

This is a second in a series of blog posts on the California Chamber of Commerce's proposed ballot initiative amending the California Environmental Quality Act (CEQA). The first blog post is [here](#).

The CEQA initiative [proposed by the California Chamber of Commerce](#) has some reassuring words about its nature and scope. First, proposed new Section 21014(a) states that the initiative “does not diminish the authority of any public agency to approve or disapprove an essential project. No outcomes on any proposed essential project are preordained by this chapter.” Proposed new Section 21014(b) also states that the initiative “does not exempt any essential project from environmental review under this division or any other law.” And proposed new Section 21011(h) states that the initiative “maintains state and federal clean air, clean water, and environmental protection laws such as the Endangered Species Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Clean Water Act, the Clean Air Act, the Environmental Quality Improvement Act, the Global Warming Solutions Act, the California Coastal Act, and the Resource Conservation and Recovery Act. This chapter will help build the projects needed to make California more affordable-without repealing these laws that keep families and the environment safe.”

Those statements are at the least in deep conflict with other provisions of the initiative, and are plausibly false and misleading.

That's because other provisions of the initiative make clear that this initiative is to be broadly interpreted, and overrides any other conflicting laws.

First, consider proposed new Section 21014(e)(1), which provides that “[t]o the extent a conflict exists between this chapter and any other law, this chapter shall be controlling.” Thus, if there is a conflict between this initiative and state water quality law, state air quality law, the California Endangered Species Act, or any other statute, this initiative wins.

And this statute is to be broadly interpreted. Proposed new Section 21029 states that the initiative “should be interpreted and implemented to afford the fullest possible weight to the interest of, and the approval and realization of, essential projects.” If in doubt, projects should be approved. Thus, even if the initiative were potentially susceptible of an interpretation to avoid a conflict with another law, it should not be interpreted in that manner if that would advance approving a project, and even if it would result in overriding another state law. Indeed, proposed new

Section 21015(b) makes this point clear: “To the extent that an ambiguity arises regarding how this chapter might operate in conjunction with other provisions of law, the policies and intent set forth in Section 21029 shall be controlling.”

As we will see, this will matter a lot, since the initiative fundamentally changes how government agencies make decisions in approving projects – not just under CEQA, but for all state laws. Thus, the claim that the initiative “does not diminish the authority of any public agency to approve or disapprove an essential project” is wrong – in fact, there are important ways in which this statute does change government agency discretion.

The broad construction, and overriding of conflicting laws, will be important principles to keep in mind as I work through how to interpret the initiative and potentially apply it. Given those provisions, even merely plausible interpretations of the language might be followed by agencies and courts, producing much more sweeping change than a superficial reading of the initiative would indicate.