

AMENDED IN SENATE JANUARY 11, 2024

AMENDED IN SENATE MARCH 22, 2023

SENATE BILL

No. 768

Introduced by Senator Caballero

February 17, 2023

An act to add ~~Section 21081.1 to the Public Resources Code, relating to environmental quality; and repeal Section 21099.5 of the Public Resources Code, relating to environmental quality.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 768, as amended, Caballero. ~~California Environmental Quality Act: vehicle miles traveled: statement of overriding consideration.~~ *California Environmental Quality Act: State Air Resources Board: vehicle miles traveled: study.*

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 (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. 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.

Existing law requires the Office of Planning and Research to prepare, develop, and transmit to the Secretary of the Natural Resources Agency for certification and adoption proposed revisions to guidelines establishing criteria for determining the significance of transportation

impacts of projects within transit priority areas to promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.

Existing law creates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards, to conduct research into the causes of and solution to air pollution, and to systematically attack the serious problem caused by motor vehicles, which is the major source of air pollution in many areas of the state. Existing law authorizes the state board to do those acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board.

This bill would require the state board, by January 1, 2026, to conduct and submit to the Legislature a study on how vehicle miles traveled is used as a metric for measuring transportation impacts pursuant to CEQA, as specified.

~~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 (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. 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 prohibits a public agency from approving or carrying out a project for which a certified EIR has identified one or more significant effects on the environment that would occur if the project is approved or carried out unless the public agency finds either (1) changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment, (2) those changes or alterations are within the jurisdiction of another public agency and have been, or can and should be, adopted by the other agency, or (3) specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR and the public agency finds that those specific considerations outweigh the significant effects on the environment; commonly known as a statement of overriding consideration.~~

~~This bill would provide that a public agency, in approving or carrying out a housing development project, as defined, a commercial project, or an industrial project, is not required to issue a statement of overriding consideration for significant effects on the environment identified by a project's vehicle miles traveled or similar metrics if the lead agency has imposed all feasible mitigation measures on the project and it finds no feasible alternatives to the project.~~

~~By imposing additional duties on the lead agency in determining the applicability of the provisions of the bill to a project, 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~~-no.

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

- 1 SECTION 1. Section 21099.5 is added to the Public Resources
- 2 Code, to read:
- 3 21099.5. (a) On or before January 1, 2026, the State Air
- 4 Resources Board shall conduct and submit to the Legislature a
- 5 study on how vehicle miles traveled is used as a metric for
- 6 measuring transportation impacts pursuant to the California
- 7 Environmental Quality Act.
- 8 (b) The study shall be conducted in collaboration with other
- 9 interested parties, including, but not limited to, all of the following:
- 10 (1) State agencies, such as the Transportation Agency, the
- 11 Department of Transportation, the Department of Housing and
- 12 Community Development, and the Office of Planning and Research.
- 13 (2) Local agencies, such as a council of governments,
- 14 metropolitan planning agency, or regional transportation planning
- 15 agency, on a volunteer basis.
- 16 (3) Academic and research institutions with demonstrated
- 17 expertise in transportation impacts and analyzing vehicle miles
- 18 traveled, on a volunteer basis.
- 19 (4) Industry organizations, on a volunteer basis.
- 20 (c) The study shall include all the following:

1 (1) A study on the impacts and implementation of the guidelines
2 described in paragraph (1) of subdivision (b) of Section 21099.

3 (2) An analysis of the methodology used to create vehicle miles
4 traveled reduction targets as part of a mitigation measure at the
5 local, regional, and statewide level.

6 (3) An analysis of how vehicle miles traveled impacts and
7 mitigation measures are identified, measured, and deployed at the
8 local, regional, and statewide level.

9 (4) An analysis of the differences in vehicle miles traveled
10 mitigation measures used in rural and urban areas.

11 (5) An analysis of the relationship between vehicle miles traveled
12 reduction, greenhouse gas emissions reduction, housing,
13 transportation, economic development, and equity.

14 (6) A review of the implications of an electrified mobility future
15 on vehicle miles traveled.

16 (d) (1) The study required to be submitted pursuant to this
17 section shall be submitted in compliance with Section 9795 of the
18 Government Code.

19 (2) Pursuant to Section 10231.5 of the Government Code, this
20 section is repealed on December 31, 2030.

21 **SECTION 1.** ~~Section 21081.1 is added to the Public Resources~~
22 ~~Code, to read:~~

23 ~~21081.1. (a) For purposes of this section, “project” means a~~
24 ~~housing development project, as defined in Section 65905.5 of the~~
25 ~~Government Code, a commercial project, or an industrial project.~~

26 ~~(b) Notwithstanding Section 21081, with respect to significant~~
27 ~~effects on the environment identified by a project’s vehicle miles~~
28 ~~traveled analysis or similar metrics, a public agency, in approving~~
29 ~~or carrying out a project, is not required to comply with paragraph~~
30 ~~(3) of subdivision (a) of, and subdivision (b) of, Section 21081 for~~
31 ~~those effects on the environment if both of the following are met:~~

32 ~~(1) The lead agency has imposed all feasible mitigation measures~~
33 ~~on the project for those effects.~~

34 ~~(2) The lead agency finds no feasible alternative to the project.~~

35 ~~(c) This section shall not be interpreted to affect the definition~~
36 ~~of “environment” set forth in Section 21060.5 or “significant effect~~
37 ~~on the environment” set forth in Section 21068.~~

38 **SEC. 2.** ~~No reimbursement is required by this act pursuant to~~
39 ~~Section 6 of Article XIII B of the California Constitution because~~
40 ~~a local agency or school district has the authority to levy service~~

1 charges, fees, or assessments sufficient to pay for the program or
2 level of service mandated by this act, within the meaning of Section
3 17556 of the Government Code.

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