



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

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Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

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

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

June 8, 2018

Hon. Sydney Kamlager-Dove
Member of the Assembly
State Capitol, Room 4015
Sacramento, California 95814

Subject: AB 987 (Kamlager-Dove), as amended June 7, 2018 – Oppose

Dear Assembly Member Kamlager-Dove:

The Judicial Council regrets to inform you of its opposition to AB 987. 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 an environmental impact report and approvals granted for a project related to the development of a specified sports and entertainment project in the City of Inglewood. It requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings.

AB 987 also prohibits the court from staying or enjoining the construction or operation of the Inglewood sports and entertainment project unless the court finds either of the following: (i) the continued construction or operation of the project presents an imminent threat to the public health and safety; or (ii) the project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the project unless the court stays or enjoins the construction or operation of the project. The bill specifies further that if the court finds that either of the above criteria is satisfied, the court shall only enjoin those specific activities associated with the project that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.

It is important to note that the Judicial Council's concerns regarding AB 987 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the proposed sports and entertainment project covered by the legislation, as those issues are outside the council's purview.

AB 987's requirement that any CEQA lawsuit challenging the Inglewood sports and entertainment project, 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.

Second, the expedited judicial review for the specific project covered by AB 987 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.

Third, providing expedited judicial review for the specific project covered by AB 987 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.

Finally, the provision in AB 987 that significantly limits the forms of relief that the court may use in any action challenging the specific project covered by this bill interferes with the inherent authority of a judicial officer and raises a serious separation of powers question.

For these reasons, the Judicial Council opposes AB 987.

Sincerely,

Mailed June 8, 2018

Daniel Pone
Attorney

DP/jh

cc: Ms. Rachel Machi Wagoner, Chief Consultant, Senate Environmental Quality Committee
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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CORY T. JASPERSON
Director, Governmental Affairs

June 14, 2018

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

Subject: AB 987 (Kamlager-Dove) as amended June 7, 2018 – Oppose
Hearing: Senate Environmental Quality Committee – June 20, 2018

Dear Senator Wieckowski:

The Judicial Council is opposed to AB 987. 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 an environmental impact report and approvals granted for a project related to the development of a specified sports and entertainment project in the City of Inglewood. It requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings.

AB 987 also prohibits the court from staying or enjoining the construction or operation of the Inglewood sports and entertainment project unless the court finds either of the following: (i) the continued construction or operation of the project presents an imminent threat to the public health and safety; or (ii) the project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the project

unless the court stays or enjoins the construction or operation of the project. The bill specifies further that if the court finds that either of the above criteria is satisfied, the court shall only enjoin those specific activities associated with the project that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.

It is important to note that the Judicial Council's concerns regarding AB 987 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the proposed sports and entertainment project covered by the legislation, as those issues are outside the council's purview.

AB 987's requirement that any CEQA lawsuit challenging the Inglewood sports and entertainment project, 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.

Second, the expedited judicial review for the specific project covered by AB 987 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.

Third, providing expedited judicial review for the specific project covered by AB 987 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.

Finally, the provision in AB 987 that significantly limits the forms of relief that the court may use in any action challenging the specific project covered by this bill interferes with the inherent authority of a judicial officer and raises a serious separation of powers question.

Hon. Bob Wieckowski

June 14, 2018

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For these reasons, the Judicial Council opposes AB 987.

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

Sincerely,

Mailed June 14, 2018

Cory T. Jaspersen

Director, Governmental Affairs

CTJ/DP/jh

cc: Members, Senate Environmental Quality Committee
Hon. Sydney Kamlager-Dove, 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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Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

June 21, 2018

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

Subject: AB 987 (Kamlager-Dove) as proposed to be amended¹ – Oppose
Hearing: Senate Judiciary Committee – June 26, 2018

Dear Senator Jackson:

The Judicial Council is opposed to AB 987. 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 an environmental impact report and approvals granted for a project related to the development of a specified sports and entertainment project in the City of Inglewood. It requires the actions or proceedings, including any 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 987 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the proposed sports and entertainment project covered by the legislation, as those issues are outside the council's purview.

¹ During the June 20, 2018 hearing on this bill in the Senate Environmental Quality Committee, amendments were agreed to that would, among other things, remove the provisions in Section 3 of the June 7, 2018 version of the bill (proposed Public Resources Code sec. 21168.6.8, subd. (h)) that would have imposed limits on the court's ability to issue injunctive relief.

Hon. Hannah-Beth Jackson

June 21, 2018

Page 2

AB 987's requirement that any CEQA lawsuit challenging the Inglewood sports and entertainment project, 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.

Second, the expedited judicial review for the specific project covered by AB 987 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 project covered by AB 987 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 987.

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

Sincerely,

Mailed June 21, 2018

Cory T. Jaspersen
Director, Governmental Affairs

CTJ/DP/jh

cc: Members, Senate Judiciary Committee
Hon. Sydney Kamlager-Dove, 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 22, 2018

Hon. Sydney Kamlager-Dove
Member of the Assembly
State Capitol, Room 4015
Sacramento, California 95814

Subject: AB 987 (Kamlager-Dove) as amended August 21, 2018 – Oppose

Dear Assembly Member Kamlager-Dove:

The Judicial Council regrets to inform you of its continued opposition AB 987. The current version of 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 an environmental impact report and approvals granted for a project related to the development of a specified sports and entertainment project in the City of Inglewood. AB 987 requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.¹

It is important to note that the Judicial Council's concerns regarding AB 987 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the proposed sports and entertainment project covered by the legislation, as those issues are outside the council's purview.

¹ The Judicial Council acknowledges the recent amendments to the bill that require the project applicant to pay for any additional costs incurred by the courts in hearing and deciding any case brought pursuant to this measure. However, as explained above, the Judicial Council's principal objections to AB 987's expedited judicial review requirements remain in place.

Hon. Sydney Kamlager-Dove

August 22, 2018

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AB 987's requirement that any CEQA lawsuit challenging the Inglewood sports and entertainment project, 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.

Second, the expedited judicial review for the specific project covered by AB 987 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.

Finally, providing expedited judicial review for the specific project covered by AB 987 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 987.

Sincerely,

Mailed August 22, 2018

Daniel Pone
Attorney

DP/jh

cc: Hon. Sydney Kamlager-Dove, Member of the Assembly
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
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MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

August 30, 2018

Hon. Sydney Kamlager-Dove
Member of the Assembly
State Capitol, Room 4015
Sacramento, California 95814

Subject: AB 987 (Kamlager-Dove) as amended August 27, 2018 – Oppose

Dear Assembly Member Kamlager-Dove:

The Judicial Council regrets to inform you of its continued opposition AB 987. The current version of 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 an environmental impact report and approvals granted for a project related to the development of a specified sports and entertainment project in the City of Inglewood. AB 987 requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.¹

It is important to note that the Judicial Council's concerns regarding AB 987 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the proposed sports and entertainment project covered by the legislation, as those issues are outside the council's purview.

¹ The Judicial Council acknowledges the recent amendments to the bill that require the project applicant to pay for any additional costs incurred by the courts in hearing and deciding any case brought pursuant to this measure. However, as explained above, the Judicial Council's principal objections to AB 987's expedited judicial review requirements remain in place.

Hon. Sydney Kamlager-Dove

August 30, 2018

Page 2

AB 987's requirement that any CEQA lawsuit challenging the Inglewood sports and entertainment project, 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.

Second, the expedited judicial review for the specific project covered by AB 987 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.

Finally, providing expedited judicial review for the specific project covered by AB 987 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 987.

Sincerely,

Mailed August 30, 2018

Daniel Pone
Attorney

DP/jh

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



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MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

September 4, 2018

Hon. Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 987 (Kamlager-Dove) – Request for Veto

Dear Governor Brown:

The Judicial Council respectfully requests a veto on Assembly Bill 987. 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 an environmental impact report and approvals granted for a project related to the development of a specified sports and entertainment project in the City of Inglewood. AB 987 requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

It is important to note that the Judicial Council's concerns regarding AB 987 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the proposed sports and entertainment project covered by the legislation, as those issues are outside the council's purview.

AB 987's requirement that any CEQA lawsuit challenging the Inglewood sports and entertainment project, including any appeals therefrom, be resolved within 270 days is

Hon. Edmund G. Brown, Jr.

September 4, 2018

Page 2

problematic for a number of reasons. 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.

More importantly, this bill directly conflicts with the courts' fundamental charge to serve litigants in a manner that is supposed to ensure equal access to justice, a charge we take very seriously. 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.

In sum, the essential problem with this bill, and all of the other measures modeled after the expedited judicial review scheme that began in 2011 with the enactment of AB 900 and SB 292, is allowing a special category of CEQA cases to cut to the front of the line, ahead of all other litigants. This preferential approach undermines the public's trust and confidence in our court system and conflicts with our paramount responsibility to dispense fair and impartial justice in each and every case.

For these reasons, the Judicial Council requests a veto on AB 987.

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

Sincerely,

Mailed September 4, 2018

Cory T. Jasperson
Director, Governmental Affairs

CTJ/DP/jh

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