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PERSPECTIVE

## GUEST COLUMN

## Little Hoover Commission's recommendations undermine fundamental CEQA protections

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The Little Hoover Commission's recent report, "CEQA: Targeted Reforms for California's Core Environmental Law," proposes to amend the California Environmental Quality Act (CEQA) in six areas and recommends "in-depth studies" of several others. While the Commission notes that California has "incalculably benefited from CEQA," the report's specific proposals would make fundamental changes to the law, dangerously undermining CEQA's protections for communities and the environment.

The Little Hoover Commission's charge is to perform the difficult task of collecting facts—hard evidence, verifiable data—to identify specific problems to be solved through legislative action. Here, the Commission failed to perform that function: not only are the report's proposals to weaken CEQA unsupported by credible evidence, but in some cases, the report's own facts and analysis contradict its recommendations.

The report characterizes its "reforms" as "targeted and limited," measures that would "improve the functioning of CEQA ... without sacrificing necessary environmen-

tal protections." The public should not be fooled. The proposed amendments would dismantle key elements of CEQA, weakening environmental review requirements and threatening communities' ability to enforce the law in court. Further, the report recommends these changes even while acknowledging "[o]ften CEQA's protections have been most profound in the most disadvantaged and vulnerable communities, where negative environmental impacts have often been the greatest in the past." Why would the Legislature choose to weaken CEQA when the state's vulnerable residents most need its protections?

Five "reforms" exemplify the Commission's determination to roll back longstanding CEQA protections.

First, the report proposes a new limitation on plaintiffs' "standing" in CEQA cases, a restriction that does not apply to any other public interest litigation in the state. If adopted, this proposal would have a chilling effect on meritorious CEQA claims, closing the courthouse doors to many community members seeking to enforce law. Tellingly, the report includes no specific analysis or findings to explain the need for this drastic change.

Second, the report recommends an extreme proposal to restrict the public's right to comment on environmental documents; the restriction would apply to any project, no matter how destructive. This proposal would undercut CEQA's longstanding guarantee of public participation in the land use process—a hallmark of the law. Frontline communities already overburdened by pollution would be prevented from speaking out against harmful developments. The purpose of public comments on envi-

ronmental documents is to provide lead agencies input from stakeholders on the ground. Community voices help improve projects, not stop them.

Third, the report proposes a new, "simplified" exemption for all housing on sites that are at least three quarters surrounded by existing urban uses, "with no conditions or qualifications." If adopted, this change would represent a radical departure from the Legislature's previous approach

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to CEQA exemptions. Unlike previous legislation, this exemption would include no requirements to protect natural and cultural resources and no condition that some housing units be affordable. Nor would the exemption include any restrictions on the location or size of the project or any other safeguard against urban sprawl, thus significantly undercutting California's policies to address climate change. Indeed, the "simplified" measure would be broader than any housing exemption ever enacted by the Legislature.

Remarkably, the report does not attempt to explain the need for this extreme measure. Instead, it concedes the Legislature has already adopted broad new exemptions for housing in 2023, and opines that "the state should wait to measure the success of recent reforms before embarking on major addi-

tional changes." The Legislature should follow this advice, taking the time to assess how existing exemptions are working—and their possible pitfalls—before adopting new ones. They should also focus on the *real* impediments to housing production, such as high land and construction costs, high interest rates, developers timing the market, and lack of subsidies for affordable housing. Additional proposals to exempt housing from CEQA review will not solve the housing crisis because—as multiple experts have found—CEQA didn't cause the crisis in the first place.

Fourth, the report recommends that the Legislature study a proposal requiring plaintiffs to post bonds when filing CEQA challenges to certain types of development projects. This extreme proposal would effectively do away with CEQA enforcement for such projects, as non-

profit organizations, who already bear a heavy financial burden in bringing CEQA actions, could not afford the risk of paying the bond if they lose. Citizen suits are the primary driver behind CEQA enforcement, with the Attorney General bringing enforcement actions only rarely. Thus, where bond requirements are imposed, CEQA could be violated with impunity.

Fifth, the report recommends that the Legislature study a proposal that would permit lead agencies to "lock in" analytical models for "some reasonable period" regardless of any new scientific information that might emerge. This proposal is misguided. Allowing agencies to approve development projects based on obsolete science or discredited data undermines effective decision-making and threatens California's environment. Again, the report provides no justification

for this dangerous proposal. In particular, it does not document its claim that agencies must "throw out" analyses when new modeling options become available.

These proposals, long sought by the building industry, are not targeted "reforms," but major alterations to CEQA's essential components. If they are implemented, Californians will lose the vital protections that CEQA has provided for half a century. Projects that threaten public health and/or natural resources could go forward without transparency and mitigation—exactly the problem CEQA was designed to address. Environmental justice organizations and other vulnerable California residents would suffer the most. Because the report never makes a case for such a drastic transformation, the Legislature should view it with great skepticism.