare,  
16 develop, and transmit to the Secretary of the Natural Resources  
17 Agency for certification and adoption proposed revisions to the  
18 guidelines adopted pursuant to Section 21083 establishing criteria  
19 for determining the significance of transportation impacts of  
20 projects within transit priority areas. Those criteria shall promote  
21 the reduction of greenhouse gas emissions, the development of  
22 multimodal transportation networks, and a diversity of land uses.  
23 In developing the criteria, the office shall recommend potential  
24 metrics to measure transportation impacts that may include, but  
25 are not limited to, vehicle miles traveled, vehicle miles traveled  
26 per capita, automobile trip generation rates, or automobile trips  
27 generated. The office may also establish criteria for models used  
28 to analyze transportation impacts to ensure the models are accurate,  
29 reliable, and consistent with the intent of this section.

30 (2) Upon certification of the guidelines by the Secretary of the  
31 Natural Resources Agency pursuant to this section, automobile  
32 delay, as described solely by level of service or similar measures  
33 of vehicular capacity or traffic congestion, shall not be considered  
34 a significant impact on the environment pursuant to this division,  
35 except in locations specifically identified in the guidelines, if any.

36 (3) This subdivision does not relieve a public agency of the  
37 requirement to analyze a project’s potentially significant  
38 transportation impacts related to air quality, noise, safety, or any  
39 other impact associated with transportation. The methodology  
40 established by these guidelines shall not create a presumption that

1 a project will not result in significant impacts related to air quality,  
2 noise, safety, or any other impact associated with transportation.  
3 Notwithstanding the foregoing, the adequacy of parking for a  
4 project shall not support a finding of significance pursuant to this  
5 section.

6 (4) This subdivision does not preclude the application of local  
7 general plan policies, zoning codes, conditions of approval,  
8 thresholds, or any other planning requirements pursuant to the  
9 police power or any other authority.

10 (5) On or before July 1, 2014, the Office of Planning and  
11 Research shall circulate a draft revision prepared pursuant to  
12 paragraph (1).

13 (c) (1) The Office of Planning and Research may adopt  
14 guidelines pursuant to Section 21083 establishing alternative  
15 metrics to the metrics used for traffic levels of service for  
16 transportation impacts outside transit priority areas. The alternative  
17 metrics may include the retention of traffic levels of service, where  
18 appropriate and as determined by the office.

19 (2) This subdivision shall not affect the standard of review that  
20 would apply to the new guidelines adopted pursuant to this section.

21 (d) (1) Aesthetic and parking impacts of a residential, mixed-use  
22 residential, or employment center project on an infill site within  
23 a transit priority area shall not be considered significant impacts  
24 on the environment.

25 (2) (A) This subdivision does not affect, change, or modify the  
26 authority of a lead agency to consider aesthetic impacts pursuant  
27 to local design review ordinances or other discretionary powers  
28 provided by other laws or policies.

29 (B) For the purposes of this subdivision, aesthetic impacts do  
30 not include impacts on historical or cultural resources.

31 (e) This section does not affect the authority of a public agency  
32 to establish or adopt thresholds of significance that are more  
33 protective of the environment.

34 (f) *On or before January 1, 2025, the Office of Planning and*  
35 *Research shall conduct and submit to the Legislature, in*  
36 *accordance with Section 9795 of the Government Code, a study*  
37 *on the impacts and implementation of the guidelines adopted*  
38 *pursuant to subdivisions (b) and (c). The study shall be conducted*  
39 *in collaboration with other interested entities, including academic*

1 *and research institutions with demonstrated expertise in*  
2 *transportation impacts and analyzing vehicle miles traveled.*

3 *(g) The Office of Planning and Research, upon the appropriation*  
4 *funds by the Legislature for this purpose, shall establish a grant*  
5 *program to provide financial assistance to local jurisdictions for*  
6 *implementing the guidelines adopted pursuant to subdivisions (b)*  
7 *and (c), including establishing regional thresholds of significance*  
8 *of transportation impacts.*

9 ~~SECTION 1. Section 21099 of the Public Resources Code is~~  
10 ~~amended to read:~~

11 ~~21099. (a) For purposes of this section, the following terms~~  
12 ~~mean the following:~~

13 ~~(1) "Employment center project" means a project located on~~  
14 ~~property zoned for commercial uses with a floor area ratio of no~~  
15 ~~less than 0.75 and that is located within a transit priority area.~~

16 ~~(2) "Floor area ratio" means the ratio of gross building area of~~  
17 ~~the development, excluding structured parking areas, proposed for~~  
18 ~~the project divided by the net lot area.~~

19 ~~(3) "Gross building area" means the sum of all finished areas~~  
20 ~~of all floors of a building included within the outside faces of its~~  
21 ~~exterior walls.~~

22 ~~(4) "Infill site" means a lot located within an urban area that~~  
23 ~~has been previously developed, or on a vacant site where at least~~  
24 ~~75 percent of the perimeter of the site adjoins, or is separated only~~  
25 ~~by an improved public right-of-way from, parcels that are~~  
26 ~~developed with qualified urban uses.~~

27 ~~(5) "Lot" means all parcels utilized by the project.~~

28 ~~(6) "Net lot area" means the area of a lot, excluding publicly~~  
29 ~~dedicated land and private streets that meet local standards, and~~  
30 ~~other public use areas as determined by the local land use authority.~~

31 ~~(7) "Transit priority area" means an area within one-half mile~~  
32 ~~of a major transit stop that is existing or planned, if the planned~~  
33 ~~stop is scheduled to be completed within the planning horizon~~  
34 ~~included in a Transportation Improvement Program or applicable~~  
35 ~~regional transportation plan.~~

36 ~~(b) (1) The Office of Planning and Research shall prepare,~~  
37 ~~develop, and transmit to the Secretary of the Natural Resources~~  
38 ~~Agency for certification and adoption proposed revisions to the~~  
39 ~~guidelines adopted pursuant to Section 21083 establishing criteria~~  
40 ~~for determining the significance of transportation impacts of~~



1 projects within transit priority areas. Those criteria shall only  
2 promote the reduction of greenhouse gas emissions. In developing  
3 the criteria, the office shall recommend potential metrics to measure  
4 transportation impacts that may include, but are not limited to,  
5 vehicle miles traveled, vehicle miles traveled per capita, automobile  
6 trip generation rates, or automobile trips generated. The office may  
7 also establish criteria for models used to analyze transportation  
8 impacts to ensure the models are accurate, reliable, and consistent  
9 with the intent of this section.

10 (2) Upon certification of the guidelines by the Secretary of the  
11 Natural Resources Agency pursuant to this section, automobile  
12 delay, as described solely by level of service or similar measures  
13 of vehicular capacity or traffic congestion, shall not be considered  
14 a significant impact on the environment pursuant to this division;  
15 except in locations specifically identified in the guidelines, if any.

16 (3) This subdivision does not relieve a public agency of the  
17 requirement to analyze a project's potentially significant  
18 transportation impacts related to air quality, noise, safety, or any  
19 other impact associated with transportation. The methodology  
20 established by these guidelines shall not create a presumption that  
21 a project will not result in significant impacts related to air quality,  
22 noise, safety, or any other impact associated with transportation.  
23 Notwithstanding the foregoing, the adequacy of parking for a  
24 project shall not support a finding of significance pursuant to this  
25 section.

26 (4) This subdivision does not preclude the application of local  
27 general plan policies, zoning codes, conditions of approval,  
28 thresholds, or any other planning requirements pursuant to the  
29 police power or any other authority.

30 (5) On or before July 1, 2014, the Office of Planning and  
31 Research shall circulate a draft revision prepared pursuant to  
32 paragraph (1):

33 (e) (1) The alternative metrics adopted pursuant to paragraph  
34 (1) of subdivision (b) shall only be applied to projects within a  
35 transit priority area.

36 (2) This subdivision shall not affect the standard of review that  
37 would apply to the new guidelines adopted pursuant to this section.

38 (d) (1) Aesthetic and parking impacts of a residential, mixed-use  
39 residential, or employment center project on an infill site within

1 a transit priority area shall not be considered significant impacts  
2 on the environment.

3 (2) (A) This subdivision does not affect, change, or modify the  
4 authority of a lead agency to consider aesthetic impacts pursuant  
5 to local design review ordinances or other discretionary powers  
6 provided by other laws or policies.

7 (B) For purposes of this subdivision, aesthetic impacts do not  
8 include impacts on historical or cultural resources.

9 (e) This section does not affect the authority of a public agency  
10 to establish or adopt thresholds of significance that are more  
11 protective of the environment.