



# California Association for Local Economic Development

## 2024 CALED AB 98 (Carrillo and Reyes) Legislative Briefing

as of August 27, 2024

The California Association for Local Economic Development (CALED) is the voice of economic development practitioners and stakeholders. With over 900 members, CALED is one of the largest economic development associations in the country. As a benefit of membership, we track legislation impacting economic development and hold special briefings for CALED Leadership & Members.

### AB 98 Carrillo and Reyes

This bill has several provisions local economic developers and stakeholders should be aware of.

- 1) Definition of Logistic Use: Defines “Logistics use” as a building<sup>i</sup> in which cargo, goods or products are moved or stored for later distribution to business or retail customers, or both, that does not predominantly serve<sup>ii</sup> retail customers for onsite purchases, and heavy duty trucks are primarily involved in the movement of cargo, goods or products. Excludes from this definition:
  - a. Facilities where food<sup>iii</sup> or household goods are sold directly to customers and are accessible to the public.
  - b. A building primarily served by rail<sup>iv</sup> to move cargo goods or product.
  - c. A strategic intermodal facility. This term is defined to include a project that satisfies all of the following:
    - i. Logistic facilities, including warehousing and transloading facilities served by rail.<sup>v</sup>
    - ii. Intermodal freight transport services.
    - iii. All facilities are located within a single-site footprint.
- 2) Facilities on Industrial Zoned Lands: Requires any proposed new or “expanded” (defined as increasing square footage by more than 20 percent<sup>vi</sup>) logistics use development on a site that is either zoned for industrial use, or where an application was submitted prior to September 30, 2024, to rezone the parcel as industrial, where the loading bay is within 900 feet of a “sensitive receptor,”<sup>vii</sup> to comply with:
  - a. Facilities greater than 250,000 square feet must meet extensive “Tier 1” green energy code requirements, specified criteria related to truck parking and idling, including locating truck parking bays 300 feet from the property line of the nearest sensitive receptor.<sup>viii</sup> Requires all forklifts to be zero emission by January 1, 2028.
  - b. Facilities of less than 250,000 square feet must meet similar, but slightly less stringent, environmental and truck parking requirements.<sup>ix</sup>
- 3) Facilities on Land Not Zoned Industrial: Requires, on or after January 1, 2026, any new or expanded logistics facility proposed for land that is not zoned industrial, whether developed or undeveloped, if the loading bay is within 900 feet of a sensitive receptor to locate truck parking bays 500 feet from the property line of the nearest sensitive receptor, and comply with the following:
  - a. Facilities of more than 250k square feet, must comply with “Tier 1” environmental and truck parking requirements.
  - b. Facilities of less than 250k square feet<sup>x</sup> must comply with slightly less onerous environmental and truck parking requirements, called 21<sup>st</sup> Century Warehouse.<sup>xi</sup> A major difference between this standard and Tier 1 is that forklifts replacement is delayed until January 1, 2030, instead of January 1, 2028.
- 4) Restriction of New Facility Locations: Restricts, after January 1, 2026, siting of new logistics use development to roadways suited to handle the associated traffic and primarily serve commercial uses:
  - a. Arterial roads
  - b. Collector roads
  - c. Major throughfares



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- d. Local roads that primarily serve commercial uses. (defined as when 50 percent of the properties fronting the road within 1,000 feet are designated for commercial and industrial use by local zoning.)
  - e. Allows local agencies to waive this requirement after making various findings including:
    - a) no feasible alternative site exists within the designated roadways, b) a traffic analysis has been completed and submitted to the jurisdiction, c) the site is in an existing industrial zone, and d) the proposed site will incorporate mitigations to minimize traffic and environmental impacts on residential areas to the greatest extent feasible.<sup>xii</sup>
  - f. Requires the facility operator to submit a detailed truck routing plan<sup>xiii</sup> prior to the certificate of occupancy to the planning director. Provides that the planning director shall have the discretion<sup>xiv</sup> to determine if changes to the truck routing plan are necessary.
- 5) Required Circulation Element Update: Requires all cities and counties to update the circulation element of their general plan to designate truck routes (with extensive detail) before January 1, 2028, except for jurisdictions within Riverside and San Bernardino County which must update these plans prior to January 1, 2026. The Attorney General is authorized to fine local agencies \$50,000 for every six months if the required updates are not made.<sup>xv</sup>
  - 6) Limited Setback Exemption for Projects in Local Entitlement Process: Prohibits the application of the new 300 or 500 foot setback requirements to existing facilities,<sup>xvi</sup> a proposed facility expansion or properties proposed to become a logistics use that is in a local entitlement process as of September 30, 2024, if the sensitive use is constructed, established or permitted after the effective date of this bill.<sup>xvii</sup>
  - 7) Buffer Zones, Landscaping and Walls: Requires facilities to establish buffer zones of either 50 or 100 feet from all sensitive receptors, with landscaped walls or berms 10 feet in height, with drought tolerant landscaping and two rows of evergreen buffering trees.
  - 8) Entry Gates and Anti-Idling Signs: Requires a minimum of 50 feet of stacking depth inside the property line, which shall be increased to 70 feet for every 20 loading bays, beyond 50 loading bays, to the extent feasible. Anti-idling signs must be posted in various locations.
  - 9) Affordable Housing: Requires any housing occupied within the last 10 years<sup>xviii</sup> that is demolished as part of the development must be replaced with two units deed-restricted to low- or moderate-income households<sup>xix</sup> within three years. Requires the developer to provide any displaced tenant with 12-months' rent at the current rate.

## Comments:

- 1) **Public Transparency Avoidance:** This 31-page bill was drafted behind the scenes in a secretive process and without participation and input from all affected stakeholders. Dropping such a massive proposal into print several days before the end of the legislative session represents the worst of the legislative process. The Assembly killed two warehouse bills nearly one year ago, AB 1000 (Reyes) in the Assembly Local Government Committee, and AB 1748 (Ramos) in Assembly Appropriations. This effort seeks to move a comprehensive proposal forward with no public process. If the legislators authoring this bill believe it has merit, it should be introduced with full transparency as new legislation in 2025.
- 2) **Undermining California's Economy:** This legislation will have sweeping implications and serve to significantly limit the growth and expansion of warehouses and logistic facilities by tying them up in costly requirements and litigation over future siting and expansion plans. These facilities serve as a critical backbone to our state's economy, and provide hundreds of thousands of middle-class jobs. Some of the edicts in the bill state that "Cost shall not be a factor..." What? The Legislature should not act recklessly with such unstudied proposals.
- 3) **Mixed Messages:** This legislation demonstrates excessive concern about the potential impacts of logistic facilities and heavy truck traffic on housing and other "sensitive receptors." Yet, where are these same concerns when the Legislature passes housing bills (some currently

pending) that allow residential units to be built either on, or adjacent to, industrial and commercial sites, and in violation of local general plans and zoning? If this is about good planning, then where is the consistency? Prohibitions should be enacted to prohibit the placement of sensitive receptors near industrial sites, truck routes and logistics facilities.

- 4) **No Size Limitations:** The definition of “logistic facilities” in this bill has no minimum size requirements, and thus is likely to be interpreted to many businesses, including small construction suppliers, agricultural suppliers and other facilities served by heavy trucks that do not predominantly serve retail customers for onsite purchases.
- 5) **Circulation Element Overreach:** This bill will trigger needless “make work” for many small and rural local agencies with no significant logistic facilities. They will be forced to scramble to spend limited public funds (which they could otherwise be spending on fire mitigation and other public priorities) attempting to update their circulation elements to address issues that don’t exist and avoid fines from the Attorney General. The Legislative process should be better than this.

**This briefing handout was developed by CALED specifically for CALED members and partners.**

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<sup>i</sup> Note that there are no minimum size requirements in this definition.

<sup>ii</sup> This “predominately serve” language can cast a very wide net. For example, it appears to capture facilities that store and supply construction materials (like roofing supplies or lumber) which deliver products to contractors, but where members of the public can also purchase materials.

<sup>iii</sup> This “food” exemption does not pick up facilities where agricultural products are stored. It could have major impacts on CA’s agricultural economy.

<sup>iv</sup> This rail exemption is curious. Just because a building is served by a rail spur does not mean that it does not generate significant truck traffic.

<sup>v</sup> This exemption could pick up ports. Just because they are served by rail doesn’t mean there are not significant truck traffic. (e.g., Long Beach and the 710)

<sup>vi</sup> Excludes both existing and new office space from this calculation.

<sup>vii</sup> (e) “Sensitive receptor” means one or more of the following:

(1) A residence, including, but not limited to, a private home, apartment, condominium unit, group home, dormitory unit, or retirement home.

(2) A school, including, but not limited to, a preschool, prekindergarten, or school maintaining kindergarten or any of grades 1 to 12, inclusive.

(3) A daycare facility, including, but not limited to, in-home daycare.

(4) Publicly owned parks, playgrounds, and recreational areas or facilities primarily used by children, unless the development of the park and recreation areas are included as a condition of approval for the development of a logistics use.

(5) Nursing homes, long-term care facilities, hospices, convalescent facilities, or similar live-in housing.

(6) Hospitals, as defined in Section 128700 of the Health and Safety Code.

<sup>viii</sup> (g) “Tier 1 21st century warehouse” means a logistics use that meets all of the following:

(1) Complies with or exceeds all requirements of the most current building energy efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations and the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations), including, but not limited to, the following requirements related to:

(A) (i) Photovoltaic system installation and associated battery storage.

(ii) For purposes of the photovoltaic system installation requirement in clause (i), all warehouse square footage should be considered conditioned space.

(B) Cool roofing.

(C) Medium- and heavy-duty vehicle charging readiness.

(D) Light-duty electric vehicle charging readiness and installed charging stations. (2) Has skylights in at least one percent of the roof area, or equivalent LED

efficient lighting.

(3) Has a microgrid-ready switchgear system capable of supporting distributed



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energy resources.

(4) Is advanced smart metering ready.

(5) Has a minimum of 50 percent of all passenger vehicle parking spaces

preinstalled with conduit and all necessary physical infrastructure to support future charging of electric vehicles.

(6) Has a minimum of 10 percent of all passenger vehicle parking spaces installed with electric vehicle charging stations.

(7) Provides conduits and electrical hookups at all loading bays serving cold storage. Idling or use of auxiliary truck engine power to power climate control equipment shall be prohibited if the truck is capable of plugging in at the loading bay.

(8) Ensures that any heating, ventilation, and air-conditioning is high-efficiency.

(9) (A) Ensures that all classes of forklifts used on site, pursuant to State Air Resources Board's Zero-Emission Forklifts regulation, as drafted, shall be zero-emission by January 1, 2028, to the extent operationally feasible, commercially off-the-shelf available, and adequate power available on site.

(B) (i) If not operationally feasible, commercially off-the-shelf available, or if there is inadequate power available on site, the cleanest technology commercially available shall be used.

(ii) Cost shall not be a factor in determining operational feasibility pursuant to this subparagraph.

(10) (A) Ensures that equipment used on site utilizing small off-road engines shall be zero-emission, to the extent operationally feasible, commercially off-the-shelf available, and adequate power available on site.

(B) (i) If not operationally feasible, commercially off-the-shelf available, or if there is inadequate power available on site, the cleanest technology commercially available shall be used.

(ii) Cost shall not be a factor in determining operational feasibility pursuant to this subparagraph.

(C) Should any equipment used on site utilizing small off-road engines be contracted out, the logistics use facility shall preferentially contract for services utilizing zero-emission small off-road engines.

<sup>ix</sup> (d) Commencing January 1, 2026, any proposed new or expanded logistics use development less than 250,000 square feet where the loading bay is within 900 feet of a sensitive receptor that is utilizing a site zoned for industrial use or any site where an application was submitted to the jurisdiction by September 30, 2024, to rezone as industrial and the rezone to industrial was ultimately approved shall comply with all of the following:

(1) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible.

(2) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.

(3) Include buffering and screening to mitigate for light and noise, as described in Section 65098.2.

(4) Complies with or exceeds all requirements of the most current building energy efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations and the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations), including, but not limited to, the following requirements related to:

(A) Photovoltaic system installation and associated battery storage.

(B) Cool roofing.

(C) Medium- and heavy-duty vehicle charging readiness.

(D) Light-duty electric vehicle charging readiness and installed charging stations. (5) Provides conduits at loading bays equal to one truck per every loading bay

serving cold storage. Idling or use of auxiliary truck engine power to power climate control equipment shall be prohibited if the truck is capable of plugging in at the loading bay.

(6) Ensures that any heating, ventilation, and air-conditioning is high-efficiency.

(7) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses.

<sup>x</sup> Note: there is no minimum square footage for these facilities.

<sup>xi</sup> (a) "21st century warehouse" means a logistics use that meets all of the following: (1) Complies with or exceeds all requirements of the most current building energy efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations and the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations), including, but not limited to, the following requirements related to:

(A) Photovoltaic system installation and associated battery storage.

(B) Cool roofing.

(C) Medium- and heavy-duty vehicle charging readiness.

(D) Light-duty electric vehicle charging readiness and installed charging stations. (2) Has skylights in at least 1 percent of the roof area, or equivalent LED efficient lighting.

(3) Provides conduits and electrical hookups at all loading bays serving cold

storage. Idling or use of auxiliary truck engine power to power climate control equipment shall be prohibited if the truck is capable of plugging in at the loading bay. (4) Ensures that any heating, ventilation, and air-conditioning is high-efficiency. (5) (A) Ensures that all classes of forklifts used on site, pursuant to State Air Resources Board's Zero-Emission Forklifts regulation, as drafted, shall be zero-emission by January 1, 2030, to the extent operationally feasible, commercially off-the shelf available, and adequate power available on site. (B) (i) If not operationally feasible, commercially off-the shelf available, or if there is inadequate power available on site, the cleanest technology commercially available shall be used. (ii) Cost shall not be a factor in determining operational feasibility pursuant to this subparagraph. (6) (A) Ensures that equipment used on site utilizing small off-road engines shall be zero-emission, to the extent operationally feasible, commercially off-the shelf available, and adequate power available on site. (B) (i) If not operationally feasible, commercially off-the shelf available, or if there is inadequate power available on site, the cleanest technology commercially available shall be used. (ii) Cost shall not be a factor in determining operational feasibility pursuant to this subparagraph. (C) Should any equipment used on site utilizing small off-road engines be contracted out, the logistics use facility shall preferentially contract for services utilizing zero-emission small off-road engines.

<sup>xii</sup> This appears to be a punch list of issues for project opponents to use to attempt to block the siting of these facilities through CEQA litigation.

<sup>xiii</sup> 65098.4. Prior to the issuance of a certificate of occupancy, a facility operator shall establish and submit for approval to the planning director or equivalent position for the city, county, or city and county a truck routing plan to and from the state highway system based on the latest truck route map of the city, county, or city and county. The truck routing plan shall describe the operational characteristics of the use of the facility operator, including, but not limited to, hours of operation, types of items to be stored within the building, and proposed truck routing to and from the facility to designated truck routes that, to the greatest extent possible, avoid passing sensitive receptors. The truck routing plan shall include measures, such as signage and pavement markings, queuing analysis, and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets. The facility operator shall be responsible for enforcement of the truck routing plan. A revised truck routing plan shall be submitted to the planning director or equivalent position prior to a business license being issued by the city, county, or city and county for any new tenant of the property. The planning director or equivalent position shall have discretion to determine if changes to the truck routing plan are necessary, including, but not limited to, any additional measures to alleviate truck routing and parking issues that may arise during the life of the facility.

<sup>xiv</sup> This discretionary authority potentially subjects this plan to CEQA.

<sup>xv</sup> (3) By January 1, 2028, except as provided for in subparagraph (H), a county or city shall update its circulation element to do all of the following:

(A) Identify and establish specific travel routes for the transport of goods, materials, or freight for storage, transfer, or redistribution to safely accommodate additional truck traffic and avoid residential areas and sensitive receptors, as defined by Section 65098.

(B) Maximize the use of interstate or state divided highways as preferred routes for truck routes. The county or city shall also maximize use of arterial roads, major thoroughfares, and predominantly commercially oriented local streets when state or interstate highways are not utilized. Truck routes shall comply with the following:

(i) Major or minor collector streets and roads that predominantly serve commercially oriented uses shall be used for truck routes only when strictly necessary to reach existing industrial zones.

(ii) Trucks shall be routed via transportation arteries that minimize exposure to sensitive receptors.

(iii) On and after January 1, 2028, all proposed development of a logistics use development, as defined in subdivision (d) of Section 65098, shall be accessible via arterial roads, major thoroughfares, or roads that predominantly serve commercially oriented uses.

(I) The purpose of this paragraph is to ensure that logistics use developments are sited in locations that minimize adverse impacts on residential communities and enhance transportation efficiency. This is achieved by restricting logistics use developments to roadways that are suited to handle the associated traffic and that predominantly serve commercial uses.

(II) For purposes of this paragraph, local roads shall be considered to predominantly serve commercial uses if more than 50 percent of the properties fronting the road within 1000 feet are designated for commercial or industrial use according to the local zoning ordinance.

(C) The county or city may consult with the Department of Transportation and the California Freight Advisory Committee for technical assistance.

(D) The county or city shall provide for posting of conspicuous signage to identify truck routes and additional signage for truck parking and appropriate idling facility locations.

(E) The county or city shall make truck routes publicly available in geographic information system (GIS) format and share GIS maps of the truck routes with warehouse operators, fleet operators, and truck drivers.



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*(F) The city or county shall provide opportunities for the involvement of citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, educational, and other community groups through public hearings and any other means the planning agency deems appropriate, consistent with Section 65351.*

*(G) The city or county shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the changes required pursuant to this paragraph.*

*(H) The warehouse concentration region, as defined in Section 65098, shall implement the provisions of this paragraph by January 1, 2026.*

*(I) The Attorney General may enforce this paragraph.*

*(i) The Attorney General may impose a fine against a jurisdiction that is in violation of this paragraph of up to fifty thousand dollars (\$50,000) every six months if the required updates have not been made.*

*(ii) Upon appropriation by the Legislature, any fines collected shall be distributed by the Attorney General and returned to the local air quality management district in which the fine was imposed and be used for the district's efforts to improve air quality.*

<sup>xvi</sup> Local agencies and facilities operators could likely not rely on this exemption (from 300-500 ft setbacks) applicable to any new sensitive receptors which locate near their facility. The recent pattern of legislative activity with housing laws in an example of how such laws can quickly change. And this exception only applies to those setbacks; all other environmental and truck parking requirements would still apply.

<sup>xvii</sup> Note that there is a 3-month gap between these requirements. The prohibition on the applicability of distance requirements does not apply to any sensitive receptors "constructed, established or permitted" between September 30, 2024, and January 1, 2025, the effective date of this bill. In addition, that bill states that even if a logistics facility was in the entitlement process before the entitlement proposed for a sensitive receptor, this does not apply to facilities where the sensitive receptor is an allowable use under local zoning. These assurances, are at best, weak. State laws now allow housing development either on, or adjacent to industrial lands, in violation of general plans and zoning.

<sup>xviii</sup> Does not apply to a unit declared substandard by a building official prior to the purchase of the land by the developer.

<sup>xix</sup> Developers of logistic facilities are not affordable housing developers. Given the time associated with building affordable housing, and securing other funding, more timing flexibility should be provided.

*The California Association for Local Economic Development (CALED) is the premier statewide professional economic development organization dedicated to advancing its members' ability to achieve excellence in delivering economic development services to their communities and business clients.*

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