

**Golden Opportunity Lost**

**Can It Happen Here?**

Center for Opportunity Urbanism

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## 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

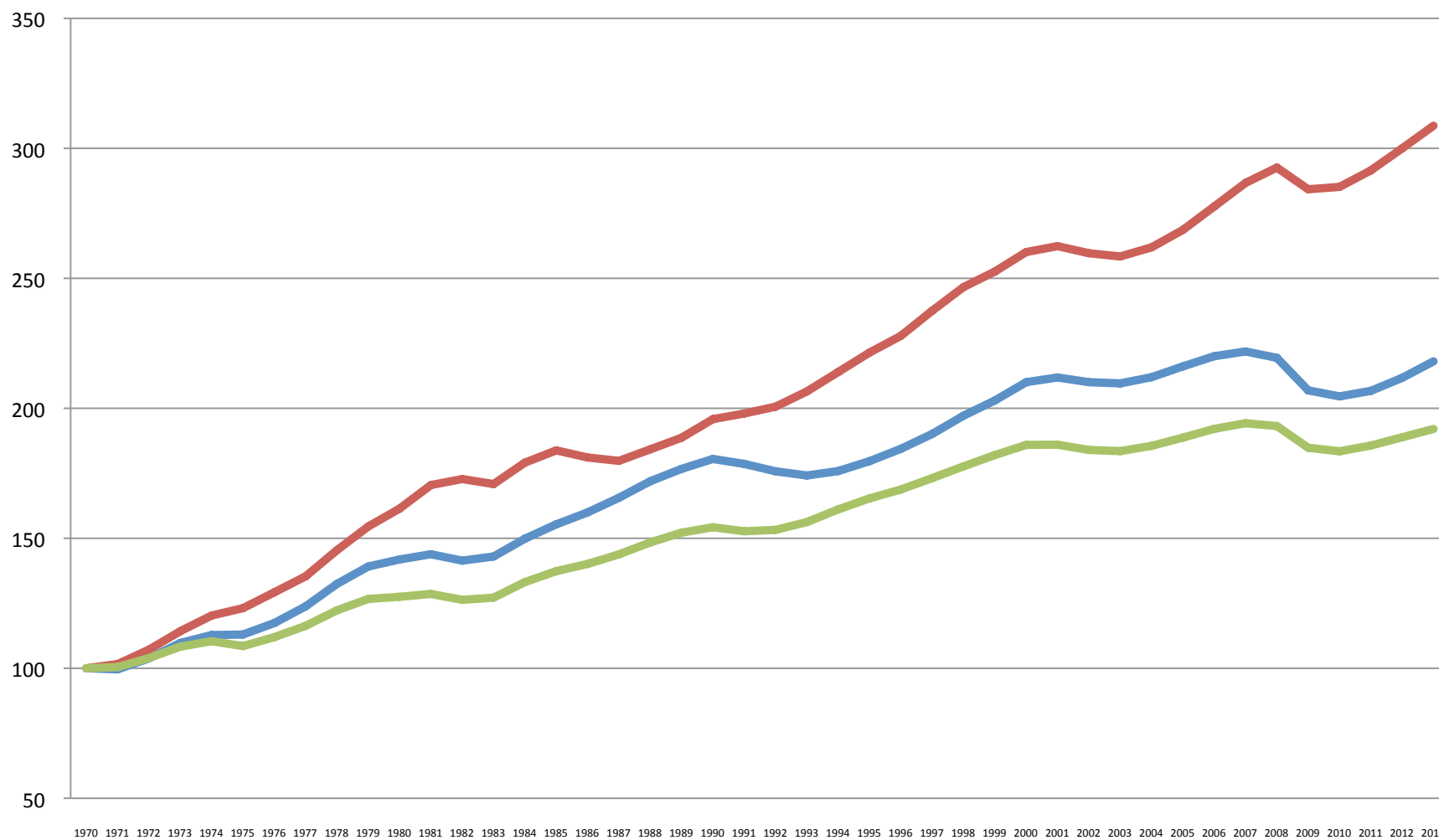
- Well intentioned, but poorly drafted & understood legal initiatives
- Rapid expansion of program scope and reach by courts, regulators
- Dramatic increases in regulatory, lawsuit & delay risks and costs
- Decreasing ability or desire to change course

**Part 1:**

**Opportunity Lost**

## Employment Growth Index, 1970=100

California Texas USA



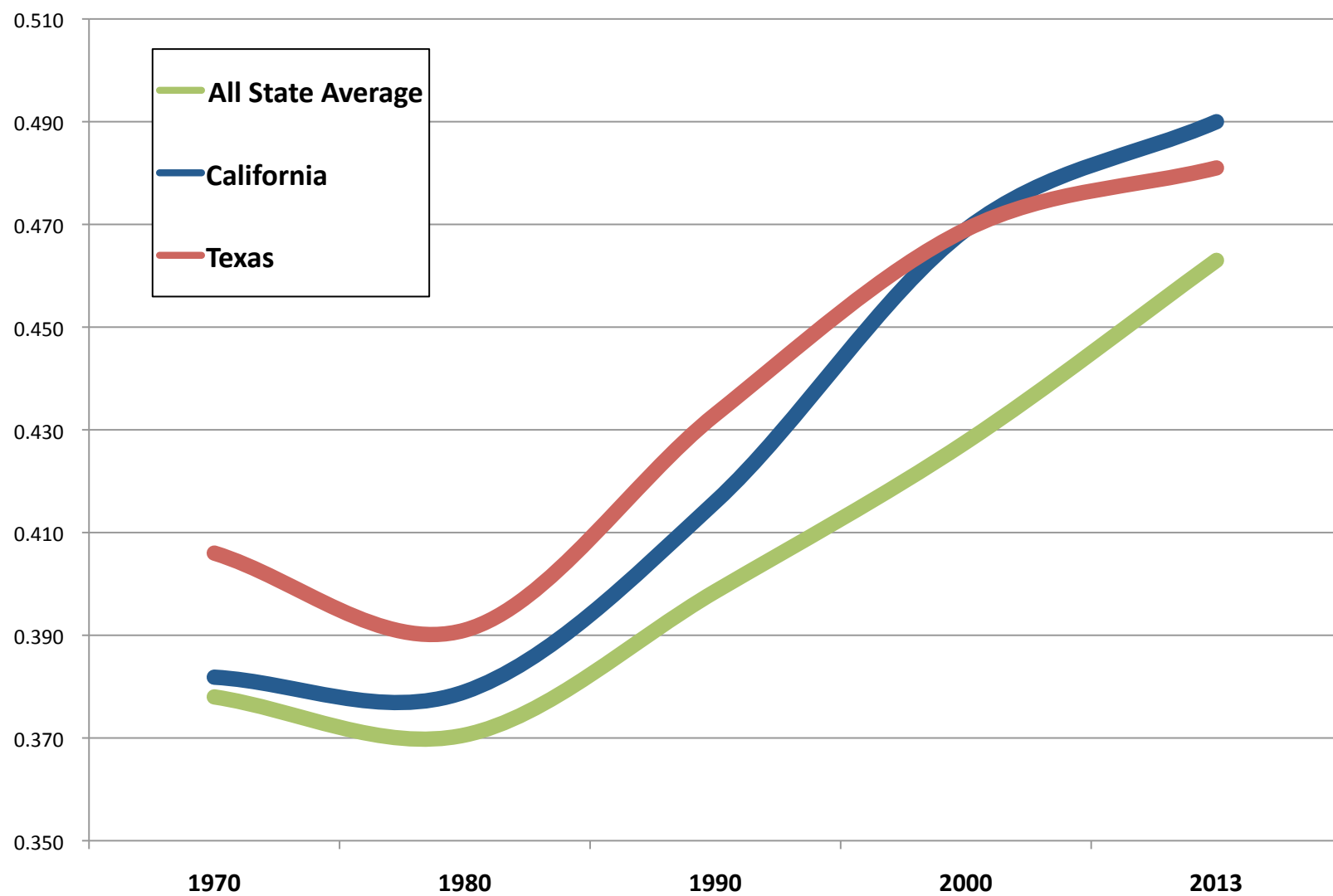
# Employment Growth

## 1970-1990

## 1991-2013

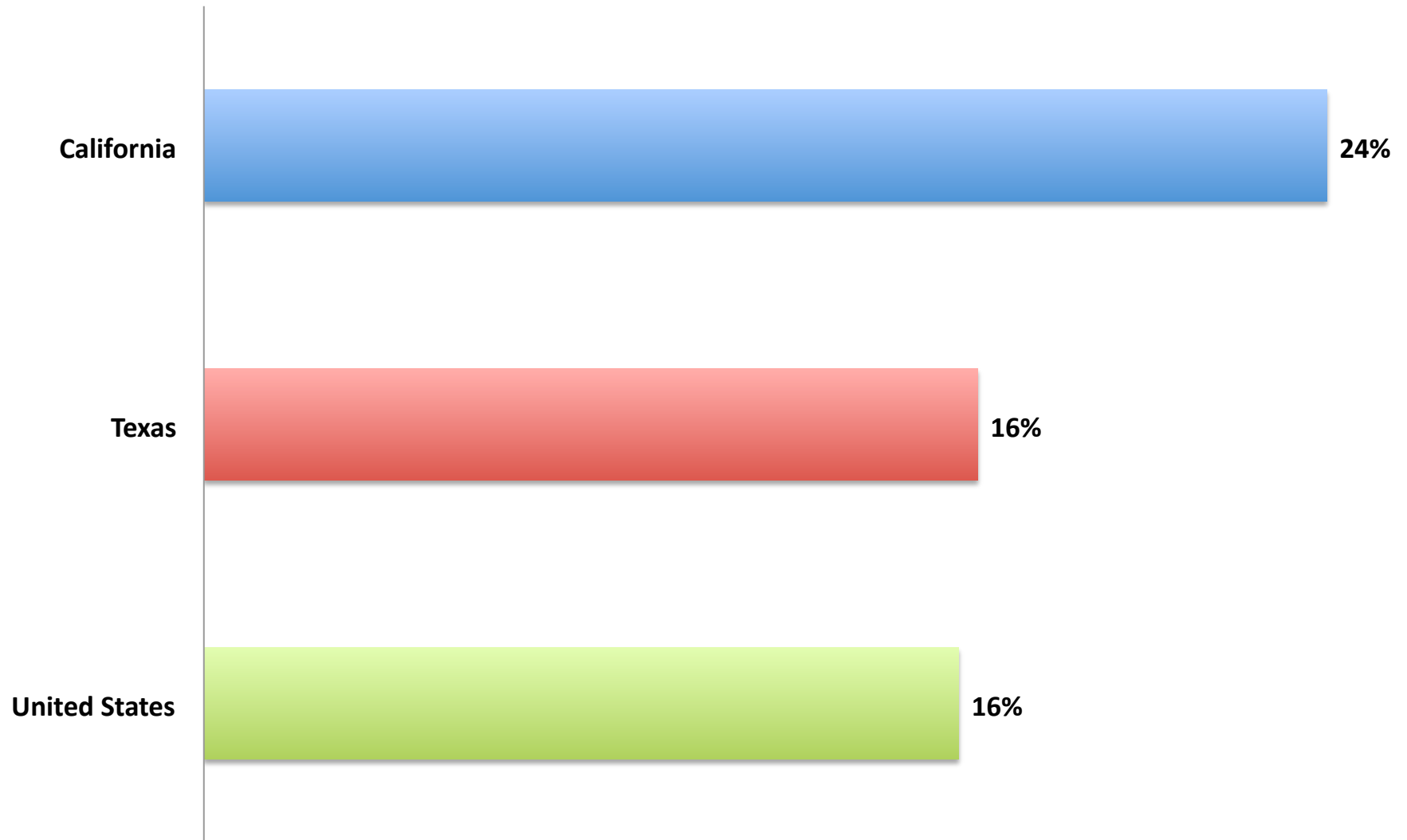
	1970-1990		1991-2013	
	Employment Growth (1000s)	Annual Average Employment Growth Rate	Employment Growth (1000s)	Annual Average Employment Growth Rate
USA	38,521	2.2%	26,841	1.0%
California	5,593	3.0%	2,609	0.8%
Texas	3,474	3.4%	4,091	2.0%
Nevada	418	5.8%	555	2.9%
Arizona	936	5.2%	1,032	2.4%
Florida	3,211	4.7%	2,216	1.5%
Washington	1,068	3.5%	840	1.5%
Georgia	1,469	3.4%	1,007	1.3%
Virginia	1,376	3.3%	870	1.2%
Massachusetts	744	1.5%	368	0.5%
Michigan	947	1.4%	158	0.2%
Illinois	942	1.0%	509	0.4%
New York	1,047	0.7%	705	0.4%

# Inequality (Gini Index) 1970-2013





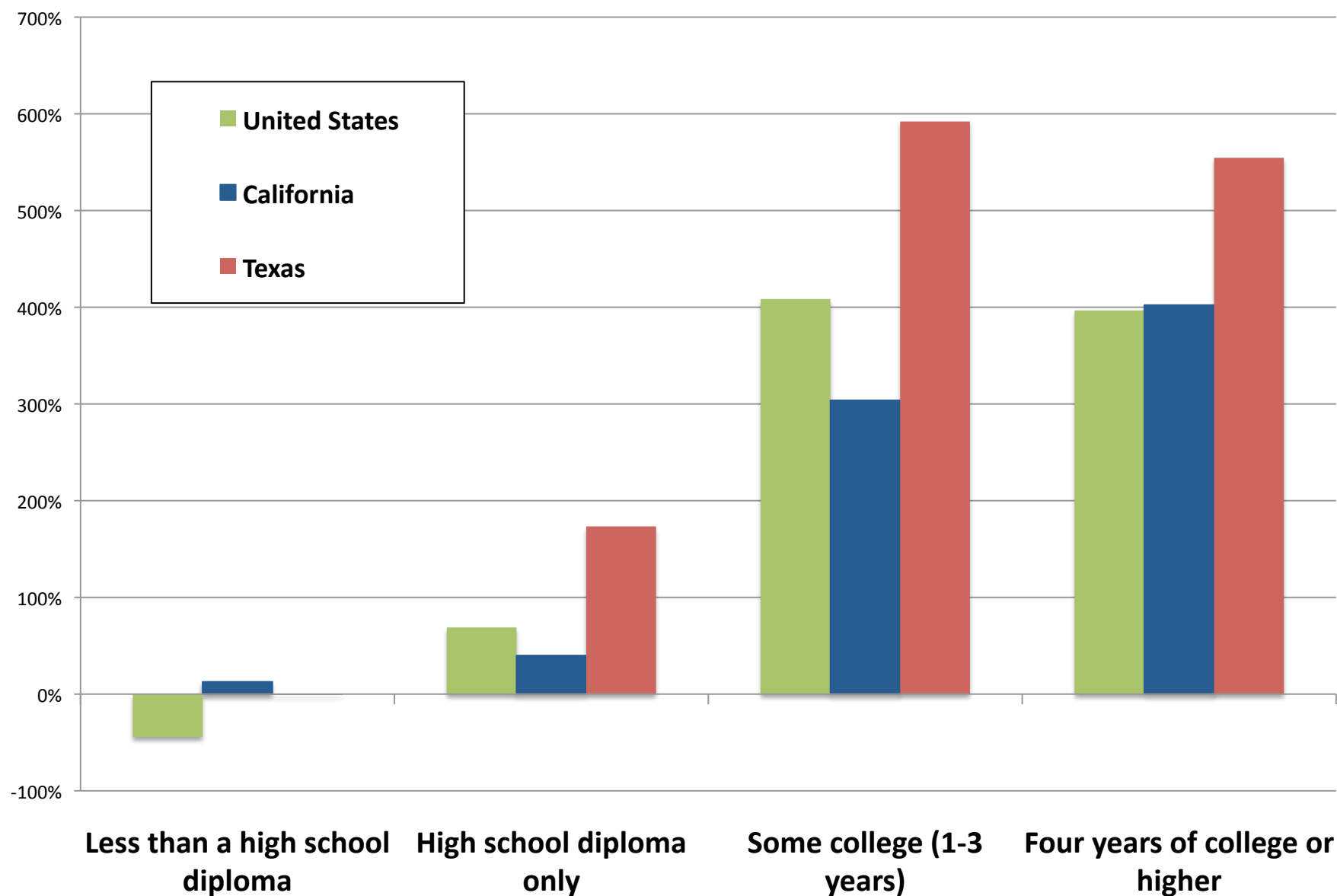
## Percent in Poverty, Cost Of Living Adjusted (2013)



**California and Texas  
Total Population in Poverty  
and Percent of Total US Impoverished Population  
2013  
(cost of living adjusted)**

	<b>People in Poverty (1000)</b>	<b>Percent of US Total</b>
<b>California</b>	<b>8,952</b>	<b>18.1%</b>
<b>Texas</b>	<b>4,211</b>	<b>8.5%</b>

## Percent Change in Adult (25+) Educational Achievement 1970-2012



**Part 2:**

**CEQA: The “Blob” is Born**

## CEQA Enactment

- 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**

## SB 375—GHG and Smart Growth

- 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)



California Department of Transportation  
Division of Transportation Planning  
October 2009



## Attachment 4

### Approved Regional Greenhouse Gas Emission Reduction Targets

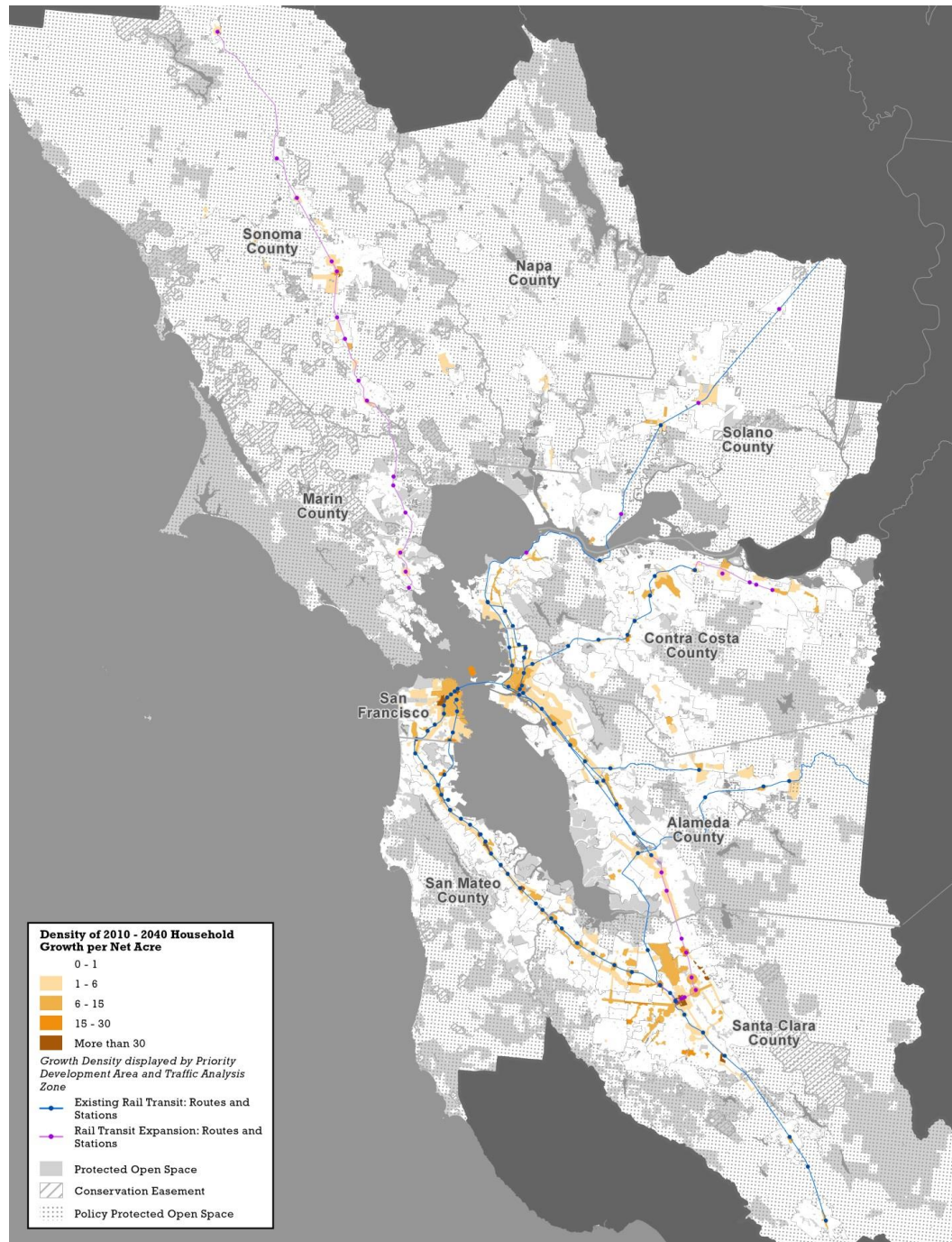
MPO Region	Targets *	
	2020	2035
SCAG	-8	-13
MTC	-7	-15
SANDAG	-7	-13
SACOG	-7	-16
8 San Joaquin Valley MPOs	-5	-10
6 Other MPOs		
Tahoe	-7	-5
Shasta	0	0
Butte	+1	+1
San Luis Obispo	-8	-8
Santa Barbara	0	0
Monterey Bay	0	-5

\* Targets are expressed as percent change in per capita greenhouse gas emissions relative to 2005.

EXHIBIT 4.13 Land Use Pattern SCAG Region (2035)



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
  - 1<sup>st</sup> gen dense homeowners start opposing 2<sup>nd</sup> 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