

COMMENTARY

Environmental exemptions yes, but reform no



BY DAN WALTERS
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California Capitol. Photo by Anne Wernikoff for CalMatters

IN SUMMARY

The California Legislature continues to exempt favored projects from the California Environmental Quality Act while ducking comprehensive CEQA reform.

The California Legislature has [a handy website](#) that allows users to find and track the thousands of bills that are introduced during its two-year sessions.

If one enters ["California Environmental Quality Act"](#) into the website's search function, 171 bills pop up for the session that ended a fortnight ago, implying the Legislature's penchant for tinkering with California's landmark environmental legislation that then-Gov. Ronald Reagan signed 50 years ago.

As applied after enactment, CEQA evolved into a polarizing facet of governance – revered by environmental groups as a tool to block or alter developments they dislike, denounced as a wasteful impediment by public and private developers, and misused by unions and anti-housing organizations for reasons having nothing to do with the environment.

Jerry Brown, who followed Reagan into the governor's office, later became one of CEQA's sharpest critics, particularly after serving a stint as mayor of Oakland and seeing it used to stifle plans to remake the city.

After returning to the governorship in 2011, Brown declared that reforming CEQA was "the Lord's work" and complained that it was being misused to thwart his plans to expand housing for low-income families.

Brown, in an interview with UCLA's Blueprint magazine, lamented that "it's easier to build in Texas" but that changing CEQA would be politically impossible because "The unions won't let you because they use it as a hammer to get project labor agreements."

However, instead of spending political capital for a comprehensive overhaul of CEQA to prevent its misuse, Brown continued the practice – or malpractice – of granting full or partial CEQA exemptions for individual projects whose developers had political pull, most obviously for sports arenas such as a basketball palace near the Capitol.

No legislative session would be complete without a flurry of CEQA exemption bills and the dying hours of this year's version was typical.

When the session ended, for example, [Senate Bill 995](#) was still sitting on the Senate floor and still needing one more vote to send it to Gov. Gavin Newsom. The death of SB 995 was especially odd since it was being personally carried by the Senate's leader, President Pro Tem Toni Atkins, and was part of the Senate's effort to jump-start badly needed housing by extending fast-track CEQA processing for some projects.

Although SB 995 died in the final hours, the Legislature did approve easing CEQA requirements for certain kinds of transportation projects ([Senate Bill 757](#) and Senate Bill 288) and for drinking water improvements in disadvantaged communities ([Senate Bill 974](#)).

There's every reason to believe that projects receiving fast-track treatment by these three bills are deserving, but it also raises the question often posed in debates on such bills: Why not overhaul CEQA for everyone, not just those championed by particular legislators for particular reasons?

Truth is, legislators rather like the current de facto system of individualized exemptions from CEQA's often-ponderous, time-consuming requirements. They can posture as quasi-partners in popular projects such as sports arenas, and as advocates for politically correct infrastructure such as mass transit or water systems. They can draw campaign cash from exemption-seeking developers.

Moreover, they can sidestep the harder work of reforming CEQA, which would mean confronting the law's influential users, such as environmental groups, labor unions and the NIMBys who oppose housing development.

By catering to exemption seekers, legislators and governors make CEQA even more onerous, relatively, for those not in political favor and make much-needed comprehensive reform less likely.

CEQA reform may be, as Jerry Brown said, "the Lord's work," but the state's politicians are agnostics.



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