



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

June 13, 2018

Hon. Bob Wieckowski, Chair
Senate Environmental Quality Committee
State Capitol, Room 4085
Sacramento, California 95814

Subject: AB 2267 (Wood), as amended June 11, 2018 – Oppose
Hearing: Senate Environmental Quality Committee – June 20, 2018

Dear Senator Wieckowski:

The Judicial Council is opposed to AB 2267. This bill, among other things, requires the Judicial Council, on or before July 1, 2019, to amend certain rules of court to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of the certification of an environmental impact report or the adoption of a negative declaration or mitigated negative declaration for the adoption or amendment of a specified plan in the City of Santa Rosa (referred to as the “RED Area Plan”). AB 2267 requires the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings.

It is important to note that the Judicial Council’s concerns regarding AB 2267 are limited solely to the court impacts of this legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the specific plan covered by the bill, as those issues are outside the council’s purview.

AB 2267’s requirement that any CEQA lawsuit challenging the plan covered by the bill, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference in

Hon. Bob Wieckowski

June 13, 2018

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both the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

Second, the expedited judicial review for the specific plan covered by AB 2267 will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has historically opposed, setting an extremely tight timeline for deciding this particular type of case has the practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide. Moreover, delays in the administration of justice that would likely result from any expansion of this expedited judicial review approach would be even more pronounced in light of the ongoing fiscal limitations faced by the judicial branch.

Finally, providing expedited judicial review for the specific plan covered by AB 2267 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

For these reasons, the Judicial Council opposes AB 2267.

Should you have any questions or require additional information, please contact Daniel Pone at 916-323-3121.

Sincerely,

Mailed June 13, 2018

Cory T. Jasperson
Director, Governmental Affairs

CTJ/DP/jh

cc: Members, Senate Environmental Quality Committee
Hon. Jim Wood, Member of the Assembly
Ms. Rachel Machi Wagoner, Chief Consultant, Senate Environmental Quality Committee
Mr. Morgan Branch, Consultant, Senate Republican Office of Policy
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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TANI G. CANTIL-SAKAUYE
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MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

June 22, 2018

Hon. Hannah-Beth Jackson, Chair
Senate Judiciary Committee
State Capitol, Room 2032
Sacramento, California 95814

Subject: AB 2267 (Wood), as amended June 11, 2018 – Oppose
Hearing: Senate Judiciary Committee – June 26, 2018

Dear Senator Jackson:

The Judicial Council is opposed to AB 2267. This bill, among other things, requires the Judicial Council, on or before July 1, 2019, to amend certain rules of court to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of the certification of an environmental impact report or the adoption of a negative declaration or mitigated negative declaration for the adoption or amendment of a specified plan in the City of Santa Rosa (referred to as the “RED Area Plan”). AB 2267 requires the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings.

It is important to note that the Judicial Council’s concerns regarding AB 2267 are limited solely to the court impacts of this legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the specific plan covered by the bill, as those issues are outside the council’s purview.

AB 2267’s requirement that any CEQA lawsuit challenging the plan covered by the bill, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference in

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both the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

Second, the expedited judicial review for the specific plan covered by AB 2267 will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has historically opposed, setting an extremely tight timeline for deciding this particular type of case has the practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide. Moreover, delays in the administration of justice that would likely result from any expansion of this expedited judicial review approach would be even more pronounced in light of the ongoing fiscal limitations faced by the judicial branch.

Finally, providing expedited judicial review for the specific plan covered by AB 2267 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

For these reasons, the Judicial Council opposes AB 2267.

Should you have any questions or require additional information, please contact Daniel Pone at 916-323-3121.

Sincerely,

Mailed June 22, 2018

Cory T. Jaspersen
Director, Governmental Affairs

CTJ/DP/jh

cc: Members, Senate Judiciary Committee
Hon. Jim Wood, Member of the Assembly
Mr. Christian Kurpiewski, Consultant, Senate Judiciary Committee
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

August 23, 2018

Hon. Jim Wood
Member of the Assembly
State Capitol, Room 6005
Sacramento, California 95814

Subject: AB 2267 (Wood), as amended August 22, 2018 – Oppose

Dear Assembly Member Wood:

The Judicial Council regrets to inform you of its continued opposition to AB 2267. This bill, among other things, requires the Judicial Council, on or before July 1, 2019, to amend certain rules of court to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of the certification of an environmental impact report or the adoption of a negative declaration or mitigated negative declaration for the adoption or amendment of a specified plan in the City of Santa Rosa (referred to as the “RED Area Plan”). AB 2267 requires the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings. It is important to note that the Judicial Council’s concerns regarding AB 2267 are limited solely to the court impacts of this legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the specific plan covered by the bill, as those issues are outside the council’s purview.

AB 2267’s requirement that any CEQA lawsuit challenging the plan covered by the bill, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference in both the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

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Second, the expedited judicial review for the specific plan covered by AB 2267 will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has historically opposed, setting an extremely tight timeline for deciding this particular type of case has the practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide. Moreover, delays in the administration of justice that would likely result from any expansion of this expedited judicial review approach would be even more pronounced in light of the ongoing fiscal limitations faced by the judicial branch.

Finally, providing expedited judicial review for the specific plan covered by AB 2267 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

For these reasons, the Judicial Council opposes AB 2267.

Sincerely,

Mailed August 23, 2018

Daniel Pone
Attorney

DP/jh

cc: Hon. Jim Wood, Member of the Assembly
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California