

# Governor's plan would shield projects from lawsuit

Erica Felci, Palm Springs Desert Sun, 2-11-10

A pilot program introduced Wednesday in Sacramento to fast-track select construction projects by exempting them from environment-related legal challenges will speed up the start of construction, the governor's office says.

The California Environmental Quality Act Litigation Protection Pilot Program would allow the state's Business, Housing and Transportation Agency to identify 25 construction projects a year that would not be subject to legal challenges once the environmental impact reports are complete and approved.

While supporters say the program would kick-start important road improvements, power plants or other construction efforts and create needed jobs, others say the plan undermines the chance for locals to voice their concerns in such projects.

The concept was first introduced by Gov. Arnold Schwarzenegger in his State of the State address as part of his job creation package.

"The idea is to get people working quickly," said Brian Nestande, the Palm Desert Republican who is championing the governor's effort in the Assembly with Democrat Charles Calderon of Montebello.

"If it's a good project and we don't want to see five years of litigation for often frivolous reasons, they are allowed to proceed. It spends a lot of time in court going back and forth. What ultimately needs to be done becomes more costly and not done on time."

Projects would not be exempt from the state's environmental protection laws and would be chosen from across the state. Of the 25 projects, Nestande said 10 would be chosen from the Southern California region that includes Riverside County.

Locals would have a chance to voice concerns in public hearings that are held when the local or county government agencies consider the project's environmental impact report.

Both Nestande and Calderon said legal challenges often are spearheaded by people who are using the environmental law for their advantage, such as a competing developer trying to hold up a project after it's been approved.

"I agree the court is a place to resolve legal disputes about environmental issues," Calderon said. "But it's not the place to get leverage over a project for personal agendas."

Though versions that are being introduced in both the Assembly and Senate has bipartisan backing, the effort is not without opposition.

After the Jan. 6 State of the State address, Sierra Club California Director Bill Magavern released a statement calling the concept "backward thinking."

Of all the environmental impact reports, a "very tiny percentage" of approved projects are actually

challenged, according to Michael Endicott, Sierra Club California's resource sustainability advocate. Instead, projects get held up by financial problems and other issues, he told The Desert Sun.

“They're using the wrong rationale here,” Endicott said. “They're using our economic emergency to undo our environmental standards. “

The legislation is being introduced in both the regular session and the current special session, where lawmakers are grappling with the state's fiscal woes.

If it is taken up in the special session, it would move forward in coming weeks.

“I want to protect the environment, but at the same time, I want to be rational about it and balance it with the need for jobs,” Nestande said.