Golden Opportunity Lost

Can It Happen Here?

Center for Opportunity Urbanism

March 12, 2015
Overview

• After WWII, and as recently as 1970-1990, California was the Texas of its time
  – The very symbol of “golden” opportunity
  – Near the top of all major employment, educational, social measures

• From about 1990, California dramatically changed course
  – Weak employment growth
  – Unaffordable housing, high energy and other costs
  – Inability to create working and middle class jobs
  – Massive impoverished, poorly educated population increase
How Did the Transformation Happen?

Three important examples

- California Environment Quality Act (CEQA) 1970
- Greenhouse Gas Executive Order (Schwarzenegger) 2005
- Sustainable Communities Strategy (SB 375) 2008
Key Factors

• Well intentioned, but poorly drafted & understood legal initiatives

• Rapid expansion of program scope and reach by courts, regulators

• Dramatic increases in regulatory, lawsuit & delay risks and costs

• Decreasing ability or desire to change course
Part 1:

Opportunity Lost
Employment Growth Index, 1970=100

California  Texas  USA
# Employment Growth

## 1970-1990

<table>
<thead>
<tr>
<th>State</th>
<th>Employment Growth (1000s)</th>
<th>Annual Average Employment Growth Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>USA</td>
<td>38,521</td>
<td>2.2%</td>
</tr>
<tr>
<td>California</td>
<td>5,593</td>
<td>3.0%</td>
</tr>
<tr>
<td>Texas</td>
<td>3,474</td>
<td>3.4%</td>
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<tr>
<td>Nevada</td>
<td>418</td>
<td>5.8%</td>
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<tr>
<td>Arizona</td>
<td>936</td>
<td>5.2%</td>
</tr>
<tr>
<td>Florida</td>
<td>3,211</td>
<td>4.7%</td>
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<tr>
<td>Washington</td>
<td>1,068</td>
<td>3.5%</td>
</tr>
<tr>
<td>Georgia</td>
<td>1,469</td>
<td>3.4%</td>
</tr>
<tr>
<td>Virginia</td>
<td>1,376</td>
<td>3.3%</td>
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<tr>
<td>Massachusetts</td>
<td>744</td>
<td>1.5%</td>
</tr>
<tr>
<td>Michigan</td>
<td>947</td>
<td>1.4%</td>
</tr>
<tr>
<td>Illinois</td>
<td>942</td>
<td>1.0%</td>
</tr>
<tr>
<td>New York</td>
<td>1,047</td>
<td>0.7%</td>
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</table>

## 1991-2013

<table>
<thead>
<tr>
<th>State</th>
<th>Employment Growth (1000s)</th>
<th>Annual Average Employment Growth Rate</th>
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</thead>
<tbody>
<tr>
<td>USA</td>
<td>26,841</td>
<td>1.0%</td>
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<tr>
<td>California</td>
<td>2,609</td>
<td>0.8%</td>
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<tr>
<td>Texas</td>
<td>4,091</td>
<td>2.0%</td>
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<tr>
<td>Nevada</td>
<td>555</td>
<td>2.9%</td>
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<tr>
<td>Arizona</td>
<td>1,032</td>
<td>2.4%</td>
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<tr>
<td>Florida</td>
<td>2,216</td>
<td>1.5%</td>
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<tr>
<td>Washington</td>
<td>840</td>
<td>1.5%</td>
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<tr>
<td>Georgia</td>
<td>1,007</td>
<td>1.3%</td>
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<tr>
<td>Virginia</td>
<td>870</td>
<td>1.2%</td>
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<tr>
<td>Massachusetts</td>
<td>368</td>
<td>0.5%</td>
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<tr>
<td>Michigan</td>
<td>158</td>
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<tr>
<td>Illinois</td>
<td>509</td>
<td>0.4%</td>
</tr>
<tr>
<td>New York</td>
<td>705</td>
<td>0.4%</td>
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</tbody>
</table>
Inequality (Gini Index)
1970-2013

- California
- Texas

All State Average
Percent in Poverty, Cost Of Living Adjusted (2013)

- California: 24%
- Texas: 16%
- United States: 16%
California and Texas
Total Population in Poverty
and Percent of Total US Impoverished Population
2013
(cost of living adjusted)

<table>
<thead>
<tr>
<th></th>
<th>People in Poverty (1000)</th>
<th>Percent of US Total</th>
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</thead>
<tbody>
<tr>
<td>California</td>
<td>8,952</td>
<td>18.1%</td>
</tr>
<tr>
<td>Texas</td>
<td>4,211</td>
<td>8.5%</td>
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</tbody>
</table>
Percent Change in Adult (25+) Educational Achievement
1970-2012

United States
California
Texas
Part 2:

CEQA: The “Blob” is Born
Enacted “easily” in 1970 after major oil spill, dire 1969 state environmental quality commission report:

- California was “called upon” to accommodate “one of greatest bursts of immigration and population world has ever known”
- Major portions of the State may “not be capable of supporting tolerable human life within several more decades”
- Legendary environmental assets “squandered in grossly negligent fashion”
- If present course continues, “our posterity will inherit a vast wasteland”

**Note:** State population *doubled* since report was issued

- Not capable of supporting a new job or affordable home; posterity will live with parents forever?
CEQA Enactment

• Based on federal National Environmental Policy Act (NEPA)

• Widely seen as informational; “lead agency” must:
  – List potential impacts to air, water, land, agriculture, etc.
  – Mitigate impacts where feasible
  – Make a determination about impact significance
  – Certify CEQA analysis, approve or disapprove project

• Understood by many to apply only to public programs
Massive Redefinition of CEQA

- Attorney General and talented environmental unit file lawsuits to expand CEQA in early 1970s
- Supreme Court decrees CEQA applies to any public decision, including private project approvals
- Almost anyone, even unincorporated “pop-up” entities, can bring a CEQA lawsuit, allege almost anything—Bay Bridge; Sacramento Water Plan
- Unlike NEPA, CEQA interpreted by CA courts to require substantive mitigation
- Becomes omni-regulatory “blob”
CEQA Results

• EIR preparation costs—engineering, cultural studies, hydrology, air, aesthetics, traffic impact studies—soar

• Courts freely second guess lead agencies almost 50% of the time—a legal coin flip

• Smaller entities particularly hard hit by CEQA barrier to entry

• CEQA survival increasingly expensive & political
  – CALTRANS freeway shutdown to avoid bridge lawsuit delay
  – Railcar company gives union “card check” to continue operating but abandons new factory
  – Special CEQA exemptions for “preferred” arenas, green companies, rail
  – Used to block urban parks, clean energy, roads, undo even expansive preservation agreements
Part 2:

Arnold and Greenhouse Gases
2005 GHG Executive Order

• Schwarzenegger post-recall
  – Wanted to be pro-business and environmental pacesetter
  – Appointed RFK Jr. recommended CalEPA head, Cabinet Secretary

• Union of Concerned Scientists Study
  – 18° F hotter in summer
  – 90% snowpack loss

• Wanted top billing in global GHG effort
2005 Executive Order Goals

• 1990 GHG Levels by 2020

• 80% Below 1990 GHG Levels by 2050

• Legislature has to date only enacted 1990 reduction (AB 32)

• 80% remained a goal & cannot be achieved with existing technology
Example: CCST 60% Reduction Scenario with commercially available or demonstration tech & with “reasonable” cost

- All buildings would either have to be demolished, retrofitted, or built new to very high efficiency standards
- Vehicles of all sorts would need to be made significantly more efficient
- Industrial processes would need to advance beyond technology available today
- Widespread electrification wherever technically feasible would be required (including nuclear)
CEQA Consequences of 2005 Order

- Attorney General, other groups push hard to make 80% reduction state’s “real” CEQA requirement
- Appellate court finally agreed in San Diego; Supreme Court yesterday announced it will review decision
- CEQA made a non-legislative “goal” into “law”
- CEQA process paralyzed—no one knows how to address GHG & reduce litigation risks
Part 3:

The Towering Mandate for Sustainable Community Strategies
• 2008 law authorizes CARB to set regional GHG reduction targets

• Regional planning agencies must adopt a “sustainable community strategies” (SCS) that CARB certified will meet targets

• Sold as nonbinding; law even states that SCSs:
  – Do not regulate “the use of land”
  – Do not supersede “the exercise of the land use authority of cities and counties within the region.”
CALIFORNIA
Metropolitan Planning Organizations (MPOs)
and
Regional Transportation Planning Agencies (RTPAs)

*AMBAG includes SCCRTP, TMC and SBCCOG. All retain RTPA status.
**MTC covers a nine county region.
†SCAG is the RTPA for Sacramento, Sutter, Yolo, and Yuba Counties It is the MPO for the federally designated ozone non-attainment area in Sacramento, Yolo, Yuba, Sutter, Placer, and El Dorado Counties. Placer and El Dorado Counties retain RTPA status up to the crest of the Sierra Nevada Mountains.
††SCAG covers a six county region, five of which are County Transportation Commissions: LAMTC, OCTA, RCTC, SBCTC, and VCTC
### Approved Regional Greenhouse Gas Emission Reduction Targets

<table>
<thead>
<tr>
<th>MPO Region</th>
<th>Targets *</th>
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<tr>
<td></td>
<td>2020</td>
</tr>
<tr>
<td>SCAG</td>
<td>-8</td>
</tr>
<tr>
<td>MTC</td>
<td>-7</td>
</tr>
<tr>
<td>SANDAG</td>
<td>-7</td>
</tr>
<tr>
<td>SACOG</td>
<td>-7</td>
</tr>
<tr>
<td>8 San Joaquin Valley MPOs</td>
<td>-5</td>
</tr>
<tr>
<td>6 Other MPOs</td>
<td></td>
</tr>
<tr>
<td>Tahoe</td>
<td>-7</td>
</tr>
<tr>
<td>Shasta</td>
<td>0</td>
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<tr>
<td>Butte</td>
<td>+1</td>
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<tr>
<td>San Luis Obispo</td>
<td>-8</td>
</tr>
<tr>
<td>Santa Barbara</td>
<td>0</td>
</tr>
<tr>
<td>Monterey Bay</td>
<td>0</td>
</tr>
</tbody>
</table>

* Targets are expressed as percent change in per capita greenhouse gas emissions relative to 2005.
Map 2. Density of Household Growth, 2010-2040

Source: ABAG (2013)
SB 375—CEQA Consequences

• SCS consistency becomes a CEQA issue for all land planning decisions
  – Impacts (including AB 32 goals) must be evaluated
  – If significant, impacts must be “mitigated”

• Emerging conflicts and contradictions
  – 1st gen dense homeowners start opposing 2nd gen denser development even in “preferred” SCS areas
  – “Preferred” development areas have higher diesel, other health risks and affect disadvantaged communities
  – Sealed, HEPA-filtered housing; electric freight mitigation
Conclusion

California’s Experience and The Future of Opportunity States
California’s Trajectory

• Growth spawns opposition
• Well intentioned laws, programs expand far beyond intended scope and reach
• Housing, energy, land, labor, regulatory and litigation costs and risks dramatically increase
• Reform becomes increasingly impossible
  – Special interests (unions, NGOs, established businesses) benefit from and strongly support status quo
  – Wealthy elite values political power and social affirmation much more than economic opportunity and mobility
  – Middle class pacified (homeowners) or leaves (younger, aspiring families)
  – Pro-growth coalition loses support of working and impoverished groups
It *Can* Happen Here

- Similar dynamics exist, will intensify as growth continues
- Feds export regulatory, legal requirements and approaches
  - Federal GHG regulations, proposals clearly California
  - Federal “waters of U.S.” regulatory definition effort reflects California-style legal and administrative
- Professional, academic, administrative personnel diffusion
- Challenges of maintaining an opportunity coalition
  - Wealthy lose interest in, or even oppose new growth
  - Politically active middle class easy to lose
  - Important to secure less advantaged population support and avoid California’s tragic social & economic results