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Governor's Infrastructure Proposals: Issues for Legislative Consideration

PRESENTED TO:

Senate Committee on Natural Resources and Water
Hon. Dave Min, Chair



LEGISLATIVE ANALYST'S OFFICE

Overarching Comments

Proposals Seek to Address Some Important Policy Concerns

- Delays and barriers to accomplishing projects are widely documented and could impede progress on key state priorities such as improving energy reliability, addressing the causes and impacts of climate change, and building more housing.

Proposals Span a Wide Range of Topics and Changes

- Some relatively narrowly targeted, some more significant and wide-ranging.

Proposed Changes Present Important Trade-Offs

- Governor's proposals could potentially expedite some projects, however, these changes might reduce some environmental protections, legislative oversight, and opportunities for public input.
- Proposals could result in overall cost savings for projects if they can be implemented more quickly, but also could result in some increased costs and workload such as for courts to conduct expedited reviews.

Governor's Proposed Time Line Does Not Allow Sufficient Time for In-Depth Legislative Consideration or Deliberation

- Legislature likely will need more time than the budget adoption window allows if it wants to adequately evaluate the trade-offs and potential impacts of proposals, solicit and incorporate input from stakeholders and the public, and consider potential alternatives. This is particularly true for the proposals with more far-reaching effects.

Need for Urgent Action Is Unclear

- In our view, the administration has not provided compelling evidence of why the Legislature needs to act on these proposals immediately.



Overarching Comments

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No Strong Rationale for Treating All Proposals the Same Way

- Legislature could adopt varying time lines for considering and acting on different proposals, based on associated uncertainties, complications, and urgency.

Some Proposals Focus on Specific Types of Projects Without Addressing Underlying Core Issues

- For example, the proposal would allow for expedited judicial reviews for specific projects and types of projects—such as the Delta conveyance project, specific water storage projects, certain types of energy and transportation projects, and semiconductor projects. This piecemeal approach would not address fundamental concerns about the underlying law or resulting delays for other types of projects, such as housing.

Several Proposals Delegate Significant Authority to Administration, With Minimal Opportunity for Legislative Involvement

- While proposals include broad criteria for which types of projects would be eligible for new streamlined treatment, in some cases the administration would have significant authority to pick specific projects.
- For example, the proposals would give the administration authority to select which specific transportation and water projects could be eligible for judicial streamlining and which projects could undergo alternative delivery methods like progressive design build—all without the opportunity for legislative input or approval.



Key Questions for Legislative Consideration

What Are the Key Problems With and Barriers Resulting From Existing Laws?

- What is the specific problem that each of the Governor's proposals tries to address?
- What evidence has the administration provided to demonstrate the problem and why the proposed change would solve it?
- Do existing processes result in additional problems that are not addressed by the administration's proposals which the Legislature may want to target for action?
- Would alternative changes address existing problems even more effectively?
- Does the Legislature want to pursue options for addressing barriers through a more comprehensive and ongoing—rather than piecemeal—approach?

What Are the Key Goals the State Is Trying to Accomplish and How Should It Effectively Balance These Goals?

- Do the Governor's proposals reflect how the Legislature wishes to balance various priorities—such as expediting infrastructure projects, protecting the environment, and allowing for sufficient public input and transparency—particularly when they may be competing?
- Are there specific projects or types of projects which the Legislature feels are important to prioritize for expedited processes and how do these align with the Governor's proposed areas of focus?

What Issues—if Any—Require Urgent Action?

- Does compelling evidence exist that immediate action is needed to address any specific pressing problems?



Key Questions for Legislative Consideration

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What Secondary Impacts or Unintended Consequences Might Result From the Proposed Changes?

- What are potential near-term and long-term implications of the proposals (such as for development projects, the environment, public input, and transparency)?
- What fiscal or workload implications might result from the proposals and how might these affect intended outcomes?

How Can the Legislature Facilitate Additional Opportunities for Legislative Oversight and Guidance Over How Changes Will Be Implemented?

- Does the Legislature want to include additional guardrails to ensure the changes achieve its desired outcomes and focus on its highest priorities (such as including additional criteria to guide project selection, adding sunset dates for certain changes, or providing opportunities for legislative review)?

What Time Line and Process Would Allow for Sufficient Legislative Consideration of Proposed Changes?

- What processes will allow the Legislature to ensure its decisions are adequately informed by data, public input, and consideration of potential impacts and alternatives?
- Does the Legislature want to adopt different approaches for considering and acting upon various proposals?
- Are any proposals sufficiently narrowly scoped or clear cut such that the Legislature might feel comfortable taking near-term action without more time for deliberation?

