

FLOOR ALERT: AB 2840 (Reyes)
JOB KILLER - VOTE NO



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May 16, 2022

TO: Members, California State Assembly

**SUBJECT: AB 2840 (REYES) QUALIFYING LOGISTICS USE PROJECTS
HEARING SCHEDULED – MAY 16, 20212
OPPOSE/JOB KILLER – AS AMENDED ON APRIL 21, 2022**

The California Chamber of Commerce and the organizations listed respectfully **OPPOSE AB 2840 (Reyes)**, as amended on April 21, 2022, which the CalChamber has labeled as a **JOB KILLER**. Even with the most recent amends, the bill still seeks to prohibit local governments from approving any new or expansion of existing warehouses and development projects 100,000 square feet or more if: 1) proposed within 1,000 feet of sensitive receptors, or 2) alternative measures are not imposed on the project that effectively achieve 1,000 foot buffer level protections. Accordingly, the most recent amendments present the same concerns.

Additionally, the bill still requires that any qualifying logistics projects that are not outright banned use only a skilled and trained workforce and reserve an unspecified percentage of jobs for local residents, irrespective of whether that labor force is available or affordable.

AB 2840 relies on an outdated, two decades-old CARB advisory document to strip all local governments across California of their zoning and land use authority making it even harder and more expensive to develop critically needed logistic use projects. **AB 2840** ignores all of California's robust environmental laws and regulations applicable to this type of land use development and will worsen California's existing supply chain problems, rising inflation and cost of living that is already plaguing California.

Inconsistent With Governor's Executive Order Addressing Supply Chain Backlogs

Last year amid unprecedented global disruptions to the goods movement supply chain, Governor Gavin Newsom signed Executive Order N-19-21 to alleviate congestion at California ports and ease supply chain issues. Specifically, the Executive Order highlighted that shipping container dwell times and street dwell times for containers were more than double the normal average due to bottlenecks further downstream in the supply chain, including insufficient warehouses to undock cargo. **AB 2840** is inconsistent with the Governor's Executive order to create short- and long-term solutions to the supply chain problem by depriving local governments of their land use authority to approve critically needed warehouses and other logistic use projects in their jurisdiction. Local governments are responsive and held most accountable to their local constituents and should retain authority to determine what types of projects and economic development are needed and wanted in their community, where best to site them and how to ensure mitigation measures if needed are appropriately implemented.

Prohibiting Local Government From Exercising Their Land Use Authority to Approve Important Development More Extreme Than California Environmental Quality Act (CEQA)

AB 2840 is an extreme policy that casts aside CEQA, one of the most protective environmental laws in the nation, and all other environmental laws and regulations in California that ensure responsible development, in favor of a wholesale development ban. Existing laws and regulations already require qualifying logistics use projects and warehouses to comply with a plethora of applicable local, state and federal environmental laws, such as the Porter-Cologne Water Quality Control Act, the Clean Water Act, the Clean Air Act, CARB and Regional AQMD rules and regulations, uniform building codes, fire codes, and of course CEQA, which ensures any potential impacts like increased traffic, noise or air impacts are fully disclosed and mitigated.

In other words, existing law already forces new projects or the expansion of an existing facility to undergo the most rigorous environmental analysis and mitigation measures in the country. It is why developing in California, whether it is a housing or a warehouse project, is one of the most difficult places in the country to build in. **AB 2840** creates arbitrary "ban zones" throughout California without any consideration for the specific project and its actual impacts on the communities.

A One-Size Fits All Statewide Labor Mandate Quashes Development

Section 65098 (c) of the bill forces a uniform, statewide “skilled and trained” mandate onto all private logistic use projects not banned under the other provisions of the bill. The proposed policy is not justifiable as it imposes a significant burden on private projects despite the lack of any nexus between the project and the use of state funds. Whether a proposed project utilizes skilled and trained workers, or hires locally, is an issue that should be negotiated at the local level.

Incongruent with Southern California’s New Indirect Source Rule for Warehousing Operations

AB 2840 is incongruent with the most substantial rulemaking related to the siting and operation of warehouses in Southern California. Just last year, the South Coast Air Quality Management District (SCAQMD) [adopted Rules 2305 and 316](#), which for the first time began regulating warehouses greater than or equal to 100,000 square feet, which is the exact size this bill intends to ban, as “indirect” sources of emissions. SCAQMD created the Warehouse Actions and Investments to Reduce Emissions (WAIRE) program to levy fees on warehouse owners in order to reduce NOx, DPM and carbon emissions, and increase visits from zero- and near-zero emissions (ZE and NZE) trucks to warehouses. The WAIRE program provides a menu of implementation measures designed to reduce NOx, DPM and carbon emissions, including acquiring or using zero and near-zero emission trucks, acquiring or using zero emission yard trucks, investing in new on-site equipment, building new charging infrastructure, funding particulate filters, installing solar panels, and installing MERV 16 or greater filters or filtration systems in residences, schools, daycares, hospitals or community centers.

Ignores California Air Resources Board’s Most Recent and Pending Regulations in favor of a 2005 Advisory Document

The California Air Resources Board (CARB) adopted in July 2020 the [Advanced Clean Trucks Rule](#), which requires manufacturers of all Class 2b-8 trucks to begin meeting escalating zero emission sales starting in 2024, and by 2035 requires Class 2b-3, Class 7-8, and Class 4-8 trucks to be 55%, 40%, and 75% zero emission by 2035. Governor Newsom’s Executive Order N-79-20 requires CARB to continue that rulemaking, making 100% of all trucks and buses zero emission by 2045 everywhere feasible, and for all drayage trucks to be zero emission by 2035.

In addition, CARB is conducting workshops anticipating the introduction of the [Advanced Clean Fleets Rule](#) by the end of this year, which will require that large public and private fleets be 100% zero emission by 2035. Under that rule, CARB plans to ban the registration of any new non-zero emission vehicle from California’s ports and intermodal railyards after 2023. CARB is also developing the [Transportation Refrigeration Unit Rule](#) to address cold storage trucks.

AB 2840 on the other hand relies on an almost two-decade old [2005 CARB advisory document](#) recommending that *sensitive receptors* be cited away from warehouses using a now arbitrary 1,000-foot prohibition as a proxy for environmental protection. Seventeen years ago when this advisory document was released, CARB did not have an Advanced Clean Trucks Rule nor was the agency developing the Advanced Clean Fleets Rule. Accordingly, the agency recommended that sensitive receptors be cited in this manner. As CARB looks forward with new rules that move California’s fleet to zero emission, **AB 2840** looks backwards by seeking to establish land use policies based on outdated CARB documents. With major advancements in clean truck technology, **AB 2840** undermines the public process underway at CARB, where, as directed by Governor Newsom in Executive Order N-79-20 and other executive orders, stakeholders are planning how to electrify trucks, buses, and other equipment.

AB 2840 will exacerbate the state’s supply chain problems by constraining local governments from being able to responsibly permit critically needed warehouses and logistic use projects throughout California, irrespective of any environmental mitigation, electrification or technological investments made to use low or zero-emission equipment on-site, based on outdated standards.

VOTE NO on AB 2840 (Reyes)