

LAO -- a heavy hitter in the fight over environmental issues

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In the battlefield that is California's greenhouse gas emissions law, the opposing forces have been clearly defined: Industry and business interests seek limits or an outright repeal, while environmental groups, their allies and – thus far – the public favor the statute.

But a third major player has gradually entered the fray over the past year: the Legislative Analyst's Office.

For a nonpartisan office that advises lawmakers on the state budget and myriad fiscal issues, the appearance of the LAO is a surprise, not only in air-quality issues but in an array of other environmental questions facing the Capitol.

"I would generally agree that we are seeing more LAO reports on environmental issues," said Assemblyman Jared Huffman, D-San Rafael, "but why might that be? It's the fact that AB 32 is a big deal, the fact we are in a down economy and the fact that some continue to look at environmental programs and environmental regulations as somehow being at odds with economic growth," he said.

Paul Mason of the nonprofit Pacific Forest Trust says the LAO is playing an important environmental role, but wonders if the office is being stretched too thin.

"I really appreciate the LAO. On the question of how do we get fire protection into State Responsibility Areas, they are the only ones making sense of the issue," he said. "They are responsible and they are invaluable, but they are not magic. I do think there is a risk in asking them to do too many things that are beyond their capacity."

Sen. Joe Simitian, D-Palo Alto, the chairman of the Senate Environmental Quality Committee, raised a similar point.

"There are only so many hours in the day, and there is always the question of whether or not the necessary expertise is available," Simitian said. "But I am a fan of the LAO and I value their work product. It's one of the few places we can go to in the building to get a genuinely nonpartisan, reasonably objective assessment."

"They do a remarkable good job of making their presentations without ego, without attitude and without pride of ownership. That's a very welcome approach, in my view," Simitian added.

The LAO's scrutiny over the past year has been directed at legislation, at the administration's budget proposals, at air-quality enforcers, at university economists and others. Some of its analyses have been done as part of its established routine, some have been produced in response to questions from legislators.

But however they're done, they are having a significant and increasing impact on the public, according to elected officials, environmentalists and state staff people interviewed by Capitol Weekly. The analyses – all linked to fiscal implications -- have dealt with carbon emissions, renewable energy, groundwater management, flood protection, air quality, offshore oil drilling, fire fighting and even power plant siting.

"It's all of the above. This is an issue that is really important. When you are talking about AB 32, you are talking about a statute that impacts some 70 some odd measures. Because of that, have received several requests for analyses," said Tiffany Roberts, the LAO's fiscal policy analyst who specializes in resources.

The variety of reports has something for everyone, Huffman said. "Folks like me treat the LAO reports like a

menu in a Chinese restaurant, where you can order what you like. They are generally pretty good...although they completely missed it on marine protections and on AB 32.”

“A value of their work is that the LAO is not insider-driven. The LAO is designed to be an outsider and to bring an outsider’s perspective to their analyses, and I think that’s great.

The LAO is the Legislature’s nonpartisan fiscal adviser, and traditionally gives guidance to lawmakers on spending, taxes, and borrowing, while providing detailed, line-by-line analyses of the state budget for such programs as education, health and social services. The LAO determines the fiscal impact of proposed ballot initiatives, assesses the dollars-and-cents impact of proposals at the request of individual lawmakers.

The LAO has chided both industry and the Air Resources Board for flawed economic analyses related to AB 32 and has aggressively questioned the sophisticated models used by both sides to justify conclusions. AB 32 is the state’s 2006 law to curb climate-changing greenhouse gases and it is a flash point of debate between business interests and environmentalists.

Last month, the LAO dismissed two widely-reported university studies – both commissioned by business interests – that showed AB 32 costing California hundreds of billions of dollars in lost economic output. Both studies “have major problems involving both data, methodology and analysis. As a result of their shortcomings, we believe that their principal findings are unreliable,” the LAO said.

Earlier, the LAO directed its fire at the ARB, the state agency that is charged with enforcing AB 32. The LAO questioned a “scoping plan” presented by the ARB, saying its analysis of a proposed cap-and-trade program for emission credits was unclear, its assumptions for a low-carbon fuel standard were weak and that its economic analyses “rely so heavily on a small number of key assumptions.”

The LAO noted that the board “intentionally excluded the costs/savings for some of the non-AB 32 measures, including the million solar roofs initiative, but included the cost savings of others....” The selective approach “substantially affects the ARB’s bottom line economic projections for the plan,” the LAO said.

The ARB is in the midst of updating its scoping plan, responding in part to the LAO’s observations, which were contained in a March 9 letter to Assemblyman Kevin De Leon, D-Southgate.

But AB 32 is only one environmental issue examined by the LAO.

“There is increased activity at the LAO, but it is coming from legislators making requests. The legislators are asking for clarifications of environmental issues, probably because the economy is in such dire straits,” said Assemblyman Dan Logue, R-Chico, who has been sharply critical of AB 32. “I think part of this is budget driven, the other part is that we are trying to find our way out of the recession. I think it is a sign of the times.”

The reason the LAO is in the environmental policy arena is because it is charged with following the money. And virtually hot-button environmental issues up for debate – greenhouse gases, offshore oil exploration, renewable energy – entail potentially billions of dollars in costs. The issues also involve programs that are viewed as favorites of lawmakers or the governor – and thus especially sensitive.

For example, the LAO skewered a number of the governor’s environmental proposals in the state budget. The office recommended rejection of a \$23 million plan for recreation and wildlife, rejection of an emergency flood fund, rejection of a new property tax to pay for fire fighting, and rejection of a plan to use offshore oil money to pay for state parks. The LAO also said the administration is developing renewable energy rules that circumvent the Legislature’s authority and have “led to inefficient duplication of efforts by state agencies and a waste of state resources.”

It is precisely that fiscal expertise that has led the LAO into disputes over environmental issues. Perhaps the best example of that is AB 32, which requires California to cut its carbon emissions to 1990 levels in 10 years.

In the view of most scientists, carbon emissions contribute to global warming, the steady but gradual increase in the earth's temperature. But the debate over AB 32 is not focused on the validity of global warming but over the economic impact – in other words, the cost to businesses – of actually putting AB 32 into effect.

A recent survey conducted by Field Research showed public support for AB 32 from 58 percent of registered voters, although it noted there were some doubts about the economic impacts of the law.

The biggest dollar-intensity piece of AB 32, the creation of a market place to buy, trade and sell emissions credits, has not yet been established. The system, guided by regulations written by the ARB, includes a cap on emissions that will be gradually ratcheted lower as companies turn to improved technology. It calls for the distribution of the credits, although the value of those credits, thus far, is unknown, and includes an expanded regulatory scheme to enforce its rules. It is seen as a precursor to greenhouse gas rules in other states.

The LAO, hired by a Legislature controlled by Democrats, has waded into that debate. And, despite the partisan furor over environmental issues, the non-partisan shield remains intact.

“I think the LAO is a very professional institution and you would never know they were hired by Democrats if you look at their work. I don't think any of us know what were going to get when the LAO undertakes a study,” Huffman said.