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Alter CEQA but don't weaken it

When it comes to the California Environmental Quality Act, modest changes are needed.

By The Times editorial board



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The 43-year-old California Environmental Quality Act, passed to inform and empower the public, requires developers to disclose the environmental effects of their projects in detailed reports and to mitigate any harm caused.

Does California's signature environmental law protect the state's air, water and wilderness by acting as a check on runaway projects proposed by overzealous developers? Or does it encourage baseless lawsuits that unfairly delay and even derail worthwhile projects that could provide badly needed jobs and housing for Californians?

Actually, it does both. The 43-year-old California

Environmental Quality Act, passed to inform and empower the public, requires developers to disclose the environmental effects of their projects in detailed reports and to mitigate any harm caused. Over the years, the law has successfully compelled many builders to improve their proposals, but it also has been used at times as a tool to stop development by opponents whose objectives have nothing to do with protecting the environment.

Perhaps the poster child for what riles CEQA's critics is a gas station in San Jose whose owner won city approval to add a couple of pumps. A CEQA lawsuit brought by a competing gas station at the same intersection claimed that the extra pumps would create too much traffic — and held up the modest expansion for years.

Critics also point to what they call not-in-my-backyard lawsuits brought under CEQA to kill construction of housing for low-income senior citizens on a dilapidated corner in Berkeley, to keep a school from being renovated in El Cerrito and, last year, to keep the so-called subway to the sea from tunneling along its most logical

route under Beverly Hills High School. Competitors have filed CEQA lawsuits to stop businesses from opening or expanding, and unions have filed suits on supposedly environmental grounds, only to withdraw them as soon as a labor agreement is reached with the developer.

At the same time, the law's supporters point to major successes: CEQA lawsuits have allowed thousands of acres to be preserved in the Santa Monica Mountains at no cost to taxpayers; have persuaded Stockton to reject further unchecked sprawl in favor of smarter infill development and increased public transportation; and have resulted in an agreement by a Bay Area development company to modify its plans for a major project to prevent millions of gallons of sewage from spilling into San Francisco Bay.

Reforming the law, then, requires striking a delicate balance between preserving its protections and curbing its unnecessary job-killing costs and delays. A bill that goes before the Senate Appropriations Committee on Monday might not resolve all

the valid complaints about the law, but it moves the state in the right direction. Written by Senate President Pro Tem Darrell Steinberg (D-Sacramento), SB 731 tackles some of the common, legitimate complaints about the law. Most CEQA lawsuits involve relatively small infill projects — construction on an area that is surrounded by developed land — and many of those lawsuits aren't over air, water or wilderness but are about issues such as traffic, noise and parking. Under the bill, standards would have to be set for these land-use issues by the state or locality, and infill projects that meet the standards would be exempt from lawsuits challenging them on those grounds.

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The bill would also provide \$30 million for planning agencies to update their zoning and development plans. Once those plans have been approved, local construction projects that meet their standards would not have to go through the entire environmental review process all over again.

The bill could also shorten delays by requiring government agencies to keep the documents

on a given project up to date and readily available, if the developer pays the cost. Currently, it can take planning departments six months to a year to gather such records after a lawsuit has been filed.

In striking its balance, Steinberg's bill leans in the direction of environmental protection rather than rewriting the law to open the construction floodgates, and that's fine. Builders see this as minor progress, and there may be further emendations to be discussed in the years ahead. But better to err on the side of caution, measure the results of this modest reform and then see what, if anything, needs modification, rather than rush ahead and possibly undermine the law's environmental protections.