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THE NATIONAL LAW JOURNAL

Enough With Half Measures: A Call for Radical Change to Accelerate Transportation Infrastructure

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October 17, 2025

The first transcontinental railroad in the United States broke ground in 1863, in the middle of the Civil War. It was completed six years later.

In 1996, California established its High-Speed Rail Authority. Nearly 30 years later, the project has cost $24 billion. Not an inch of track has been laid and none of it will be usable until at least 2032.

China now has over 30,000 miles of high-speed rail—most of it built in the last decade.

To consider another mode of transportation, the 47,000 miles of America's interstate highway system took 36 years to build, from the passage of the Federal Highway Act in 1956 to the opening of the final segment of I-70 in Colorado in 1992.

By contrast, construction on Boston's infamous Big Dig project took 26 years from initial planning to completion. The result was 7.8 miles of new highway.

The 2021 Bipartisan Infrastructure Law was enacted with the goal of building 500,000 electric vehicle charging stations. By February 2025, 58 stations were complete.

Transportation infrastructure in America is more expensive, and takes dramatically longer to build, than in just about any other place in the world. And despite major improvements in technology, construction is also much more time-consuming than it used to be in the United States. Commentators from across the political spectrum have raised concerns over this problem, as it slows the development of critical transportation systems throughout the country.

Courtesy photos

Justin Savage, left, and Adam Raviv, right, of Sidley Austin.

Though some recent policy changes may incrementally address the length and cost of infrastructure projects, ultimately more wholesale and bipartisan solutions are necessary to bring things back to where they should be. If we really want to accelerate the approval and construction process in the United States, larger scale thinking is in order.

A few major types of regulatory barriers contribute to the costs and time required for these projects. To address them, we propose some big-picture, high-level reforms to how government at all levels handles them.

Environmental Reviews: Environmental reviews and approvals at all levels of government can be a major barrier to the swift finalization and construction of infrastructure projects—including, ironically, environmental projects, from rail transportation to electric vehicle charging stations. Recognizing this challenge, policymakers in both parties, and in multiple branches of government, have moved to address these holdups.

In June, for example, California enacted a law that would, among other things, reduce the environmental review burden of the California Environmental Quality Act on high-speed rail projects. As with many "reforms" in this area, the law makes a small step that does little to change the status quo. For example, the law would exempt the construction of high-speed rail stations from the CEQA requirements—but only if the station is covered by "a previously certified environmental impact report prepared pursuant to [the CEQA] for a high-speed rail or passenger rail project," and it "incorporates all applicable mitigation measures identified in the previously certified environmental impact report." So this legislative change, though welcome, really only eliminates the need for redundant review and certification. It does nothing to speed up the initial review for high-speed rail projects.

Various federal agencies also recently began to overhaul their regulations under the National Environmental Policy Act. These actions followed the Fiscal Responsibility Act of 2023, which aimed to set time limits for NEPA reviews; a 2024 U.S. Court of Appeals for the District of Columbia Circuit decision that questioned the authority of the White House Council on Environmental Quality to issue regulations under NEPA; a May 2025 U.S. Supreme Court decision that criticized the evolution of NEPA into a "substantive roadblock;" and CEQ's rescission of its NEPA implementing regulations.

While these regulatory changes may speed up environmental approvals at the margin, it remains to be seen whether they will meaningfully reduce the overall time and cost of large-scale infrastructure projects. In particular, legislation that does more to set hard limits on environmental reviews would go further. For example, the Standardizing Permitting and Expediting Economic Development (SPEED) Act, introduced in the House of Representatives in July, would, according to its sponsors, "shorten permitting timelines," "reduce the frequency of frivolous litigation," "simplify the analysis required in NEPA documents," and limit judicial review of NEPA claims.

Labor Costs: When it comes to infrastructure construction, labor costs in many parts of the United States, especially urban areas, are substantially higher than elsewhere. While market forces partially explain that disparity, local labor and employment rules also play a role. A New York University study of Manhattan transit expansion found that staffing level requirements were higher in New York than in other countries and work rules limited productivity, even compared with other rich cities like Stockholm. And the consultants that help builders navigate the regulatory process—who are needed far more in the United States than elsewhere—also are paid handsomely.

In addition, federal and state procurement laws, including the Davis-Bacon Act and its state counterparts, can also affect the cost and speed of project completion. As well-intentioned as these laws may be, it is worth considering whether these laws and rules justify the additional costs and burdens they create. A fresh look at labor requirements and work rules could help improve contracting processes.

Contracting Processes: The contracting process at the federal and state levels can substantially complicate the initiation of projects. For example, the process in New Jersey effectively prevented construction of electric vehicle charging stations funded by the Bipartisan Infrastructure Law. Likewise, federal procurement can move slowly, because of the complexity of the Federal Acquisition Regulation, the elaborate bidding process, and post-award bid protests that can bring a project to a halt.

Drastically simplifying the contracting and bid protest process at the federal and state level could go a long way toward speeding up the overall pace

of construction. In addition, cost-shifting rules for unsuccessful bid protests could make disappointed bidders think twice about brining all but the most compelling cases.

Intergovernmental Coordination: Constructing a major—or even less than major—infrastructure project typically requires dealing with numerous authorities at all levels of government, as well as, in many cases, private utilities. For example, as the NYU study put it: "Before Phase 1 construction began, the [Metropolitan Transit Authority] had to figure out how to build underneath Second Avenue's maze of legacy and more recent urban infrastructure. This meant securing agreements from the New York City Department of Transportation (NYC DOT), New York City Department of Environmental Protection (NYC DEP), New York City Parks Department (NYC Parks), New York City Department of Buildings (NYC DOB), Fire Department of the City of New York (FDNY), Consolidated Edison (Con Ed), Verizon, Empire City Subway (ECS), and others."

A project can only move as fast as its slowest and most intransigent regulator. Though supporters of a transportation project are well advised to consult with experts who are savvy in submitting paperwork and dealing with different agencies and authorities, the process of doing so is costly and time-consuming.

Centralizing approvals under a single regulator, rather than requiring intergovernmental participation at every step, would go a long way to speeding up the design and construction process of infrastructure projects. Because so many longstanding agencies have well entrenched roles at the federal, state, and local level, only ambitious national legislation is likely to cut the Gordian knot of overlapping governmental authority. A law that establishes a single agency to approve projects that receive federal funds—perhaps located in the Department of Transportation, or perhaps elsewhere—would go a long way toward speeding up getting projects done.

For example, a law could place all transportation projects that receive federal funds under the purview of a single agency in connection with all regulatory matters, including zoning, environment, labor, property use, eminent domain, and historical preservation. The law could also expressly preempt state or local regulation of these projects.

To be sure, a law like this would be a major shift in authority, and would require that the responsible federal agency have the resources to deal with extensive project oversight. It would, however, have the potential to dramatically streamline the burden and cost of project approval and oversight.

Individual Objections to Projects: Relating to all the above areas, infrastructure projects can be held up by individual litigation challenges or objections to government approvals. For example, various federal environmental statutes, including the Clean Air Act and Clean Water Act, allow citizen lawsuits that have the potential to block infrastructure development. Or, at the local and state level, individual objections during a public hearing or notice and comment period can have the effect of holding up projects for years.

In many contexts, individual citizens or organizations can object to permits, environmental impact statements, land use decisions or other determinations. Legislation or regulations that limit these suits and objections, or impose consequences for manifestly nonmeritorious challenges, could reduce their frequency.

The United States should be the world leader in developing effective and modern transportation systems. Instead it is falling behind, in large part because of various kinds of red tape. Major reforms can get us, literally, back on track.

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