California State Assembly

NATURAL RESOURCES

ISAAC G BRYAN
CHAIR

AGENDA

Monday, June 24, 2024
2:30 p.m. -- State Capitol, Room 447

BILLS HEARD IN SIGN-IN ORDER

** = Bills Proposed for Consent

1.	****SB 1158**	Archuleta	Carl Moyer Memorial Air Quality Standards Attainment Program.
2.	SB 1304	Limón	Underground injection control: aquifer exemption.
3.	SB 1308	Gonzalez	Ozone: indoor air cleaning devices.
4.	****SB 1395**	Becker	Shelter crisis: Low Barrier Navigation Center: use by right: building standards.

Date of Hearing: June 24, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1158 (Archuleta) – As Amended April 16, 2024

SENATE VOTE: 37-0

SUBJECT: Carl Moyer Memorial Air Quality Standards Attainment Program

SUMMARY: Extends the deadline for a local air district to liquidate funds reserved under the Carl Moyer Memorial Air Quality Standards Attainment Program (Moyer Program) from four years after the date of reservation of the funds to six years after the date of disbursement of the funds to the air district, after which any unused funds revert to the Air Resources Board (ARB) for future allocation.

EXISTING LAW:

1) Establishes the Moyer Program, administered by ARB and air districts, to fund the incremental cost of cleaner-than-required vehicles, engines, and equipment. The primary objective of the program is to achieve air quality emission reductions that would not otherwise occur through regulations or other legal mandates. The Moyer Program is funded by vehicle registration surcharges and tire fees. (Health and Safety Code (HSC) 44275 *et seq*.)

2) Requires ARB to reserve Moyer Program funds for an air district and disburse the funds to the air district within two years of reservation. Further requires that an air district return to CARB any Carl Moyer Program funds not used within four years after reservation for future allocation under the Program. Beginning January 1, 2034, air districts must return any program funds unused within two years after reservation. (HSC 44287)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

1) **Background**. The Moyer Program provides monetary grants to private companies and public agencies to clean up their heavy-duty engines beyond that required by law through retrofitting, repowering or replacing their engines with newer and cleaner ones. These grants are issued locally by air districts. Moyer's primary objective is to obtain cost-effective and surplus emission reductions to be credited toward California's obligations in the State Implementation Plan (SIP) – California's road map for attaining health-based national ambient air quality standards. Covered pollutants include oxides of nitrogen (NOx), reactive organic gases (ROG), and particulate matter (PM). Moyer is implemented as a partnership between ARB and California's 35 air districts. ARB works collaboratively with the air districts and other stakeholders to set guidelines and ensure the program reduces pollution and provides cleaner air for Californians.

A variety of fees, largely from vehicle registration surcharges adopted by local air districts in "nonattainment" areas not meeting federal air quality standards, fees on new tires, and smog abatement fees go into the Air Pollution Control Fund (APCF) and fund the program. AB 2836 (E. Garcia), Chapter 355, Statutes of 2022 recently re-authorized the program through 2033. As of June 2021, the program has allocated $1.6 billion towards 69,900 projects, reducing over 200,000 tons of reactive organic gases and over 7,000 tons of particulate matter.

This bill extends the time that air districts have to disburse Moyer Program funds from four to six years. Under current law, after four years, funds are simply returned to the APCF, and ARB must still subsequently use those funds for the Moyer Program.

2) **Author's statement**:

> The Carl Moyer Program is a proven cost-effective clean air program administered by local air districts that provides incentives to private businesses and public agencies to voluntarily clean up older, dirtier vehicle and mobile off-road engines with cleaner-than-required engines, equipment and emission reduction technologies. It is the gold standard of incentive programs in California. However, current global economic trends have amplified the need for the Moyer program to be modernized. The economic impacts of the War in Ukraine, inflation, and supply chain issues have negatively impacted Air Districts' ability to operate this valuable program. By expanding liquidation time, we will ensure that California's air districts are able to continue successfully implementing this vital program.

3) **Double referral**. This bill passed the Transportation Committee by a vote of 15-0 on June 17.

REGISTERED SUPPORT / OPPOSITION:

Support

California Council for Environmental & Economic Balance
South Coast Air Quality Management District

Opposition

None on file

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: June 24, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1304(Limón) – As Amended April 10, 2024

SENATE VOTE: 28-10

SUBJECT: Underground injection control: aquifer exemption

SUMMARY: Requires the State Water Resources Control Board (State Water Board) to conduct an environmental review of a proposed aquifer exemption in accordance with the California Environmental Quality Act (CEQA) and to hold at least one public hearing during the environmental review. Authorizes the State Water Board, after meeting specified conditions, to submit the exemption proposal to the United States Environmental Protection Agency (US EPA).

EXISTING LAW, pursuant to federal law:

1) Requires the US EPA to protect as underground sources of drinking water, all aquifers and parts of aquifers which meet the definition of "underground source of drinking water," except to the extent there is an applicable aquifer. Authorizes the director of the US EPA to identify all aquifers or parts thereof to designate as exempted aquifers using the designated criteria. (40 Code of Federal Regulations (CFR) 144.7)

2) Provides that an aquifer or a portion thereof which meets the criteria for an "underground source of drinking water" may be determined to be an "exempted aquifer" if it meets the following criteria: (40 CFR 146.4)

    a) It does not currently serve as a source of drinking water;

    b) It cannot now and will not in the future serve as a source of drinking water;

    c) The total dissolved solids content of the groundwater is more than 3,000 and less than 10,000 milligrams per liter (mg/L) and it is not reasonably expected to supply a public water system; and,

    d) The areal extent of an aquifer exemption for a Class II enhanced oil recovery or enhanced gas recovery well may be expanded for the exclusive purpose of Class VI injection for geologic sequestration if it meets specified criteria.

3) Defines "Class II wells" as those wells which inject fluids that: (40 CFR 144.6)

    a) Are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

    b) For enhanced recovery of oil or natural gas; and,

    c) For storage of hydrocarbons which are liquid at standard temperature and pressure.

Persuant to state law:

1) Authorizes the Oil and Gas Supervisor of the Division of Geologic Energy Management (CalGEM) in the Department of Conservation to require an operator to implement a monitoring program, designed to detect releases to the soil and water, including both groundwater and surface water, for aboveground oil production tanks and facilities. (Public Resources Code (PRC) 3106)

2) Pursuant to the Underground Injection Control (UIC) Program, requires CalGEM to oversee underground injection projects and injection wells. (14 California Code of Regulations 1720.1 – 1748)

3) Requires, to ensure the appropriateness of a proposal by the state for an exempted aquifer determination subject to any conditions on the subsequent injection of fluids, and prior to proposing to the US EPA that it exempt an aquifer or portion of an aquifer pursuant to CFR 144.7, CalGEM to consult with the appropriate regional water quality control board and the State Water Board concerning the conformity of the proposal with specified conditions. (PRC 3131)

4) Provides that the State Water Board may seek primacy from the US EPA for UIC well classes other than those for wells under the supervision or regulation of CalGEM, as specified. (Water Code 13263.5)

5) Pursuant to CEQA: (PRC 21000-21189.70.10)

    a) Requires lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (EIR) 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.

    b) 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.

    c) Defines “project” as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following: an activity directly undertaken by any public agency; an activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; or, an activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

THIS BILL:

1) Requires a proposal by the state for an exempted aquifer pursuant to CFR 144.7 to additionally conform with the requirement that injection of fluids will not be in an area identified by the California Communities Environmental Health Screening Tool (CalEnviroScreen), as at risk for drinking water or groundwater threats.

2) Requires, if CalGEM proposes an aquifer exemption, all of the following apply:

   a) Requires CalGEM to consult with the appropriate regional water quality control board and the State Water Board.

   b) Requires the State Water Board to conduct an environmental review of the proposal in accordance with CEQA. In conducting the environmental review, requires the State Water Board to hold at least one public hearing, with a minimum 30 days' public notice.

   c) Requires, if the State Water Board concurs with the aquifer exemption proposal following the completion of the environmental review, the State Water Board, in coordination with CalGEM and the appropriate regional water quality control board, to, with a minimum of 30 days' public notice, provide a public comment period and conduct a public hearing.

3) Authorizes the State Water Board, following the hearing conducted, and a review of the public comments received, if the State Water Board finds that the aquifer exemption proposal complies with specified requirements, to submit the aquifer exemption proposal to the US EPA.

FISCAL EFFECT: According to the Senate Appropriations Committee, the State Water Board anticipates unknown, but potentially significant ongoing costs, likely in the millions of dollars annually (General Fund or Oil, Gas, and Geothermal Administrative Fund [OGGAF]) to perform CEQA environmental review for aquifer exemptions, to administer the aquifer exemption process instead of CalGEM and submit aquifer exemption proposals to US EPA, to hold hearings and receive public comment related to this process, to evaluate technology and perform well integrity testing, and to develop rules and regulations related to these activities. CalGEM estimates one-time costs about $1.2 million spread over two years (OGGA) to conduct necessary rulemaking.

COMMENTS:

1) **Author's statement**:

   Underground injection oil wells dispose of toxic waste water from the oil production process back into the ground. The water used in oil production also often comes from underground aquifers that are deemed unsuitable for drinking or public use by the state and the US EPA. Oil companies often seek exemptions from the state and US EPA to inject toxic waste water through aquifers that are used for drinking water, agriculture, and other beneficial uses. Injecting this waste can pose a potential path for the pollution to migrate into aquifers used for drinking water and can potentially cause serious harm to the public, including disadvantaged and vulnerable communities. The specific process of exempting an aquifer for injection does not go through a rigorous public environmental review and does not have a determination made publicly by the state.

   Requiring a higher level of state review ensures a comprehensive environmental analysis and provides the local public and vulnerable populations an opportunity

to voice concerns on how their drinking water may be affected by oil and gas production.

2) **Underground Injection Control Program**. Under the federal Safe Drinking Water Act (SDWA), the US EPA delegated primacy authority over oil and gas injection wells to the CalGEM UIC Program. The program is required to prevent the degradation of underground sources of drinking water (aquifers) where there are injection operations. An injection well is used to place fluid underground through layers of sedimentary rock and into rock formations considered impermeable where toxic fluids cannot migrate vertically or horizontally.

   The UIC Program processes aquifer exemption applications with the US EPA to remove an aquifer or a portion thereof from protection as an underground source of drinking water under the SDWA. When wastewater or other fluids associated with the extraction of oil or gas are injected into an aquifer, they can change the chemistry of and contaminate that aquifer. For this reason, SDWA criteria for injection specify that these wells cannot be into aquifers where the water quality is currently or may be considered in the future high enough to use as a source for drinking water. Class II wells should only be located in areas where there is not any potential use of the aquifer for drinking water.

   Since 2015, twenty-two aquifer exemptions in/around the state's oil and gas fields have been submitted to and approved by the US EPA. There are four aquifer exemption proposals currently pending.

   SB 1304 would require the State Water Board to conduct additional environmental review (discussed below) to provide greater opportunity for public input when evaluating possible exemptions. Provided that additional role and public process, the bill gives the State Water Board primacy for aquifer exemption review and submission for Class II wells.

3) **California Environmental Quality Act**. CEQA generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible. A lead agency will usually take the following three steps: (1) determine whether the project falls under a statutory or categorical exemption from CEQA; (2) if the project is not exempt, prepare an initial study to determine whether the project might result in significant environmental effects; and, (3) prepare a negative declaration, mitigated negative declaration, or EIR, depending on the initial study.

   CalGEM, with the State Water Boards' concurrence, proposed an expansion of the boundaries of an exempt aquifer in Arroyo Grande. Litigation brought by the Center for Biological Diversity sought to require environmental review under CEQA prior to the boundary expansion arguing that this recommendation to expand an exempted aquifer constituted "approval" of a "project" under CEQA.

   In the case of the Arroyo Grande aquifer expansion CEQA lawsuit, the court denied the petition that CalGEM's proposal to expand the boundaries of the exempt aquifer was a project and thus subject to CEQA. The court found that CalGEM only made a recommendation, and the US EPA had final approval authority over the aquifer exemption. The court also noted that an environmental review of proposed new injection wells led by the

County was suspended pending the outcome of the litigation. The US EPA approved the exempt aquifer expansion for Arroyo Grande in 2019.

This bill would specify that an aquifer exemption is a project under CEQA and require the State Water Board to be the lead agency. During the environmental review, the State Water Board, along with the appropriate regional water board, would be required to hold at least one public hearing allowing the public an opportunity to speak on the exemption proposal. The State Water Board would then make findings pursuant to CEQA and consistent with state aquifer exemption law before approving an exemption to be submitted to the US EPA.

According to the author, the bill makes the exemption proposal a separate project from the oil and gas operation project under CEQA, and argues that ensuring a more robust environmental review of the possibility of aquifer contamination will allow for a deeper understanding of how toxic waste being injected back into the ground can migrate into aquifers that are being used or will be used for drinking water.

CEQA already requires a public hearing as part of the process for the most intensive environmental review required in an EIR. The EIR is reserved for projects that have significant impacts on the environment that cannot be completely mitigated. However, projects that do not have significant impacts, or for which the impacts are fully mitigated, only require a negative declaration or mitigated negative declaration. In those instances, no public comment or hearings are required. It is unclear if the public hearing requirement in the bill would be supplemental to or consistent with the CEQA process.

Further, the state has conducted conduit analyses to assess potential fluid migration where a proposed aquifer exemption area is overlain by beneficial use aquifers. The author may wish to consider whether doing this analysis for exemptions, or making the outcome of the analyses publicly available when they are conducted, is more appropriate than requiring environmental review under CEQA.

4) **Environmental justice consideration**. This bill would prohibit any aquifer exemption in areas identified by CalEnviroScreen. SB 535 (De Leon), Chapter 830, Statutes of 2012, required the state to identify disadvantaged communities for the purpose of prioritizing climate investments, and the Office of Environmental Health Hazard Assessment subsequently developed the CalEnviroScreen, which uses existing environmental, health, and socioeconomic data to determine the extent to which communities across the state are burdened by and vulnerable to pollution. The tool uses such pollution burden indicators as criteria air pollutants, drinking water contamination, pesticides, toxic releases, groundwater, hazardous waste, impaired waters, and solid waste. The tool also considers income, high unemployment, low levels of homeownership, high rent burden, and low levels of educational attainment.

The author's intent with reference to CalEnviroScreen is to prevent further pollution burden on communities already identified as overly-burdened, socio-economically and environmentally. The Western States Petroleum Association, opposed unless the bill is amended, suggests instead to identify a community as having at least a 90% score under the CalEnviroScreen for drinking water or groundwater threats (in addition to other limiting criteria).

The State Water Board maintains an Aquifer Risk Map, which prioritizes areas where domestic wells and state small water systems may be accessing groundwater that does not meet primary drinking water standards. It also manages the SAFER Dashboard, which is a map illustrative of the current water systems failing the Human Right to Water state policy and the results of the Risk Assessment for California community water systems. The author may wish to work with the State Water Board to ascertain whether referencing these data in addition to or in lieu of CalEnviroScreen would be appropriate.

5) **Committee amendments**. The *Committee may wish to consider* the following amendments:

   a) Qualifying the reference to the CalEnviroScreen to reference the top third identified communities most pollution-burdened.

      (4) The injection of fluids will not be in an area identified in the 70th percentile or greater by the California Communities Environmental Health Screening Tool, also known as CalEnviroScreen, as at risk for drinking water or groundwater threats.

   b) Clarifying the public hearing requirement in Sec. 3131 (b)(2) is consistent with the existing public hearing processes under CEQA.

      (2) The state board shall conduct an environmental review of the proposal in accordance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)). ~~In conducting the environmental review, the~~ The state board shall hold ~~at least one~~ public hearing or hearings consistent with the public process requirements of CEQA~~, with a minimum 30 days' public notice~~.

REGISTERED SUPPORT / OPPOSITION:

Support

California Climate Reality Coalition
California Coastal Protection Network
California Democratic Party
Carpentaria Valley Association
Central Coast Alliance United for A Sustainable Economy
Channel Islands Restoration
Citizens Planning Association
Climate First: Replacing Oil & Gas
Climate Reality San Francisco Bay Area Chapter
Coastal Ranches Conservancy
Community Water Center
Community Environmental Council
Costal Fund
Environmental Defense Center
Environment California
Environmental Working Group
Facts Families Advocating for Chemical and Toxics Safety
Friends of The Earth
Friends of The River
Heal the Ocean
Los Padres Forestwatch
Natural Resources Defense Council
Santa Barbara Audubon Society
Santa Barbara County Action Network
See
Sierra Club California
Solano County Democratic Central Committee
Southern Steelhead Coalition
Sunflower Alliance
Surfrider Foundation, Santa Barbara Chapter
UCSB Environmental Law Club

Opposition

Western States Petroleum Association

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: June 24, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1308 (Gonzalez) – As Amended June 11, 2024

SENATE VOTE: 32-5

SUBJECT: Ozone: indoor air cleaning devices

SUMMARY: Requires the Air Resources Board (ARB) to adopt updated regulations to limit ozone emissions from indoor air cleaning devices, allowing an emissions concentration not greater than 5 parts per billion (ppb), replacing the current limit of 50 ppb.

EXISTING LAW requires ARB to develop and adopt regulations, consistent with federal law, to protect public health from ozone emitted by indoor air cleaning devices, including both medical and nonmedical devices, used in occupied spaces. Requires the regulations to include specified elements, including an emission concentration standard for ozone emissions that is equivalent to the federal ozone emissions limit for air cleaning devices (i.e., 50 ppb). (Health and Safety Code 41986)

THIS BILL:

1) Requires ARB to adopt regulations for indoor air cleaning devices limiting ozone emissions concentration to 5 ppb, to the extent consistent with federal law.

2) Requires the regulations to include a ban on the sale or the offering for sale in California of devices that exceed the 5 ppb emissions limit, even if previously certified, after a date determined by ARB, unless ARB determines an exemption applies.

3) Removes reference to (1) use of air cleaning devices in occupied spaces and (2) consistency with federal ozone emissions limits.

4) Makes related findings.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

1) **Background**. Indoor air cleaning devices are available as stand-alone portable appliances, as filters, or as devices installed in a building's heating, ventilation, and air conditioning (HVAC) system. There are two types of air cleaners: mechanical and electronic.

   Mechanical air cleaners use high-efficiency particulate air (HEPA) filters that need to be changed regularly and are estimated to eliminate 99.97% of dust, pollen, mold, bacteria, and any airborne particles with a size of 0.3 microns. In physically filtering such contaminants out of the air, no other chemical byproducts are produced.

   In contrast, electronic air cleaners use technologies such as ionizers, electrostatic

precipitators, photocatalytic oxidation, hydroxyl generators and ultra-violet (UV) lights to remove pollutants from the air. Some electronic air cleaners generate ozone.

Ozone is a reactive gas comprised of three oxygen atoms. While ozone high up in the atmosphere protects us from the sun's harmful UV rays, ozone at ground level can cause health problems such as coughing, chest tightness and shortness of breath. Exposure to ozone may both induce and worsen asthma symptoms and worsen lung disease; and chronic exposure may also increase the risk of premature death. Some consumer products and home appliances are designed to emit ozone, either intentionally or as a by-product of their function. Such devices can produce levels of ozone several times higher than health-based standards set for ozone.

In response to concerns about ozone production from electronic air cleaners, the Legislature passed AB 2276 (Pavley), Chapter 770, Statutes of 2006. Pursuant to AB 2276, ARB adopted a regulation to limit the amount of ozone produced from indoor air cleaning devices. All indoor air cleaners sold in, or shipped to, California must meet ARB's ozone emission and electrical safety standards. The regulation went into effect in 2008 and over 9,000 air cleaners from more than 800 different manufacturers have been certified by ARB for electrical safety and ozone emissions, which can be no greater than 50 ppb, consistent with the federal limit that has been in effect since before AB 2276.

In its regulation, ARB defines "indoor air cleaning device" as:

> (A)n energy-using product whose stated function is to reduce the concentration of airborne pollutants, including but not limited to, allergens, microbes (e.g., bacteria, fungi, viruses, and other microorganisms), dusts, particles, smoke, fumes, gases or vapors, and odorous chemicals, from the air entering or inside an enclosed space, (including but not limited to, rooms, houses, apartments, stores, offices, vehicles), and the air surrounding a person. Such devices include, but are not necessarily limited to, devices of any size intended for cleaning the air nearest a person, in a room of any size, in a whole house or building, or in a vehicle; and devices designed to be attached to or inserted into a window, wall, ceiling, post, duct, or other indoor surface; and personal air cleaning devices. (17 CCR 94801(a)(17))

2) **Author's statement**:

> About 1 in 7 Californians has been diagnosed with asthma, including nearly 12% of children in the state, resulting in 165,000 emergency department visits and 18,000 hospitalizations related to asthma each year. For communities with respiratory illnesses, minimizing exposure to air pollutants and harmful byproducts like ozone is crucial. Many of the individuals living with asthma and other respiratory illnesses rely on mechanical or electronic air cleaners to improve the air quality in their homes. Unfortunately, some electronic air cleaners release ozone as a byproduct of their operation. To ensure that the state's existing ozone emission standards for air cleaners are reflective of the latest scientific findings, researchers have recommend the state adopt a more stringent ozone emission standard for electronic air cleaners. Therefore, SB 1308 will direct ARB to adopt updated regulations that will reduce the allowable level of ozone emissions from air cleaners sold in California from 0.05 ppm to 0.005 ppm. In adopting a more stringent

ozone emission standard, the state will reduce harmful byproducts for vulnerable communities that are released by electronic air cleaners.

3) **What's the basis for 5 ppb**? This bill is unusual in that it establishes a specific, new emission standard, rather than referencing an existing standard, as AB 2276 did, or directing ARB to establish its own standard through a rulemaking process, which is the typical approach. The 5 ppb standard in this bill is derived from the following recommendation in a September 2023 UC Davis report "Air Pollutant Emissions and Possible Health Effects Associated with Electronic Air Cleaners."

   Additionally, we recommend California reduce ozone emissions from electronic air cleaners by requiring device compliance with UL 2998, a more stringent, already existing, ozone emission standard of 5 ppb. This would reduce the allowable indoor ozone emissions by an order of magnitude which would provide a direct health benefit and subsequently reduce secondary formaldehyde and ultrafine particle formation that is driven by ozone chemistry.

   The purpose of UL 2998 is to provide a voluntary commercial validation for air cleaners that achieve virtually "zero" ozone emissions. According to Underwriters Laboratories:

   Agencies like ARB require many products to show ozone emissions below 0.050 parts per million volume air concentration (ppm) or 50 parts per billion (ppb) respectively, as tested to UL 867, the Standard for Electrostatic Air Cleaners. However, many authorities recommend even lower ozone emission levels. For instance, the Environmental Health Committee of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) published a report suggesting safe ozone levels to be below ten ppb.

   Our Environmental Claim Validation program for Zero Ozone Emissions from Air Cleaners (UL 2998) was created to help manufacturers ensure their devices' ozone levels stay below the quantifiable limit of detection of 0.005 ppm (5 ppb). This value represents the most stringent criteria available today and is 1/10 of the regulatory requirement of 0.050 ppm (50 ppb) ozone.

   UL 2998 covers air cleaning products such as:

   - Standalone air cleaning devices (electrostatic air cleaners, electronic air purifiers, etc.)
   - Duct-mounted air cleaning devices like ionizers or UV lighting systems

   UL 2998 is recognized by leading authorities as:

   - Required for air cleaning devices by ASHRAE Standard 62.1-2019, Section 5.7.1
   - Recommended by the US EPA for devices that use bipolar ionization technologies
   - Recommended by CDC for air cleaning/disinfection devices that may produce ozone

4) **Weighing controlling ozone vs. controlling infection**. UV lights have been used to kill germs for decades. However, use of germicidal UV irradiation in the presence of people must

be limited due to concerns about adverse health effects, primarily to the eyes and skin. More recently, "far UVC" technologies have been developed using a wavelength in the range of 200-230nm that effectively kills germs, but is safer for regular human exposure. However, far UVC radiation creates a reaction with air that produces small concentrations of ozone.

Opposition to the bill comes from manufacturers of far UVC technologies, as well as several public health academics. Far UVC lamps' primary purpose is to kill germs, but nonetheless they are captured by the definition of indoor air cleaning device in the current ARB regulation. Their effective operation necessarily produces a small concentration of ozone, less than the current standard of 50 ppb, but potentially greater than 5 ppb. Opponents contend the application of a 5 ppb limit to far UVC devices will prevent their use in California, at the expense of controlling infectious diseases.

The author has declined the opposition's request for an exemption for far UVC technologies. The author indicates that ARB has certified numerous UV devices, such as 254 nm UV lamps which kill pathogens but do not create any ozone and are a viable alternative to 222 nm UV (i.e., far UVC) devices for use in medical clinics. It should be noted that 254 nm UV devices serve a different function than far UVC. It is not safe for people to be directly exposed to 254 nm UV radiation, so their use is limited to unoccupied rooms or the upper portion of occupied rooms.

REGISTERED SUPPORT / OPPOSITION:

Support

American Lung Association in California
Association of Home Appliance Manufacturers
Asthma and Allergy Foundation of America
Cleanearth4Kids.org
Community Action to Fight Asthma
Natural Resources Defense Council
Regional Asthma Management & Prevention
Sheet Metal Workers' Local Union 104 and 105

Opposition (unless amended)

1Day Sooner
Acuity Brands Lighting
Beacon
David Brenner, Director, Columbia University Center for Radiological Research
Eden Park Illumination
Edward Nardell, Harvard University, Division of Global Health Equity
Ernest Blatchley, Lyles School of Civil Engineering, Purdue University
International Ultraviolet Association
Karl Linden, University of Colorado, Boulder, Department of Civil, Environmental and Architectural Engineering
Kevin M. Esvelt, MIT Media Lab
Laura Kwong, University of California, Berkeley School of Public Health
Lit Thinking

Myna Life Technologies
Paula Olsiewski, Johns Hopkins Center for Health Security
Stephen Luby, Stanford School of Medicine
Ushio America
UVC Cleaning Systems

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: June 24, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1395 (Becker) – As Amended April 18, 2024

SENATE VOTE: 36-0

SUBJECT: Shelter crisis: Low Barrier Navigation Center: use by right: building standards

SUMMARY: Extends and expands existing California Environmental Quality Act (CEQA) exemptions for projects related to homeless shelters.

EXISTING LAW:

1) Requires, pursuant to CEQA, 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 action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000 *et seq*.)

2) Authorizes, pursuant to the Shelter Crisis Act (SCA), the Governor and local governing bodies to declare a shelter crisis. "Declaration of a shelter crisis" is defined as the duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. The SCA sunsets January 1, 2026. (Government Code (GC) 8698 *et seq*.)

3) Exempts, upon the declaration of a shelter crisis, actions by the state or a local government from CEQA related to:

    a) Leasing, conveying or encumbering land owned by a city, county, or city and county, or to facilitating the lease, conveyance or encumbrance of land owned by the local government for a homeless shelter constructed pursuant to the SCA; and

    b) Providing financial assistance to a homeless shelter constructed pursuant to the SCA. (GC 8698.4)

4) Requires by-right approval of a low-barrier navigation center (LBNC) if the development meets certain requirements. Defines a navigation center as low barrier if it includes best practices to reduce barriers to entry, such as allowing tenants to have partners, pets, possessions, and privacy. This by-right process sunsets on January 1, 2027. (GC 65662)

5) Exempts from CEQA a low barrier navigation center, supportive housing, and transitional housing for youth and young adults within the City of Los Angeles administered by the City of Los Angeles and by other local eligible public agencies. This exemption sunsets January 1, 2025. (PRC 21080.27)

THIS BILL:

1) Extends the sunset date of the Shelter Crisis Act (SCA) from January 1, 2026 to January 1, 2036.

2) Exempts from CEQA actions taken by a public agency to approve a contract for providing homeless services, including case management, resource navigation, security services, residential services, and counseling services

3) Deletes the 2027 sunset date on LBNC by-right approval.

4) Revises the definition of LBNC to clarify that a LBNC may be non-congregate and relocatable.

5) Provides that CEQA does not apply to any of the following activities by a local agency:

   a) An action to lease or facilitate the lease of land owned by the local agency for a LBNC;

   b) An action associated with a lease for a LBNC;

   c) An action to provide financial assistance to a LBNC;

   d) An action to construct or operate a LBNC; or

   e) An action to enter into a contract to provide services to a LBNC.

6) Expands the definition of "state programs" in existing law related to the California Interagency Council on Homelessness (Cal-ICH), requirements for state programs to comply with Housing First, and governance and data collection of state homelessness programs, to include any program a California state agency or department funds, implements, or administers for the purpose of providing emergency shelter or interim housing to people experiencing homelessness or at risk of homelessness.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

1) **Background**. The Legislature has passed a wide array of CEQA exemptions for residential projects, and more recently, specifically for shelters and other projects intended to address homelessness. Since 1978, CEQA has included statutory exemptions for housing. There are now at least 14 distinct CEQA exemptions for housing projects. The majority of residential projects are approved via exemption or negative declaration under CEQA, or through ministerial permits where CEQA does not apply. Some shelter projects (e.g., change in use of an existing facility) may not constitute a CEQA project. For those shelter projects that do meet the CEQA definition of a project, several existing residential exemptions may apply.

   In recent years, the Legislature has passed a patchwork of targeted CEQA exemptions for shelter-related projects, some for specific actions (i.e., motel conversion) and some for specific jurisdictions (i.e., Los Angeles, where CEQA challenges to shelter projects have

been most prominent). These specific exemptions have created the implication that other minor actions that have not been exempted by a specific statute are subject to CEQA.

2) **Author's statement**:

> California has fewer housing units affordable and available to households earning below 50 percent of Area Median Income than any other state, the fourth highest rate of homelessness and the highest rate of unsheltered homelessness in the nation. The longer unhoused residents go without shelter, the less likely they'll be able to return to self-sufficiency. As California invests in more permanent housing, more must be done to bring unsheltered people indoors and save lives.
>
> An innovative approach to sheltering people experiencing homelessness has been gaining momentum: non-permanent or relocatable housing communities built on underutilized vacant land. This burgeoning new solution is cost-effective, rapid, scalable, and provides a new tool for local governments to immediately address unsheltered homelessness while permanent housing is under construction.
>
> SB 1395 fills a consequential gap as California moves to end homelessness by empowering local governments who want to build interim housing to do so quickly and cost-effectively. With the development of more interim housing, we can put a roof over the heads of our unhoused neighbors to provide the security, stability, and dignity necessary to get our neighbors back on their feet.

3) **Related legislation**. SB 1361 (Blakespear) exempts actions taken by a local agency to approve a contract for providing homeless services, which is duplicated by two similar provisions in this bill that applies to contracts related to SCA shelters and LBNCs. SB 1361 passed this committee by a vote of 10-0 on June 10 and is pending in the Housing and Community Development Committee.

4) **Double referral**. This bill was approved by the Housing and Community Development Committee by a vote of 9-0 on June 12.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
California Apartment Association
California Travel Association
Catalyst Housing Group
City of Alameda
City of Goleta
City of San Jose
Community Solutions
DignityMoves
East Bay YIMBY
Eden Housing
Five Keys
Gensler

Grow the Richmond
Housing Action Coalition
Housing California
How to ADU
LeadingAge California
Mackenzie
MidPen Housing Corporation
Mountain View YIMBY
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
People for Housing Orange County
Progress Noe Valley
San Francisco Bay Area Planning and Urban Research Association
San Francisco International Airport
San Francisco Marin Medical Society
San Francisco YIMBY
San Luis Obispo YIMBY
San Mateo County Economic Development Association
Santa Clara Valley Water District
Santa Cruz YIMBY
Santa Rosa YIMBY
South Bay YIMBY
Southside Forward
Specialty Construction
Streets for People
Synbiobeta
Tim Lewis Communities
TMG Partners
United Way Bay Area
Urban Environmentalists
Ventura County YIMBY
YIMBY Action

Opposition

None on file

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /