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## Industry Focus | Energy & the Environment

# Lawmakers determined to overhaul CEQA this year

### Steinberg: Objective is to make process 'more timely, less expensive'

Art Garcia, Correspondent

Battle-scarred and bullet-hole-riddled over the 42 years since Gov. [Ronald Reagan](#) signed it into law, the California Environmental Quality Act likely will receive its first major overhaul in the legislative session that began Jan. 7.

Four decades of attempts to modify CEQA

— which almost always pits environmentalists against developers — have accomplished little. So why this year?

The big reason is because state Senate president pro tem [Darrell Steinberg](#) wants to see a CEQA makeover and so does Assembly speaker [John Perez](#) — the Democratic leaders of the heavily Democratic Legislature. Steinberg is all about reform this year now that Democrats hold a supermajority.

A late bid last August to give CEQA a major makeover fizzled when Steinberg decided the law, "for all of its strengths and its faults," was far too important to rewrite in the last days of the session.

Environmentalists, who had lobbied heavily against the proposed makeover, were overjoyed. More than 30 Democratic lawmakers signed a letter sent to Steinberg opposing any significant changes in CEQA just days before the 2011-2012 legislative session ended. Unhappy with the delay were business interests and some legislators who backed the scrapped proposal to remake the state's signature environmental law.

The CEQA agenda for the new legislative session is to "update" the act, Steinberg said.

"I think it's a great statute, but it's four decades old and it carries a lot of important issues on its back," he said. "There are complaints from the business side that it's sometimes too often used to delay good projects."

There are good points on both sides, he said, "but I know this: The issue is not going away and I believe this is the year we tackle it in a constructive way."

The objective, Steinberg said, is to make the CEQA process "more efficient, more timely and less expensive."

The president pro tem assured he won't be party to anything that does harm to the environment. "But that isn't so much what the concerns and the complaints are from the other side," he said. "It's sometimes how the law is used and the amount of time it takes, even for projects that are clean and green."

"It's not good for the CEQA law, for the environment, for the business community of California to continue fighting about the same set of subjects every year," he continued. "Let's get in there and let's look at where the law can be improved."

To drive the debate in the state senate, Steinberg named Sen. [Michael Rubio](#), a Bakersfield Democrat, to be the incoming chair of the Senate Environmental Quality Committee. Rubio was the sponsor last summer of the proposed bill to make major CEQA reforms, the draft that Steinberg shot down.

Gov. [Jerry Brown](#), while not endorsing a CEQA facelift, has shown a willingness to address the subject by saying he's never met a CEQA exemption he didn't like and calling CEQA reform "the Lord's work."

In the first several years of his administration, the governor focused on shoring up the state budget. "Passage of Proposition 30 in November stabilized the budget situation, so the next logical move is for the governor to get into reforming the business climate in California, and CEQA is the area to do it," said Sen. [Anthony Canella](#), a Ceres Republican and civil engineer who's served that small Central Valley farm town as a supervisor, councilman and mayor.

"The governor's motivated and Sen. Steinberg has gotten alongside Sen. Rubio and said they're going to make CEQA reform a priority this year, so I believe there will be reform this year," Canella said.

Despite approval of the tax-generating Proposition 30, "it won't matter how much tax money is going to the state," he said. "If we don't get people back to work and grow our business environment, we're going to be a stagnant economy for years and years."

Canella said he hopes to be named a member of Rubio's environmental quality committee and "be part of any reform."

## What the Sierra Club wants

**Sierra Club California's** objective on attempts to change CEQA is to make sure the act is preserved "in a way that allows Californians to have some transparency of projects that are going to be in their neighborhood, their community, their cities, their state and what those environmental impacts are going to be," said [Kathryn Phillips](#), director, in Sacramento.

She tells all who will listen — few do, she said — that CEQA is not an environmental standard and not an environmental regulation. "It's a process," Phillips insisted. The law as it stands now forces public agencies, private developers of large projects and various other entities to "be honest with the public," she said.

"We want to make sure the heart of CEQA is preserved, regardless of what changes are proposed," she said. "In its more than 40 years' existence, there have been a lot of changes through court interpretations and legislative action. We want to be certain there is transparency and the environmental impacts are mitigated."

Phillips said what Rubio was proposing with his bill in August, backed by "a number of people, including attorneys who mostly represent developers around the state, was not just fixing CEQA and making sure people still have a way to respond and have transparency."

She said the proposed bill stated that if a builder or developer met local or regional laws related to clean air or clean water, "then they don't have to go through

CEQA. Ultimately you'd end up with more lawsuits.

"That's why under a Republican governor there was the decision to create a CEQA. The state was going to be hit with lots and lots of lawsuits and there was no clear path. CEQA provides that clear path. It provides a process. It's pretty clear, and it's transparent."

Rubio said what he and his committee hope to accomplish this year is a "modernization" of CEQA, noting more than 100 progressive environmental laws have been adopted in California "and yet CEQA has never been updated to recognize many of them.

"The genius of CEQA is that it encourages public participation, and that we must preserve," Rubio said. "It's one of the most important aspects of CEQA, and I will fight diligently to see to it that portion of the statute is protected."

## Looking for consistency and clarity

[Tina Thomas](#), principal of Thomas Law Group in Sacramento, who's practiced in the area of CEQA for 34 years, said it's time to modernize the statute and give it a "fairly significant overhaul." Thomas said her goal for her clients is to "look for consistency and clarity in statutes," elements she hopes will be a key part of CEQA reform efforts.

Because of the way CEQA is drafted, numerous lawsuits are filed against its provisions.

"Anyone can file a lawsuit against a project, pay a \$250 filing fee and keep a case in litigation for years," she said. "As a general rule, you can't get financing with pending litigation unless you're self-financed. There just are some hiccups in the statute that need to be addressed in a very straightforward way."

State Sen. [Noreen Evans](#), a Santa Rosa Democrat, believes CEQA needs "some updating and streamlining" for projects that could be of importance to the future of California. "I have some reservations about what Sen. Rubio proposed last year, which was essentially destroying CEQA," she said.

"The bill he introduced at the end of the last session was a piece of legislation that essentially would have said any development proposal that is in compliance with any other state law or regulation is deemed to be in compliance with CEQA," Evans said. "It would have completely gutted CEQA," she added, indicating she too would like to serve on Rubio's environmental quality committee.

Many CEQA observers don't believe the law has contributed to an alleged California anti-business climate. Rather, they point fingers at the state's high cost of housing and land, its declining standing in education, traffic snarls, its tangle of laws and threats of litigation.

"If we start to address those problems, we're going to have a much better business environment here," said Evans, who is drafting her own bill updating CEQA. She plans to hold a hearing in the Capitol in February.