



03 August 2026

The Honorable Buffy Wicks

Chair, Assembly Appropriations Committee

Mr. Jay Dickenson

Chief Consultant, Assembly Appropriations Committee

Members of the Assembly Appropriations Committee

Re: OPPOSITION — SB 958 (Weber Pierson) as Amended — CEQA Exemption for Building Height Impacts

Dear Committee Members:

Neighbors For A Better San Diego strongly opposes SB 958. Although the bill has been presented as addressing a single specific project in San Diego (Midway Rising), its language applies more broadly and will encompass almost all non-industrial development projects throughout the state of California that require an EIR.

While we appreciate that the June 15 revision of the bill's language has (implicitly, but not explicitly) restored the requirement that "geotechnical and hydrological effects" need to be considered in an EIR, the Bill Analysis fails to represent the true scope of the bill and misleads the Legislature of its potential far-reaching impact. For that reason alone, this bill should be set aside until those impacts can be fully analyzed across the state. Compounding the scope questions, the bill is poorly worded and ambiguous in its terminology, opening it up for confusion and litigation requiring unassessed legal costs to the State of California. Details are provided in the attachment appended to this letter.

In summary, Neighbors For A Better San Diego respectfully OPPOSES SB 958 because the bill undermines the environmental review process that has long been a cornerstone of CEQA's protection of California's environmental resources and quality of life across the entire state of California. Additionally, the bill lacks clear statutory language that essential to ensuring consistent implementation, minimize unnecessary litigation, and accurately reflect the Legislature's intent.

I have attached a more detailed analysis of the bill.

Respectfully,

A handwritten signature in black ink, appearing to read "Christine Smith".

Christine Smith
Senior Policy Analyst and Board Member
Neighbors For A Better San Diego

Attachment: Detailed Analysis of Issues Regarding SB958

Bill Applies to All Infill Parcels Statewide – No Matter Parcel Size or Project Budget

Although the bill appears to be limited to projects exceeding 40 acres and \$100 million, a careful review shows those requirements apply only to when prevailing wages must be paid. The bill's applicability is much broader and is not limited to the Midway Rising project in San Diego, per an earlier version of the bill and as the bill's advocates claim. A review of the June 6, 2026 Bill Analysis by the Assembly Committee on Natural Resources and prior committee reviews show that the bill's analysis has focused primarily on how this bill applies to a single San Diego project and has failed to evaluate the impact statewide. If passed, excluding the impact of structure heights in EIRs will apply everywhere in California. The exemption is applicable to projects statewide regardless of acreage or construction valuation. This CEQA exemption will apply to bayfront sites in Contra Costa, riverfront sites on the American River, mountain sites in Tahoe, and high desert sites in Bishop.

Potential Unintended Consequence and Required Impact Review

Expanding the scope of the bill to all parcels statewide warrants a greater review than if the bill were to apply to a single site or a limited number of sites. As drafted, the bill allows substantial increases in building height following EIR certification, provided the project's use and density remain unchanged. This raises the question of whether significant building form changes could occur without further environmental review. SB 958 will allow a developer to obtain EIR approval for a 300-unit project distributed in 3-story structures (100 units/floor), and once approved, revise the project to 10- or 20-story structures (30 or 15 units/floor) without an updated EIR, since height alone will not be considered a significant impact.

This is a dangerous loophole that will be exploited. These changes present materially different physical characteristics and environmental considerations and should warrant an updated EIR; SB 958 eliminates the EIR update requirement for such building form/height changes.

Per the bill analysis, the impetus of the bill is to address two insufficient EIRs for the Midway Rising project in San Diego. SB 958 would establish a statewide statutory precedent to address issues arising from a single project. Such a broad policy change warrants analysis beyond the circumstances of one development. San Diego could address the Midway Rising issues simply by completing a robust EIR that addresses the impacts of the project's height. A project-specific concern should not be addressed through a statewide CEQA exemption without first evaluating broader statewide implications.

A lot more time and money has been spent to avoid doing a proper EIR for the Midway Rising project (in defiance of two court orders) than it would have taken just to do the EIR and to identify the impact of height from the project. The Legislature needs to ask itself why that is and what is going to be discovered later if the Legislature gives Mayor Gloria and the project developer a pass on an environmental impact assessment.

Poorly Written Bill

Even should the Legislature think that gutting CEQA is good governance, which we do not, this is not the bill to do so because it is written poorly and will be likely lead to costly litigation. It uses undefined terms that have multiple meanings and is structured improperly which adds ambiguity to the intent of sections.

Neighbors For A Better San Diego is a nonprofit organization that analyzes land use and zoning policy. We have learned from experience the importance of having clear, well-defined codes and laws that provide clarity to the public and developers. Our work has demonstrated that clear statutory language promotes consistent implementation, reduces litigation, and helps lawmakers fully understand the practical effect of proposed legislation.

Here we explain in detail why SB958 is poor legislation. It is a short bill, so the text is copied here to assist in highlighting the issues with the legislative language we have identified.

Current Proposed Text from SB958:

The people of the State of California do enact as follows:

SECTION 1. *Section 21080.82 is added to the Public Resources Code, to read:*

21080.82. (a) For purposes of this division, the environmental impacts of a project that are associated with increased building height alone, including, but not limited to, air circulation, noise and light refraction or reflection, *or* the potential to attract wildlife, shall not be considered significant impacts on the environment if the project meets all of the following conditions:

- (1) The use and density of the project is otherwise analyzed in a certified environmental impact report.
- (2) The project is on a previously graded infill site.
- (3) There are no sensitive biological resources physically present on the site.
- (4) The project is not an industrial use project.
- (5) For a project that is proposed to be constructed on a site that is greater than 40 acres that has an estimated construction valuation that exceeds one hundred million dollars (\$100,000,000) and that is subject to a project-specific environmental impact report, the project shall create high-wage, highly-skilled jobs that pay prevailing wages and living wages, employ a skilled and trained workforce, and provide construction jobs and permanent jobs for Californians.

(b) For purposes of this section, “jobs that pay prevailing wages” means that construction workers employed in the execution of the project will receive at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code.

Undefined Terms and Improper Code Structure

The bill does not define “previously graded infill site.” It is unclear whether the term refers to construction practices, urban planning concepts, or another standard. Without an explicit statutory definition or cross-reference, the provision is likely to produce inconsistent interpretation and litigation. In construction, infill refers to structural or geotechnical infill: filling in a void, hole, or unstable ground with soil or other materials. In urban planning “infill” refers to rezoning parcels within an urban area to a higher density or intensity use.

If the construction term is intended: What portion of the project area must be graded and infilled to meet the criterion? Is it based on a percentage of the site acreage or the amount of fill material transferred? Is 1% of the acreage or 1 cubic yard of infill material sufficient to qualify a site? Developers will say yes and project opponents will say no.

If urban planning usage is intended: Public Resources Code section 21061.3 definition for “infill site” should be referenced for clarity. Also, please define what the term “grading” means in the context of urban planning terminology. It is the Legislature’s responsibility to ensure that terms are explicitly and

accurately defined and that laws are clearly written prior to enactment. This ambiguity in text could expand this exemption beyond urban areas to rural communities, as well.

A second ambiguity is that the phrase "no sensitive biological resources physically present on the site" lacks objective standards regarding temporary wildlife presence, seasonal habitat, or protected species. Without additional statutory guidance, implementation is likely to vary among agencies. If a bird's nest exists on the site does that disqualify it? Does it have to be a specific type of bird? Seagulls are protected birds in California, so if a seagull's nest exists on site does that disqualify the site? Specificity and clarity in laws is critical to mitigate lawsuits, where parties interpret terms differently.

Lastly, the bill uses the term "but not limited to" when describing types of impact that can be ignored when evaluating the impact of a project's height. This phrase should be stricken from the text to ensure that the bill clearly encompasses its intent, particularly when the previous bill text included "geotechnical or hydrological effects," which would seem to be no longer excused from the environmental impact analysis, but are not explicitly stated as such. Legislative intent is often forgotten when implementing state law, and ambiguous open-ended phrases are prone to litigation.

Lastly, with regard to the structure of the bill, the proper ordering for Section 21080.82 is for subsection (a) to list the project eligibility criteria, while the prevailing wage provisions currently in subsection (a)(5) becomes a separate subsection. Specifically, Section 21080.82 (a) (5) and Section 21080.82 (b) should be renumbered to Section 21080.82 (b) and Section 21080.82 (b) (1), respectively. Someone could argue that since (a)(5) is at the site qualifier tier (a), if they were to have factored height into their CEQA analysis, then they were exempt from paying prevailing wage. If that was the intent of the law – the bill should be revised to clearly state such and remove the ambiguity.