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**AB-35 California Environmental Quality Act: clean hydrogen transportation projects.** (2025-2026)

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AMENDED IN ASSEMBLY APRIL 21, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

**ASSEMBLY BILL**

**NO. 35**

Introduced by Assembly Member Alvarez

*(Coauthors: Assembly Members Ávila Farías, Carrillo, Mark González, Gipson, McKinnor, Nguyen, Pacheco, Michelle Rodriguez, Blanca Rubio, and Ta)*

*(Coauthors: Senators Archuleta and Grayson)*

December 02, 2024

An act to add and repeal Chapter 5.2 (commencing with Section 21162) of Division 13 of the Public Resources Code, relating to environmental quality.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 35, as amended, Alvarez. California Environmental Quality Act: clean hydrogen transportation projects.

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 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.

This bill would provide for limited CEQA review of an application for a discretionary permit or authorization for a clean hydrogen transportation project, as defined, by requiring the application to be reviewed through a clean hydrogen environmental assessment, unless otherwise requested by the applicant, as prescribed. The bill would, except as provided, require the lead agency to determine whether to approve the clean hydrogen environmental assessment and issue a discretionary permit or authorization for the project no later than 270 days after the application for the project is deemed complete. ~~The bill would require an action or proceeding brought to attack, review, set aside, void, or annul the approval of a clean hydrogen environmental assessment or the issuance of a discretionary permit or authorization for a clean hydrogen transportation project, including any potential appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.~~ By imposing new duties on a lead agency, this bill would create a state-mandated local program. The bill would repeal these provisions on January 1, 2036.

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 Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Chapter 5.2 (commencing with Section 21162) is added to Division 13 of the Public Resources Code, to read:

### CHAPTER 5.2. Clean Hydrogen Transportation Projects

**21162.** For purposes of this chapter, "clean hydrogen transportation project" means a pipeline project composed of a system that transports hydrogen, and any associated facilities necessary for the system's operation, that meets all of the following criteria:

- (a) The project ~~has received funding from the state or federal government on or before January 1, 2032, or~~ *or a component of the project* has been included in an Alliance for Renewable Clean Hydrogen Energy Systems hydrogen hub application to the United States Department of Energy.
- (b) The transported hydrogen does not use fossil fuel as the feedstock or energy source for its production.
- (c) The project meets the labor and workforce requirements described in Sections 25545.3.3 and 25545.3.5.
- (d) The project will result in the minimum investment required of an environmental leadership development project pursuant to subdivision (a) of Section 21183.
- (e) The project will meet the greenhouse gas reduction requirements applicable to an environmental leadership development project described in subdivision (c) of Section 21183. For purposes of this section, reductions in emissions of greenhouse gases by users of the clean hydrogen transported by the project shall be accounted for in calculating whether the project will lead to reductions in emissions of greenhouse gases.
- (f) The project will lead to operational reductions in the emissions of ~~criteria pollutants;~~ *oxides of nitrogen*, including reductions ~~generated by users of the~~ *caused by the replacement of fuels used by end users with* clean hydrogen transported by the project.
- (g) For linear projects, 25 percent or more of the linear infrastructure will be constructed within a previously disturbed corridor.
- (h) The project applicant has entered into the agreement required of an environmental leadership development project pursuant to subdivision (e) of Section 21183.

**21162.1.** (a) Within 30 days of the submission of the application for a discretionary permit or authorization for a clean hydrogen transportation project, the lead agency shall review the application and make a determination of completeness.

(b) The lead agency may require the applicant to submit additional information, documents, or data deemed reasonably necessary to prepare the clean hydrogen environmental assessment for the application and to make a decision on the application. The lead agency shall also require the applicant to submit additional information requested by trustee agencies for the purposes of supporting a decision on the application and the clean hydrogen environmental assessment. The lead agency shall transmit the request for additional information within 30 days of the submission of the application.

(c) An application is deemed to be complete when either of the following occurs:

(1) Thirty days after the submission of the application, if the lead agency does not require the submission of additional information pursuant to subdivision (b).

(2) Immediately upon acceptance of the additional information requested by the lead agency pursuant to subdivision (b), if the lead agency requires the submission of additional information pursuant to subdivision (b).

(d) The lead agency may request additional information from the applicant to address comments by public agencies on the scope and content of the information required to be included in a clean hydrogen environmental assessment for a discretionary permit or authorization. The applicant shall provide the requested information to the lead agency within 30 days of receiving the request.

(e) (1) Except as provided in paragraph (2), no later than 270 days after the application is deemed complete, or as soon as practicable thereafter, the lead agency shall determine whether to approve the clean hydrogen environmental assessment pursuant to Section 21162.2 and to issue a discretionary permit or authorization for the clean hydrogen transportation project.

(2) Paragraph (1) does not apply, and the time to approve the clean hydrogen environmental assessment pursuant to Section 21162.2 or issue a discretionary permit or authorization for the clean hydrogen transportation project may be extended if one or more of the following occurs:

(A) Substantial changes are proposed in the project that may involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

(B) Substantial changes occur with respect to the circumstances under which the clean hydrogen transportation project is undertaken that may involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

(C) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence before the lead agency publishes the draft of the clean hydrogen environmental assessment pursuant to Section 21162.2, is submitted that may require additional analysis and consideration.

(D) The lead agency, in consultation with the Department of Fish and Wildlife or the State Water Resources Control Board, if applicable, determines that additional time is necessary to obtain information and conduct surveys, including due to seasonal constraints.

(f) Responsible agencies shall take final action on the clean hydrogen transportation project within 90 days after the approval by the lead agency of the clean hydrogen environmental assessment for the clean hydrogen transportation project if the applicant has filed a complete, final application for a permit or authorization, as applicable, with those agencies before the approval of the clean hydrogen environmental assessment.

**21162.2.** Notwithstanding any other provision of this division, an application for a discretionary permit or authorization for a clean hydrogen transportation project shall be reviewed through a clean hydrogen environmental assessment, unless otherwise requested by the applicant, as follows:

(a) An initial study shall be prepared to identify all significant or potentially significant impacts of the clean hydrogen transportation project. A clean hydrogen transportation project's potential cumulative effects shall not be treated as cumulatively considerable for purposes of this subdivision and do not need to be analyzed.

(b) The clean hydrogen environmental assessment is not required to analyze alternatives.

(c) The clean hydrogen environmental assessment shall contain measures that, to the extent feasible, either avoid or mitigate to a level of insignificance potentially significant or significant effects of the project required to be identified in the initial study.

(d) The clean hydrogen environmental assessment shall include an environmental justice assessment that identifies where potential significant or disproportionate impacts exist and suggests strategies, designs, or actions to mitigate those impacts.

(e) A draft of the clean hydrogen environmental assessment shall be circulated for public comment for a period of not less than 30 days. Notice shall be provided in the same manner as required for an environmental impact report pursuant to Section 21092.

(f) Before acting on the clean hydrogen environmental assessment, the lead agency shall consider all comments received.

(g) A clean hydrogen environmental assessment may be approved by the lead agency after conducting a public hearing, reviewing the comments received, and finding both of the following:

(1) All potentially significant or significant effects required to be identified in the initial study have been identified and analyzed.

(2) With respect to each significant effect on the environment required to be identified in the initial study, ~~either~~ any of the following apply:

(A) Changes or alterations have been required in or incorporated into the project that avoid or mitigate the significant effects to a level of insignificance.

(B) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

*(C) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures identified in the clean hydrogen environmental assessment.*

(h) The lead agency's decision to approve a clean hydrogen environmental assessment and issue a discretionary permit or authorization to a clean hydrogen transportation project shall be reviewed under the substantial evidence standard.

~~21162.3. If a lead agency fails to comply with the timeframes provided in Section 21162.1, the lead agency shall be deemed to have fulfilled the requirements of this division with respect to the approval of the clean hydrogen environmental assessment.~~

~~21162.4.(a) An action or proceeding brought to attack, review, set aside, void, or annul the approval of a clean hydrogen environmental assessment or the issuance of a discretionary permit or authorization for a clean hydrogen transportation project, including any potential appeals to the court of appeal or the Supreme Court, shall be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.~~

~~(b) On or before December 31, 2026, the Judicial Council shall adopt a rule of court to implement this section.~~

~~21162.5.~~ **21162.3.** This chapter shall remain in effect only until January 1, 2036, and as of that date is repealed.

**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.