

Editorial Legislature, close loophole exempting building projects from CEQA

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Raider and Chargers fans gathered for a "tail gate" party and rally before marching to Carson City Hall on April 21 to support the building of a stadium that would house the two NFL franchises. (Los Angeles Times)

CA lawmakers should close the loophole that allowed Carson & Inglewood to approve stadiums without CEQA review

There are few state laws developers loathe more than the California Environmental Quality Act. They complain that CEQA requires endless studies at an exorbitant cost. Drawn-out public hearings and threats of lawsuits can make development too unpredictable and risky. Interested parties — from environmentalists to neighborhood associations to labor unions to competitors — can use the law to tie up projects in court for years in an effort to extract concessions or kill them altogether.

Up to a point, these criticisms are fair. The 1970 law has become too cumbersome, costly and prone to abuse, and is ripe for reform. But its basic tenet — informed decision making — is still essential.

CEQA remains crucial for the long-term sustainability of the state. Whether it's costly or not, developers of major projects should study and mitigate the potential impacts on communities and the larger environment. The public should have a right to comment on proposed projects and have its concerns addressed. And neighbors should have the right to challenge projects.

That's why Californians ought to be very concerned about a CEQA loophole that was created by a state Supreme Court decision last summer and is already being exploited. Just in the last two months, two massive football stadium projects have been approved by city councils in Inglewood and Carson without the crucial studies, public analysis and accountability mandated by CEQA. In both cases, developers pitched their projects as ballot initiatives, which are exempt from CEQA. They collected enough signatures to qualify for the ballot and then, instead of holding an election, the city councils adopted the projects outright.

The result is that the two cities signed off on projects that could potentially worsen traffic, pollute the environment and have other negative effects on the community with virtually no meaningful public input, study or debate. Carson's council — which has only three members — approved the stadium initiative Tuesday night, just two months after the project was first proposed, even though the initiative doesn't include a site plan and the city doesn't know the full extent of noise, parking or other impacts. This must not become the future of development in California. The Legislature and Gov. Jerry Brown should close the loophole.

Making land use decisions through the initiative process is problematic even if it involves an actual vote of the people, because it forces voters to make major, often complex decisions without the benefit of much study or review. What's more, it denies a role to neighboring cities or residents who may be affected by the project but aren't eligible to vote in the jurisdiction. But previous court rulings have established that voter-sponsored ballot initiatives are exempt from CEQA. Fortunately, few developers over the years have used the initiative option, because it's risky — opponents can campaign against the measure, and voters can be unpredictable.

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However, the Supreme Court greatly expanded the exemption in August when it ruled that a qualified ballot initiative could be adopted outright by a city council, without a popular vote and without complying with CEQA. That means a developer or other proponent of a project can now simply collect 15% of registered voters' signatures, which is enough to qualify an initiative for the ballot, and then lobby the city council to enact the measure directly. No costly environmental analysis or traffic studies. No pesky lawsuits. No public input. No public vote.

This is an end-run around CEQA. Even the court acknowledged that its decision would allow developers to use the initiative process to evade both CEQA review and a popular vote. The Legislature should pass a bill to close the loophole without delay, prohibiting city councils from approving projects outright.

Even better, the Legislature, which is slowly working on a broader plan to streamline and reform CEQA, should consider removing the exemption for ballot initiatives altogether. The purpose of CEQA is to ensure that decision makers have the studies and analyses they need to make intelligent choices. Why should voters be denied the right to make an educated decision on a major development project just because it's on the ballot?