



April 22, 2022

Senator Ben Allen
Chair, Senate Standing Committee on Environmental Quality
1021 O Street, Suite 3230
Sacramento, California 95814

Re: SB 1410 (Caballero et al.): OPPOSE

Dear Chair Allen:

On behalf of the Council of Infill Builders, a statewide organization of real estate professionals committed to improving California through infill development, I am writing to oppose SB 1410.

The Council of Infill Builders is dedicated to championing policies that make high-quality, transit-oriented infill development easier, cheaper and faster to build for our members. As a result, the organization was a strong supporter of SB 743 (Steinberg, 2013), which corrected problems with the traditional transportation impact analysis under the California Environmental Quality Act (CEQA). The original “Level of Service” (LOS) metric only considered automobile capacity, meaning any mitigation involved adding more automobile capacity. Infill development was uniquely harmed by this metric, given vehicle capacity limitations in many urban infill areas.

SB 743 instead deleted LOS in favor of a vehicle miles traveled (VMT) metric, finally enacted by regulation in 2020. VMT corrected the LOS problem by crediting infill projects for reducing overall vehicle miles traveled, rather than penalizing them for being built in already-congested but climate-friendly infill locations. For projects in high VMT zones, mitigation could include potential multi-modal transportation options and, more recently, the potential for investment in off-site transit-friendly solutions in infill areas through mitigation banks or exchanges.

SB 1410 now seeks to undo this important policy framework that benefits infill and requires traffic-inducing projects to mitigate VMT impacts. The bill would require CEQA review of transportation impacts to solely consider greenhouse gas emissions, an impact CEQA already requires under other provisions of the law, such as air quality. More significantly, SB 1410 fundamentally misunderstands transportation impacts as solely about tailpipe emissions, rather than the impact that traffic congestion and automobile dependence has on affordability, equity, and the ability to build transit-oriented, walkable, bikeable and convenient infill neighborhoods.

SB 1410 also now features a patchwork approach that is inequitable and unworkable. The current version of the bill would eliminate transportation-specific analysis under CEQA for all areas outside of transit priority areas (TPAs), except for air quality, noise, safety, “or any other impact associated with transportation.” As a result, one regime for transportation analysis under CEQA would apply potentially on one side of a street or community outside of the TPA, while a different approach would apply within. Yet transportation impacts occur regionally and should be analyzed as such. If a development significantly increases overall driving miles across a region, under CEQA that project should incorporate feasible mitigation for those impacts, regardless of TPA boundaries.

Proponents of the bill assert that VMT regulation is adding to the costs of housing. But that cost only occurs if a project significantly increases overall driving miles, such as if it is built in non-infill areas far from jobs, services and alternative mobility options. Overall, the cost of development in high-opportunity, transit-oriented infill areas will decrease because these low-VMT areas are already largely exempt from conducting transportation impact

analysis under SB 743, lowering their environmental review costs and litigation risks. In addition, mitigation from VMT-increasing projects can be used to reduce costs for low-VMT infrastructure and housing, particularly through the use of mitigation banks or exchanges, now under development in many jurisdictions, which will facilitate off-site VMT reduction.

SB 743 was a transformative law for infill development, and implementation is still new and ongoing. Any difficulties with this process should be addressed administratively first. Otherwise, the legislature risks intervening prematurely to undo an otherwise critical infill-friendly framework. SB1410 would therefore be a misguided step backward for California's land use approach, and we respectfully ask for a no vote.

Sincerely,

A handwritten signature in black ink, appearing to read "Curt Johansen", with a long horizontal flourish extending to the right.

Curt Johansen
President, Council of Infill Builders