



Senate Bill 317 (Rubio) – CEQA Modernization

BACKGROUND: Thoughtful Reforms to CEQA Long Overdue

- When the California Environmental Quality Act (CEQA) was enacted 40 years ago, the wide array of local, state and federal environmental and land use regulations that are now on the books didn't exist. CEQA was essentially it.
- In the 40 years since, Congress and the Legislature have adopted more than 120 laws to protect environmental quality in many of the same topical areas required to be independently mitigated under CEQA, including laws like the Clean Air Act, Clean Water Act, Endangered Species Act, GHG emissions reduction standards, SB 375 and more.
- Despite these stringent environmental laws and local planning requirements, public and private projects throughout the state are commonly challenged under CEQA even when a project meets all other environmental standards of existing laws.
- Many lawsuits are brought or threatened for non-environmental reasons and often times these lawsuits seek to halt environmentally desirable projects like clean power, infill and transit.
- It is time to modernize CEQA to conform with California's comprehensive environmental laws and regulations. Thoughtful CEQA reforms can preserve the law's original intent – environmental protection – while preventing special interest CEQA abuses that jeopardize community renewal, job-creation and the environment.

SOLUTION: SB 317 (the Sustainable Environmental Protection Act)

SB 317 contains the following four provisions to modernize CEQA:

1. Integrate Environmental and Planning Laws

- ✓ CEQA will continue to serve as *the* state environmental law for environmental impacts not regulated by standards set forth in other environmental and planning laws adopted since 1970.
- ✓ However, where a federal, state or local environmental or land use law has been enacted to achieve environmental protection objectives (e.g., air and water quality, greenhouse gas emission reductions, endangered species, wetlands protections, etc.), CEQA review documents like EIRs should focus on fostering informed debate (including public notice and comment) by the public and decision makers about how applicable environmental standards reduce project impacts.
- ✓ State agencies, local governments and other lead agencies will continue to retain full authority to reject projects, or to condition project approvals and impose additional mitigation measures consistent with their full authority under law other than CEQA.

(more)

2. Eliminate CEQA Duplication

- ✓ As originally enacted, CEQA did not require further analysis of projects that already complied with CEQA-certified plans such as General Plans. But a 1987 court decision dramatically changed CEQA's application.
- ✓ While SB 317 would continue to require CEQA review even if a project complies with approved plans, SB 317 would avoid duplicative litigation by limiting the ability to challenge the environmental document prepared for a project that complies with an approved plan and incorporates all applicable mitigation measures from the environmental impact report (EIR) prepared for the approved plan.
- ✓ Local governments and other lead agencies will continue to retain full authority to reject projects or to condition project approvals and impose additional mitigation measures, consistent with their full authority under law other than CEQA.

3. Focus CEQA Litigation on Compliance with Environmental and Planning Laws

- ✓ CEQA lawsuits should not be used to challenge adopted environmental standards, or to endlessly re-challenge approved plans by challenging projects that comply with plans.
- ✓ SB 317, however, would not eliminate all CEQA lawsuits. With limited exceptions, CEQA lawsuits may still be filed for failure to comply with CEQA's procedural and substantive requirements, including, for example adequate notice, adequate disclosure, adequate mitigation of environmental effects not regulated by other environmental or planning law, adequate consideration of alternatives to avoid unmitigated significant adverse impacts.
- ✓ Environmental and other public advocacy efforts to enact environmental protection laws should not be affected by any CEQA reform, and refocusing CEQA on how compliance with standards and plans will reduce impacts can also inform advocacy efforts to revisit standards or plans.
- ✓ Finally, "real" environmental lawsuits - seeking to enforce true environmental objectives - can still be pursued against agencies that fail to make regulatory or permitting decisions in compliance with standards and plans. However, the current system of broad brush CEQA lawsuits that can be filed by any party for any purpose to challenge any or all environmental attributes of projects that comply with standards and plans are an outdated artifact of the "anything goes" environment of 1970, which now hinders both environmental improvement and economic recovery.

4. Enhance Public Disclosure and Accountability

- ✓ Under SB 317, CEQA will continue to mandate comprehensive environmental disclosure and informed public debate for all environmental impacts, including those covered by standards set in other environmental and planning laws.
- ✓ CEQA's public disclosure principles are enhanced by requiring an annual report of project compliance with required mitigation measures made electronically available to the public as part of the existing Mitigation Monitoring and Reporting Plan process.