

California's AB 550: A Blueprint for Balancing Development and Species Conservation

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California's drive toward a net-zero carbon economy by 2045 is sparking innovative solutions to harmonize environmental conservation with infrastructure development. [Assembly Bill \(AB\) 550](#), sponsored by Assembly Member Petrie-Norris, aims to amend the California Endangered Species Act (CESA) by permitting renewable energy projects to take unlisted but "at-risk" species. The proposed legislation recognizes the dual imperative of advancing clean energy while conserving California's biodiversity.

Historically, the California Department of Fish and Wildlife (CDFW) has been unable to authorize the take of unlisted species without a lengthy Natural Communities Conservation Plan. At least one appellate court invalidated efforts by CDFW to provide advance take authorization for unlisted species through a CESA §2081 incidental take permit. In *Environmental Protection and Information Center v. California Dept. of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (EPIC), the California Supreme Court noted the Court of Appeal concluded CDFW could not include unlisted species in a §2081 incidental take permit, and that the permittee would have to seek new permits if and when the unlisted species became listed. The EPIC case underscored the limitations within the existing CESA framework, highlighting the need for legislative intervention to address the evolving needs of conservation and development.

AB 550 addresses this limitation by explicitly allowing CDFW to issue CESA §2081 incidental take permits that include unlisted, "at-risk" species for renewable energy projects. This would provide renewable energy developers with greater certainty that their projects will not experience delays during construction and that future operations will not be curtailed if and when new species are listed. This increased certainty will facilitate financing for the development of such projects. The bill would also provide renewable energy projects with the ability to use CDFW-approved scientific research projects as mitigation. This recognizes that renewable energy projects can themselves contribute to species conservation.

As California strives to meet housing, and other demands without compromising vulnerable species, AB 550 might pave the way for similar strategies in housing and other critical infrastructure sectors. The bill leaves some questions unanswered, such as the timing of mitigation measures for unlisted species, but its success could inspire broader applications in balancing development with conservation.

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