



April 21, 2014

The Honorable Jerry Hill
 California State Senate
 State Capitol, Room 5064
 Sacramento, CA 95814

**SUBJECT: SB 1451 ENVIRONMENTAL QUALITY: DOCUMENT DUMPING
 HEARING SCHEDULED – APRIL 30, 2014
 SUPPORT**

Dear Senator Hill:

The California Chamber of Commerce and the organizations listed below are pleased to **SUPPORT** your **SB 1451 (Hill)**, as amended April 21, 2014, which would substantially decrease the occurrence of an increasingly used tactic known as “document dumping” in proceedings under the California Environmental Quality Act (“CEQA”).

Over the past decade, project opponents—including individual businesses, unions, environmental groups and others—have sought to intentionally delay project approvals by submitting lengthy, detailed comment letters and extensive documentation on the day the project is scheduled to be approved. These comment letters and documentation often contain entirely new claims and allegations that had not—but indeed could have—been presented during the designated public comment period provided under CEQA. Document dumping is used by would-be litigants for all types of project approvals, including public works projects, renewable energy facilities, hospital construction and upgrades, affordable housing developments, and others.

Document dumping presents two distinct problems: (1) it is nearly impossible to address late comments during the hearing, which typically must be delayed weeks or months after the late comments are received; and (2) late comments may typically be used as a basis for a subsequent legal challenge on the project, even though the comments are presented for the first time on the day of the hearing and could have otherwise been presented earlier in the environmental review process.

With this in mind, **SB 1451** would reduce the use of the document dumping tactic by placing modest limitations on when certain issues may be raised during the environmental review process in order to sue on those issues in litigation following project approval. Specifically, the bill would require all comments to be presented during the designated public comment period provided under CEQA, unless the comments were not known and could not have been known during the public comment period. Examples of comments that were not known and could not have been known during the public comment period include new developments that occur after the close of the public comment period, including, but not limited to, a change in the scope of the project, the identification of a new environmental impact, or the adoption of a new mitigation measure. Under **SB 1451**, comments pertaining to such issues may be presented until the day of the hearing and serve as a basis for a subsequent lawsuit because comments of this type could not, of course, have been known during the designated public comment period.

Importantly, nothing in **SB 1451** prevents interested parties from making comments or raising issues to the lead agency at any time during the environmental review process. All parties remain empowered to petition decision makers and make their concerns heard at hearings, in writing or otherwise at any time. This bill simply requires a would-be litigant to raise his or her issues as early in the environmental review process as possible in order to give the lead agency adequate time and opportunity to address those issues.

It is also critical to note that **SB 1451** preserves CEQA's overall function and purpose by encouraging early public engagement and informed decision making. Unfortunately, document dumping completely undermines this purpose by encouraging *late* public engagement and *uninformed* decision making.

Even the California Supreme Court has cautioned against intentional delay tactics, noting that “rules regulating the protection of the environment must not be subverted into an instrument for oppression and delay of social, economic, or recreational development and advancement.” (*Citizens of Goleta Valley v. Board of Supervisors.*) **SB 1451** restores the true intent of the CEQA process and ensures that document dumping is no longer used as “an instrument for oppression and delay.”

For these reasons and more, CalChamber and the below signed organizations are pleased to **SUPPORT** your **SB 1451**.

Sincerely,

California Chamber of Commerce
The American Institute of Architects
American Council of Engineering Companies

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The Associated General Contractors of America
Bay Area Council
California Apartment Association
California Association of Realtors
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Hospital Association
California League of Food Processors
California Manufacturers and Technology Association
California Restaurant Association
California Retailers Association
California Transit Association
Civil Justice Association of California
Chambers of Commerce Alliance of Ventura and Santa Barbara Counties
The Chamber of Santa Barbara Region
Construction Employers' Association
Fullerton Chamber of Commerce
Goleta Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Huntington Beach Chamber of Commerce
Greater Riverside Chambers of Commerce
Independent Energy Producers
Irvine Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Monterey Peninsula Chamber of Commerce
Murrieta Chamber of Commerce
National Federation of Independent Business
Oxnard Chamber of Commerce
Palm Desert Chamber of Commerce
Rural County Representatives of California
San Francisco Chamber of Commerce
San Gabriel Valley Legislative Coalition of Chambers
San Jose Silicon Valley Chamber of Commerce
Santa Clara Silicon Valley Central Chamber of Commerce
Simi Valley Chamber of Commerce
South Shore Lake Tahoe Chamber of Commerce
Southwest California Legislative Council
Temecula Valley Chamber of Commerce
Turlock Chamber of Commerce
Visalia Chamber of Commerce
Ventura County Chamber of Commerce
West Coast Lumber and Building Material Association

cc: District Office, Senator Jerry Hill
Martha Guzman-Aceves, Deputy Legislative Secretary, Office of the Governor
Chris Calfee, Senior Counsel, Governor's Office of Planning and Research

AS:cb