The State Senate recently passed its version of CEQA reform. Having looked over the bill, it's much better than I feared. What seems to be the most important change is a move towards adopting standard setting in CEQA – i.e., making generalized determinations about what levels of certain kinds of impacts are "significant" such that full CEQA review is needed. As Ethan noted earlier, this has been a regular push on the part of industry and business, and he suspected that it might have been a Trojan horse for pushing fracking in California. (One version of this standard setting would have said that compliance with existing regulatory standards meant no significant impact – which would mean that for activities where there are not regulatory standards, such as much of fracking in California, there might have been no detailed CEQA review.)

The version of standard setting the Senate passed is much more narrowly drawn: First, it only applies to "infill" projects that are close to major transit centers. Second, it only applies to traffic, noise, and parking impacts of those projects. Third, the standards would be set by the Office of Planning and Research, which has traditionally done CEQA guidance, rather than the regulatory agencies. Fourth, it doesn't prevent local governments from setting stricter standards that might require more CEQA review. Finally, the bill would completely eliminate consideration of aesthetic impacts for infill projects.

I have some mixed feelings about these changes. On the one hand, I've expressed concern before about creating special passes for certain kinds of projects – concern that it may eventually lead to the gutting of CEQA as a whole. On the other hand, I've never been a big fan of how large a role traffic, noise, parking, or aesthetic impacts play in CEQA. These are often the claims that are most susceptible to abuse by project opponents, and generally it's not clear to me that consideration of these impacts leads to better environmental outcomes. (e.g., one solution to traffic impacts is to build more roads!) They certainly seem to me to be less important than pollution or natural resource impacts that should be at the heart of CEQA review. In fact, I could be persuaded to take a much more drastic approach to scale back consideration of these impacts in CEQA.

But that might create a political problem. It's also plausible to me that, for the average voter, it is the traffic, noise, parking, or aesthetic impacts that matter most to them about whether a local project is built or not. If CEQA can't help in assessment and consideration of those impacts, and instead only addresses pollution or natural resource impacts, it's possible the average voter might think that CEQA isn't that useful, and the (generally strong) political support for the Act

might wane.

So perhaps the Senate bill revisions are a useful compromise. Though I am concerned that we’ll see still more push for CEQA “reform” in the future, with much more problematic versions of standard setting that apply to a wider range of resources. The current bill disclaims any intent by the legislature to do that, but of course a future legislature can do whatever it wants….