

Rubio takes on state environmental law

By Torey Van Oot, Sacramento Bee

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SACRAMENTO -- State Sen. Michael Rubio says he first wondered if something were wrong with California's environmental review law during his days as a Kern County supervisor, when he saw it used to slow wind and solar projects he considered green by their very nature.

Now, just more than two years into his Senate term representing a large swath of the southern Central Valley, he is taking on fellow Democrats on the issue, moving to rewrite the California Environmental Quality Act, one of the most complicated and controversial policy issues under the dome.

Making changes to "modernize" the law, a process he compares to updating an outdated iPhone app, is in Rubio's view "the most important issue facing California today."

He is quick to praise the law, signed in 1970 by Republican Gov. Ronald Reagan, for bringing "tremendous good" to the environment and the state. But he said he was "shocked" to see projects that could improve the environment and public health "delayed significantly by misuses and abuses of a wonderful statute."

Since joining the Senate in 2011, Rubio has gained a reputation as one of the upper house's more moderate Democrats. The move on CEQA puts him at odds with many of his colleagues, as well as interest groups representing a key Democratic constituency: environmentalists.

It also endears him to a California business and agriculture lobby that has been pushing for regulatory changes for years.

With his party holding a bare supermajority that allows Democrats to take virtually any action without Republican support, once-in-a-while defectors such as Rubio gain leverage, both in the caucus and among business interests that can give candidates a fundraising boost.

"Someone like him, a moderate Latino Democrat representing a moderate district, has a much more elevated platform than he had before the Democrats won the two-thirds supermajority," said Ben Tulchin, a Democratic pollster. "If he becomes the go-to person for those groups, for industry in Sacramento, he's built a donor base and a profile that he couldn't have had before."

Rubio, 35, says both his upbringing and a desire to vote in ways that stay true to his moderate district influence his positions in the Legislature. He has split from his party on key votes before, including voting no on legislative Democrats' budget in June 2012.

"I was raised by a gun-slugging, spur-rearing Reaganite of a mother and they were very deep-rooted Republicans and conservatives," he said of his parents. "I guess that's where you could say I get my conservative bent."

Years of complaints

The offensive on CEQA is the culmination of years of complaints from developers and other critics who say the law is being misused to block projects for reasons other than environmental harm. Arguments that such lawsuits, and even the threat of litigation, are problematic and hurt economic development gained traction in the down economy, prompting lawmakers to approve exemptions for projects including a new football stadium in Los Angeles.

Many of the law's supporters, however, say it doesn't need to be changed significantly. They point out that the percentage of projects sued under CEQA is small -- about 1 percent by one analysis -- and argue the law continues to provide important protections.

Efforts by Rubio and his allies to put forward CEQA legislation at the end of last year's session met with resistance. Thirty-four Democratic legislators signed a letter urging leaders to shut down what they saw as "an end-of-session power play" to gut the law. Some of the state's major environmental groups also chimed in.

Rubio shelved plans to push a bill after Senate President Pro Tem Darrell Steinberg signaled it would not move forward that year. "We always have to read the dynamics of the building," he said at the time.

Just five months later, Rubio believes those dynamics have changed.

Democratic Gov. Jerry Brown called in his State of the State address for revising the law. Steinberg gave Rubio the gavel of the Environmental Quality Committee and has pledged to make reviewing possible updates to the law a priority this session. The two have held a series of meetings with people involved and are working to hash out language on which they can agree.

Rubio and his backers, including some of the state's major business coalitions and CEQA attorney and Democratic donor Tina Thomas, say they are committed to protecting the essence of the 42-year-old law, while finding fixes he says would limit uncertainty for those wishing to pursue responsible development.

Chief among their goals is limiting lawsuits over aspects of a proposal that have already met certain planning or environmental standards.

While Steinberg didn't agree with Rubio's approach on CEQA last year, he said he admired his colleague's willingness to stick his neck out on the issue. He said he expects Rubio to become a "force and an excellent policymaker as the years progress."

"He's the kind of guy who's not afraid to get right back up when he gets knocked down, and he'll get knocked down a few times," Steinberg said. "He's not afraid to take on hard stuff."

Planned on FBI career

Rubio said a career in politics wasn't his goal as he was growing up in and around Shafter. A dream to become an FBI agent sent Rubio, the son of a farmworker and a school secretary, across the country to study criminology at the University of New Haven in Connecticut.

He said he ultimately shed the "apolitical" views he held growing up, deciding in college he was a Democrat after a deal President Bill Clinton brokered with then-House Speaker Newt Gingrich allowed him to collect additional student aid and stay in school.

After graduating and serving a stint in the Peace Corps, Rubio returned to the Central Valley to work for a program focused on helping poor children. He started getting involved in local politics.

He signed on as an aide to former Democratic Sen. Dean Florez, then a member of the Assembly, in 2000. Florez said Rubio got the job by approaching him at a local parade.

Motivated by his competitive streak and a sense there were "wrongs that needed to be righted," Rubio ran for office himself in 2004.

"A supervisor at the time said, 'If you don't like the way I'm doing this, you can run against me,'" Rubio said. "I was 24 at the time, just about to be 25, and I said, 'You're on.'"

He toppled that supervisor, defeating Democrat Pete Parra, a major name in Central Valley politics, by 23 points to become the board's youngest-ever member. The leather shoes he wore thin as he knocked on 15,872 doors -- twice each -- during the campaign are mounted on his district office wall, a gift from Florez.

"I think he has public service in his DNA," Florez said. "I think he wants to serve people. He comes from a really, really poor area, like I did. You see so many people not being served."

Allies say the freshman senator's work ethic and demeanor raise their prospects for success this session.

"When Michael Rubio has a goal, he sets his sights on what it takes to achieve that goal," said Silicon Valley Leadership Group President Carl Guardino, a member of the CEQA Working Group coalition who trains for endurance races with the senator.

Even with Rubio's drive and Steinberg's involvement, however, any proposal to change CEQA is likely to face significant opposition in the Legislature. The seats on the key committee Rubio chairs have been filled with some of the chamber's most vocal environmentalists, a decision Steinberg says was intentional. Democrats outside the committee are also skeptical.

"I don't think that the so-called CEQA reform is the most urgent issue facing the state of California right now," said state Sen. Noreen Evans, D-Santa Rosa. "It's just not."

Kathryn Phillips, lead lobbyist for the Sierra Club of California, said she sees the potential for a compromise bill that would tackle some "low-hanging fruit" to make CEQA work better. But she characterized the types of changes sought by Rubio and his backers as misguided attempts by developers and other interests to use a down economy as an excuse "to go after something they haven't liked for some time."

"It's getting him a lot of exposure, but I wish he would focus on something else that would be more productive," she said.

Rubio has already explored at least one run beyond the state Senate. Considered a contender for a swing congressional district in the last election, he decided to drop his candidacy after the younger of his two daughters was diagnosed with Down syndrome.

For now, Rubio says he is focused on winning re-election to the state Senate in 2014. But he hasn't closed the door on a congressional or statewide run in 2018 or beyond. His allies don't shy from expressing support for his future political endeavors.

"If he were a stock," Guardino said, "I would highly recommend people buy as many shares as they could."

Central Valley power plant pays fine to settle EPA violations

Central Valley Business Times and Stockton Record, Monday, January 28, 2013

Thermal Energy Development Partnership, a biomass electric power plant in Tracy in the Central Valley, is paying a \$145,000 penalty for Clean Air Act violations for failure to properly operate and maintain emission monitoring equipment, the U.S. Environmental Protection Agency says Monday.

"EPA will continue to rigorously enforce against facilities located in the San Joaquin Valley, a geographic focus for our regional strategic plan. The message is simple: facilities must comply with the requirements to monitor their pollutants," says Jared Blumenfeld, EPA's regional administrator for the Pacific Southwest. "With some of the poorest air quality in the nation, the Valley cannot afford to risk any further deterioration."

The permits required the facility to properly maintain and operate a continuous emission monitoring system.

But, says the EPA, Thermal Energy's monitoring equipment failed to monitor sulfur dioxide for 30 months, nitrogen oxides and carbon monoxide for 27 months, and opacity for nine months. There were no known emission violations.

The Clean Air Act violations by Thermal Energy were under the federal New Source Performance Standard, which applies to steam generators constructed after June 19, 1984 and have a heat input capacity from combusted fuels greater than 100 million BTUs (British thermal units) per hour. Also considered in the settlement were the federally enforceable San Joaquin Valley Air Pollution Control District permit conditions.

Failure to operate emissions monitors properly can result in illegal releases of pollutants into the atmosphere, the EPA says. Facilities are required to properly maintain and operate emissions monitoring equipment to measure the release of pollutants and help protect human health.