

# VINCE FONG

MEMBER FOR THE 32ND ASSEMBLY DISTRICT



## FACT SHEET

### AB 340 – CEQA Late Hit Reform

#### IN BRIEF

Opponents of building projects often use a last-minute tactic to stall a proposal. Assembly Bill 340 remedies the late hit and document dumping issue prevalent in California Environmental Quality Act (CEQA) hearings. Through requiring that all documentation of an alleged CEQA noncompliance issue is presented at least 10 days before a hearing to be included in the public record, this allows for greater transparency and diligence from both the lead agencies and the project opponents.

#### BACKGROUND & ISSUE

“Late hits” refer to when a project opponent in CEQA hearings present extensive research and unreasonably high volumes of written comments at –or shortly before– the final hearing for a project proposal requiring approval under CEQA. Lead agencies are unable to parse through all of this information in time for a hearing, which does not allow them the opportunity to provide a rebuttal or even a chance to remedy the issues provided in the late hit reports.

Public comment periods are a necessary part of the CEQA project approval process as it allows for feedback to be presented during these project hearings to ensure that CEQA is not being violated and that these projects truly do meet all compliance standards. But, while public comment allows for democracy and community involvement in these projects, it is often abused and misused to stall or stymie a project that could provide real community benefits.

The last minute submission of documents, comments, and research abuses the processes required for CEQA hearings. It allows for a few people or disingenuous interests to derail a project in an anti-democratic way shrouded in smoke and mirrors with ill-intent. Extensive late hits are detrimental to CEQA litigation and cause a domino effect of slowing down projects and not allowing for vital projects to continue. Late hits are not designed to provide substantive feedback, but instead entirely upend proposals and the CEQA hearing process

by flooding reviewers with mountains of meaningless information and data.

Late hits increase the likelihood of CEQA lawsuits because the lead agencies are not provided an opportunity to remedy their proposal or provide rebuttals to the project opponents. This causes projects to inevitably restart the CEQA process for the same project, which often halts much-needed development. This “late hit” abuse of the CEQA system is counterproductive to the housing needs of Californians.

CEQA public comment periods should allow for the lead agency to analyze and respond or even incorporate relevant feedback into their proposal. This loophole must be closed so that CEQA hearings may incorporate transparency and allow for prudent collaboration between lead agencies and project opponents.

#### SOLUTION

AB 340 will prevent a project opponent from gaining standing to sue unless he or she presented the alleged CEQA issue during the public comment period for the project proposal’s hearing. By preventing late hits, this process will be streamlined and provide a fair opportunity for a lead agency to provide rebuttals or alter their proposal in an effort to incorporate public feedback. The 10 day period will allow for proper review and debate over proposed projects, which will allow for CEQA to be more effective in communities across California.

#### SUPPORT

Pending

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