Judicial Council *of* California

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April 22, 2024

Hon. Ash Kalra
Chair, Assembly Judiciary Committee
1021 O Street, Suite 4610
Sacramento, CA 95814

Subject: Assembly Bill 2940 (Muratsuchi), as introduced—Oppose

Dear Assembly Member Kalra:

The Judicial Council regretfully must oppose Assembly Bill 2940 because it would add transmission projects that bring new renewable energy generation onto the grid to the list of projects eligible for California Environmental Quality Act (CEQA) judicial streamlining, perpetuating the arbitrary and unrealistically short timeframe for California's courts to address every issue each CEQA case is likely to present.

It is important to note that our concerns regarding this bill are limited solely to the court impacts of the legislation, and that the Judicial Council is not expressing any views on CEQA generally or the underlying merits of any proposed projects that would be covered by the bill, as those issues are outside the council's purview.

Senate Bill 2940 would require that a CEQA lawsuit challenging the certification of an environmental impact report of any such transmission project, including any appeals to the Courts of Appeal or Supreme Court, be resolved, to the extent feasible, within 270 days. This is problematic as CEQA actions are already entitled under current law to calendar preference "over all other civil actions" pursuant to section 21167.1(a) of the Public Resources Code in both the superior courts and the Courts of Appeal. Imposing an expedited 270-day judicial review timeline on top of existing CEQA calendar preferences is unworkable for several reasons.

- <u>The 270-day timeline remains arbitrary and characteristically unworkable in practice.</u> CEQA cases are inherently complex and time-consuming. Even in an unrealistic scenario in which no extensions of time were requested or granted for any aspect of a case, such a CEQA case would take an estimated six months just to get to a hearing, not to mention a

decision. The reason this is an unrealistic scenario is because parties almost always request – and even stipulate to – continuances, delays, or other procedural extensions. Assuming a court was able to issue its decision within six months, that would leave only 90 days for proceedings in the court of appeal, which is also impracticable.[1] Given these common requests and stipulated delays, the 270-day timeframe is, and continues to be, infeasible.

- CEQA cases often include ancillary administrative and non-CEQA judicial causes of action. Expediting review of CEQA causes of action does not necessarily lead to a faster resolution of the entire case, as non-CEQA causes of actions are frequently brought together with CEQA claims. These non-CEQA causes of action proceed under the usual civil procedure rules and timelines and can cause delays to the principal CEQA action.

- The expedited judicial review requirements for an unknown number of transmission projects in AB 2940 will likely have an adverse impact on other cases with calendar preferences. Like other types of court calendar preferences, which the Judicial Council has opposed, setting an extremely tight timeline for deciding these complex cases has the practical effect of pushing other cases on the courts' dockets to the back of the line, even those with their own statutorily mandated calendar preferences. This means that juvenile cases, criminal cases, wage theft cases, and civil cases in which a party is at risk of dying will take longer to resolve.

For these reasons, the Judicial Council opposes AB 2940.

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

Sincerely,

Cory T. Jasperson
Director
Governmental Affairs

CTJ/HR/ad
cc: Members, Assembly Judiciary Committee
Hon. Al Muratsuchi, Member of the Assembly, 66th District
Ms. Alison Merrilees, Chief Counsel, Assembly Judiciary Committee

[1] In a typical civil appeal, it takes more than 95 days from when a trial court decision becomes final for the record on appeal to be prepared and filed in the Court of Appeal. This does not include any time for briefing, oral argument, analysis of the issues, or preparation of a decision by the court.

Mr. Daryl Thomas, Consultant, Assembly Republican Office of Policy and Budget
Mr. Jith Meganathan, Deputy Legislative Affairs Secretary, Office of the Governor
Ms. Shelley Curran, Administrative Director, Judicial Council of California