Beverly Hills City Council Liaison / Legislative/Lobby Committee
will conduct a Special Meeting, at the following time and place, and will address the agenda
listed below:

CITY OF BEVERLY HILLS
455 N. Rexford Drive
Beverly Hills, CA 90210

TELEPHONIC VIDEO CONFERENCE MEETING

Beverly Hills Liaison Meeting
https://beverlyhills-org.zoom.us/my/bhliaison
Meeting ID: 312 522 4461
Passcode: 90210
You can also dial in by phone:
+1 669 900 9128 US
+1 888 788 0099

One tap mobile
+16699009128,,3125224461#,,,,*90210#
+18887880099,,3125224461#,,,,*90210# Toll-Free

Monday, July 19, 2021
3:30 PM

Pursuant to Executive Order N-25-20, members of the Beverly Hills City Council and staff may
participate in this meeting via a teleconference. In the interest of maintaining appropriate social
distancing, members of the public can view this meeting through live webcast at
www.beverlyhills.org/live and on BH Channel 10 or Channel 35 on Spectrum Cable, and can
participate in the teleconference/video conference by using the link above. Written comments may
be emailed to mayorandcitycouncil@beverlyhills.org

AGENDA

A. Oral Communications

1. Public Comment
   Members of the public will be given the opportunity to directly address the Committee on any
   item listed on the agenda.

B. Direction

1. Therapeutic Fraud Prevention Act of 2021

   Comment: This item seeks direction on the Therapeutic Fraud Prevention Act of 2021. This bill
   would amend the Federal Trade Commission Act to classify for-profit conversion therapy as a
   form of fraud, thereby banning the practice in the United States (Conversion therapy is the
   practice of trying to change a person’s sexual orientation, gender identity or gender
   expression).

2. Assembly Bill 101 (Medina) - Pupil instruction: high school graduation requirements: ethnic studies

   Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison
   Committee to consider taking a position on AB 101. This bill would require local educational
   agencies serving grades 9-12, commencing with the 2024-25 school year, to offer at least a
   one-semester course in ethnic studies. Additionally, commencing with the 2029-30 school year,
it would add a semester-long course in ethnic studies to the list of statewide graduation requirements. Finally, AB 101 would expressly apply all statewide graduation requirements to charter schools.

3. Assembly Bill 215 (Chiu) - Housing element: regional housing need: relative progress determination

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 215. This bill establishes a process for a mid-cycle housing element consultation between the state Department of Housing and Community Development (“HCD”) and any jurisdiction it deems to have not made sufficient progress toward its regional housing needs allocation (“RHNA”), including a requirement for the jurisdiction to obtain a pro-housing designation.

4. Assembly Bill 818 (Bloom) - Solid waste: premoistened nonwoven disposable wipes

Comment: This item seeks direction on AB 818, which would establish labeling requirements for premoistened nonwoven disposable wipes so customers can easily identify which wipes are unsafe to dispose of using sanitary sewer systems. The City supported a similar bill in 2020.

5. Assembly Bill 889 (Gipson) Business entities: landlords: reporting requirements

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 889. This bill requires landlords who hold rental property in the name of a corporation or limited liability company to report the identity of the beneficial owners of the property to the California Secretary of State.

6. Assembly Bill 1126 (Bloom) - Commission on the State of Hate

Comment: This item seeks direction on AB 1126. This bill would establish the Commission on the State of Hate in the state government.

7. Senate Bill 262 (Hertzberg) - Bail

Comment: This item seeks direction on SB 262. This bill would require bail be set at $0 for all offenses except for serious or violent felonies, violations of specified protective orders, domestic violence, sex offenses, and driving under the influence. Additionally, it would require the court to order a return of money or property paid to a bail bond company under specified circumstances, including when the individual makes all court appearances in a criminal case charged in connection with the arrest.

8. Senate Bill 341 (McGuire) - Telecommunications service: outages

Comment: This item seeks direction on SB 341. This bill would require telecommunications providers to maintain public outage maps and directs the California Office of Emergency Services (“Cal OES”) to develop regulations for such maps by July 1, 2022. Additionally, the bill directs the California Public Utilities Commission (“CPUC”) to adopt and implement backup electricity rules for telecommunications providers to maintain service for at least 72 hours and authorizes Cal OES to share information related to community isolation incidents with the CPUC.


Comment: This item seeks direction on SB 555, which would authorize local agencies to enact an ordinance exclusively delegating their authority to collect transit occupancy taxes to the California Department of Tax and Fee Administration (“CDTFA”) and requires a “short-term
rental facilitator” to collect such tax from a “purchaser” and transmit it to the CDTFA, which would then transmit the county’s Transient Occupancy Tax (“TOT”) back to the county.

10. Senate Bill 619 (Laird) - Organic waste: reduction regulations

Comment: This item seeks direction on SB 619, which would prohibit the Department of Resources Recycling and Recovery (“CalRecycle”) from imposing penalties against local jurisdictions that have not met the organic waste recycling requirements pursuant to SB 1383 (Lara), Chapter 395, Statutes of 2016 before January 1, 2023, unless the jurisdiction did not make a reasonable effort to comply.

11. State and Federal Legislative Updates

Comment: The City’s state and federal lobbyists will provide a verbal update to the Liaisons on various legislative issues.

12. Future Agenda Items Discussion

C. Adjournment

Huma Ahmed
City Clerk

Posted: July 16, 2021

A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW AT WWW.BEVERLYHILLS.ORG

Pursuant to the Americans with Disabilities Act, the City of Beverly Hills will make reasonable efforts to accommodate persons with disabilities. If you require special assistance, please call (310) 285-1014 (voice) or (310) 285-6881 (TTY). Providing at least forty-eight (48) hours advance notice will help to ensure availability of services.
Item B-1
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 19, 2021
SUBJECT: Therapeutic Fraud Prevention Act of 2021

ATTACHMENTS: 1. Letter of Support for Therapeutic Fraud Prevention Act of 2019
                2. Summary Memo
                3. Bill Text

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Congressman Ted Lieu has introduced the Therapeutic Fraud Prevention Act of 2021. This bill would amend the Federal Trade Commission Act to classify for-profit conversion therapy as a form of fraud, thereby banning the practice in the United States (Conversion therapy is the practice of trying to change a person’s sexual orientation, gender identity or gender expression). The City supported a similar bill in 2019 and a copy of the letter of support is attached for reference (Attachment 1).

This bill involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; therefore, should the Legislative/Lobby Liaison Committee make a recommendation for a position on this bill then concurrence by the City Council will be required prior to sending a letter to Congressman Lieu.

The City’s federal lobbyist, David Turch & Associates, provided a summary memo for the Therapeutic Fraud Prevention Act of 2021 (Attachment 2) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of the Therapeutic Fraud Prevention Act of 2021, the Liaisons may recommend the following actions:

1) Support the Therapeutic Fraud Prevention Act of 2021;
2) Support if amended the Therapeutic Fraud Prevention Act of 2021;
3) Oppose the Therapeutic Fraud Prevention Act of 2021;
4) Oppose unless amended the Therapeutic Fraud Prevention Act of 2021;
5) Remain neutral; or
6) Provide other direction to City staff.
The City of Beverly Hills is pleased to SUPPORT H.R. 3570, the Therapeutic Fraud Prevention Act of 2019. This important legislative initiative protects thousands of young men and women from the harmful practice and treatment of therapeutic conversion.

According to the UCLA School of Law's Williams Institute, approximately 698,000 LGBTQ people in the United States have been subjected to conversation therapy with another 16,000 LGBTQ teens potentially in harms' way. A slew of professional medical and mental health organizations such as the American Psychoanalytic Association and the American Academy of Pediatrics echo your legislative findings that conversion therapy is nothing more than a discredited fraud perpetrated on one of the most vulnerable populations in our society. The damage left in the wake of such treatments are all too real involving anxiety, substance abuse, low self-esteem, homelessness and, tragically, suicide. We cannot tolerate or turn a blind eye to this form of abuse.

By calling out for-profit therapeutic conversion services as fraudulent and subject to punitive action by the Federal Trade Commission, H.R. 3570 takes an important step in dismantling this cottage industry. While I understand there may be a legal rationale for limiting the bill's mandate to for-profit organizations, I urge you to consider adding non-profit organizations as well. People who are unfortunate enough to be exposed to such practices and treatment suffer harm irrespective of whether the organizations perpetrating this fraudulent act are for-profit or not.

For these reasons, the City of Beverly Hills is pleased to SUPPORT your H.R. 3570. Thank you again for your leadership and commitment in tackling this important and urgent issue.
Sincerely,

John A. Mirisch
Mayor, City of Beverly Hills
Attachment 2
Representative Ted Lieu introduced the Therapeutic Fraud Prevention Act of 2021 on June 24, 2021. The bill would amend the Federal Trade Commission Act to classify for-profit conversion therapy as a form of fraud, thereby banning the practice in the United States (Conversion therapy is the practice of trying to change a person’s sexual orientation, gender identity or gender expression). This is the fourth such time that Representative Lieu has attempted to pass a bill banning conversion therapy since he joined Congress in 2015.

Under the bill, the Federal Trade Commission would be authorized to file complaints against therapists or organizations that promote/practice conversion therapy. Moreover, the measure declares therapies that claim to change a person’s sexual orientation or gender identity as harmful and ineffective. The bill has been referred to the House Energy and Commerce Committee. 75 House members have cosponsored the legislation. On the Senate side, Senator Cory Booker (D-NJ) and Senator Patty Murray (D-WA) have introduced a companion bill, which has 33 cosponsors.

According to Senator Booker, the legislation will “remove any question that the FTC and State Attorneys General have the tools they need to classify conversion therapy as what it is – fraud – and ban its use. Conversion therapy is a discredited, harmful practice that has been rejected by countless medical and mental health organizations for years. It has no place in our society.” While introducing the bill, Representative Lieu observed that as a State Senator he championed legislation that was enacted into law banning conversion therapy, making California the first state to take such action. Now, 17 states have joined California in banning the practice.

The bill makes the following findings:

1. Being lesbian, gay, bisexual, transgender, or gender nonconforming is not a disorder, disease, illness, deficiency, or shortcoming.

2. The national community of professionals in education, social work, health, mental health, and counseling has determined that there is no scientifically valid evidence that
supports the practice of attempting to prevent a person from being lesbian, gay, bisexual, transgender, or gender nonconforming.

(3) Such professionals have determined that there is no evidence that conversion therapy is effective or that an individual’s sexual orientation or gender identity can be changed by conversion therapy.

(4) Such professionals have also determined that the potential risks of conversion therapy are not only that it is ineffective, but also that it is substantially dangerous to an individual’s mental and physical health, and has been shown to contribute to depression, self-harm, low self-esteem, family rejection, and suicide.

(5) It is in the interest of the Nation to prevent lesbian, gay, bisexual, transgender, and gender nonconforming people and their families from being defrauded by persons seeking to profit by offering this harmful and wholly ineffective therapy.

The legislation has been endorsed by a host of organizations including the Southern Poverty Law Center, the Human Rights Campaign, the American Academy of Pediatrics, the National Association of Secondary School Principals, and the American Psychoanalytic Association. The UCLA School of Law’s Williams Institute estimates that about 698,000 LGBTQ people have been subjected to conversion therapy with another 16,000 LGBTQ teens potentially in harms’ way if federal legislation is not enacted to protect them.
Attachment 3
117TH CONGRESS  
1ST SESSION  

H. R. 4146

To prohibit commercial sexual orientation conversion therapy, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2021

Mr. LIEU (for himself, Mr. KILMER, Mr. GRIJALVA, Mr. WELCH, Mr. YARMUTH, Mrs. NAPOLITANO, Ms. NORTON, Ms. CHU, Mrs. WATSON COLEMAN, Mr. TORRES of New York, Mr. POCAN, Mrs. AXNE, Mr. NADLER, Mr. CICILLINE, Mr. TAKANO, Ms. CLARK of Massachusetts, Mr. DEFAZIO, Mrs. CAROLYN B. MALONEY of New York, Mr. JEFFRIES, Ms. DELBENE, Ms. DEAN, Ms. SCHRIER, Mr. FOSTER, Ms. PRESSLEY, Mrs. BEATTY, Ms. GARCIA of Texas, Ms. LEE of California, Ms. WASSERMAN SCHULTZ, Mr. CONNOLLY, Ms. ROYBAL-ALLARD, Ms. LOIS FRANKEL of Florida, Mr. MOULTON, Ms. MENG, Mr. JOHNSON of Georgia, Ms. DEGETTE, Ms. BASS, Ms. NEWMAN, Ms. BROWNLEY, Mr. SUOZZI, Mr. MCNERNEY, Mr. CASTEN, Mr. KHANNA, Mr. QUIGLEY, Ms. PINGREE, Ms. WILSON of Florida, Mr. AUCHINCLOSS, Mr. KAHELE, Mrs. KIRKPATRICK, Ms. KUSTER, Mr. AGUILAR, Ms. MANNING, Mr. GREEN of Texas, Mr. HIGGINS of New York, Mr. SOTO, Ms. MCCOLLUM, Ms. SLOTKIN, Ms. WILLIAMS of Georgia, Ms. HOULAHAN, Mr. TONKO, Mr. SIRES, Ms. JACOBS of California, Mr. O’HALLERAN, Mrs. HAYES, Ms. BLUNT ROCHESTER, Mr. PRICE of North Carolina, Mr. COSTA, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. UNDERWOOD, Ms. BONAMICI, Mrs. DEMINGS, Mr. LANGEVIN, Ms. LEGER FERNANDEZ, Mr. SCHNEIDER, Mrs. FLETCHER, Mr. KILDEE, Mr. SEAN PATRICK MALONEY of New York, and Ms. TLAIB) introduced the following bill, which was referred to the Committee on Energy and Commerce

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A BILL

To prohibit commercial sexual orientation conversion therapy, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Therapeutic Fraud
Prevention Act of 2021”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Being lesbian, gay, bisexual, transgender, or
gender nonconforming is not a disorder, disease, ill-
ness, deficiency, or shortcoming.

(2) The national community of professionals in
education, social work, health, mental health, and
counseling has determined that there is no scientifi-
cally valid evidence that supports the practice of at-
tempting to prevent a person from being lesbian,
gay, bisexual, transgender, or gender nonconforming.

(3) Such professionals have determined that
there is no evidence that conversion therapy is effect-
ive or that an individual’s sexual orientation or gen-
der identity can be changed by conversion therapy.

(4) Such professionals have also determined
that the potential risks of conversion therapy are not
only that it is ineffective, but also that it is substan-
tially dangerous to an individual’s mental and phys-
ical health, and has been shown to contribute to de-
pression, self-harm, low self-esteem, family rejection, and suicide.

(5) It is in the interest of the Nation to prevent lesbian, gay, bisexual, transgender, and gender non-conforming people and their families from being defrauded by persons seeking to profit by offering this harmful and wholly ineffective therapy.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONVERSION THERAPY.—The term "conversion therapy"—

(A) means any practice or treatment by any person that seeks to change another individual’s sexual orientation or gender identity, including efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender, if such person—

(i) receives monetary compensation in exchange for such practice or treatment; or

(ii) instead of, or in addition to, receiving monetary compensation in exchange for such practice or treatment directly, receives monetary compensation in exchange for a product or service that is
integral to the provision of such practice or
treatment by such person, unless such
product or service is protected by the First
Amendment to the Constitution; and

(B) does not include any practice or treat-
ment, which does not seek to change sexual ori-
entation or gender identity, that—

(i) provides assistance to an individual
undergoing a gender transition; or

(ii) provides acceptance, support, and
understanding of a client or facilitation of
a client’s coping, social support, and iden-
tity exploration and development, including
sexual orientation-neutral interventions to
prevent or address unlawful conduct or un-
safe sexual practices.

(2) GENDER IDENTITY.—The term “gender
identity” means the gender-related identity, appear-
ance, mannerisms, or other gender-related character-
istics of an individual, regardless of the individual’s
designated sex at birth.

(3) PERSON.—The term “person” means any
individual, partnership, corporation, cooperative, as-
association, or any other entity.
(4) **Sexual orientation.**—The term “sexual orientation” means homosexuality, heterosexuality, or bisexuality.

**SEC. 4. UNLAWFUL CONDUCT RELATED TO CONVERSION THERAPY.**

(a) **In general.**—It shall be unlawful for any person—

(1) to provide conversion therapy to any individual;

(2) to advertise for the provision of conversion therapy and claim in such advertising—

(A) to change another individual’s sexual orientation or gender identity;

(B) to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender; or

(C) that such efforts are harmless or without risk to individuals receiving such therapy; or

(3) to knowingly assist or facilitate the provision of conversion therapy to an individual if such person receives compensation from any source in connection with providing conversion therapy.

(b) **Enforcement by Federal Trade Commission.**—
(1) **Violation of Rule.**—A violation of subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) **Powers of Commission.**—

(A) **In General.**—The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(B) **Privileges and Immunities.**—Any person who violates subsection (a) shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(3) **Regulations.**—The Federal Trade Commission may promulgate, in accordance with section 553 of title 5, United States Code, such regulations as the Commission considers appropriate to carry out this section.
(c) Enforcement by Attorney General.—The Attorney General may bring a civil action in the courts of the United States against a person who engages in a violation of subsection (a), for appropriate relief.

(d) Enforcement by States.—

(1) In general.—If the attorney general of a State has reason to believe that an interest of the residents of the State has been or is being threatened or adversely affected by a practice that violates subsection (a), the attorney general of the State may, as parens patriae, bring a civil action on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate relief.

(2) Rights of Federal Trade Commission.—

(A) Notice to Federal Trade Commission.—

(i) In general.—Except as provided in clause (iii), the attorney general of a State, before initiating a civil action under paragraph (1), shall provide written notification to the Federal Trade Commission that the attorney general intends to bring such civil action.
(ii) CONTENTS.—The notification required under clause (i) shall include a copy of the complaint to be filed to initiate the civil action.

(iii) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notification required under clause (i) before initiating a civil action under paragraph (1), the attorney general shall notify the Commission immediately upon instituting the civil action.

(B) INTERVENTION BY FEDERAL TRADE COMMISSION.—The Commission may—

(i) intervene in any civil action brought by the attorney general of a State under paragraph (1); and

(ii) upon intervening—

(I) be heard on all matters arising in the civil action; and

(II) file petitions for appeal of a decision in the civil action.

(3) INVESTIGATORY POWERS.—Nothing in this subsection may be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the

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State to conduct investigations, to administer oaths
or affirmations, or to compel the attendance of wit-
nesses or the production of documentary or other
evidence.

(4) **Preemptive action by Federal Trade**
**Commission.**—If the Federal Trade Commission in-
stitutes a civil action or an administrative action
with respect to a violation of subsection (a), the at-
torney general of a State may not, during the pend-
ency of such action, bring a civil action under para-
graph (1) against any defendant named in the com-
plaint of the Commission for the violation with re-
spect to which the Commission instituted such ac-
tion.

(5) **Venue; service of process.**—

(A) **Venue.**—Any action brought under
paragraph (1) may be brought in—

(i) the district court of the United
States that meets applicable requirements
relating to venue under section 1391 of
title 28, United States Code; or

(ii) another court of competent juris-
diction.
(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which—

(i) the defendant is an inhabitant, may be found, or transacts business; or

(ii) venue is proper under section 1391 of title 28, United States Code.

(6) ACTIONS BY OTHER STATE OFFICIALS.—

(A) IN GENERAL.—In addition to a civil action brought by an attorney general under paragraph (1), any other officer of a State who is authorized by the State to do so may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.

(B) SAVINGS PROVISION.—Nothing in this subsection may be construed to prohibit an authorized official of a State from initiating or continuing any proceeding in a court of the State for a violation of any civil or criminal law of the State.

SEC. 5. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held to be un-
1 constitutional, the remainder of this Act, and its application to any person or circumstance shall not be affected thereby.
Item B-2
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 19, 2021
SUBJECT: Assembly Bill 101 (Medina) - Pupil instruction: high school graduation requirements: ethnic studies
ATTACHMENTS: 1. Summary Memo – AB 101
2. Bill Text – AB 101

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 101 (Medina) - Pupil instruction: high school graduation requirements: ethnic studies (AB 101) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 101 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 101, the Liaisons may recommend the following actions:

1) Support AB 101;
2) Support if amended AB 101;
3) Oppose AB 101;
4) Oppose unless amended AB 101;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 101, then staff will place the item on a future City Council Agenda for concurrence.
July 15, 2021

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange
Tim Sullivan, Legislative Aide, Shaw Yoder Antwih Schmelzer & Lange

Re: AB 101 (Medina) Pupil instruction: high school graduation requirements: ethnic studies


Summary
AB 101 (1) requires local educational agencies (LEAs) serving grades 9-12, commencing with the 2024-25 school year, to offer at least a one-semester course in ethnic studies; (2) adds, commencing with the 2029-30 school year, a semester-long course in ethnic studies to the list of statewide graduation requirements; and (3) expressly applies all statewide graduation requirements to charter schools.

Specifically, this bill would:

- Adds, starting with the 2029–30 school year, a one-semester course in ethnic studies, based on the model curriculum, to the list of statewide graduation requirements.
- Authorizes a pupil, subject to the course offerings of an LEA, to fulfill the requirement above through the completion of either of the following types of courses:
  - A course based on the ethnic studies model curriculum adopted by the SBE.
  - An existing ethnic studies course.
  - An ethnic studies course taught as a part of a course that has been approved as meeting the A-G requirements of the UC/CSU.
  - A locally developed ethnic studies course approved by the governing board of the school district or the governing body of the charter school.
- Prohibits a course that does not use ethnic studies content as the primary content through which the subject is taught from being used to satisfy the ethnic studies graduation requirement.
- Provides that a pupil completing an ethnic studies course taught as a course in another subject shall also accrue credit for coursework in the subject that the course is offered, including, if applicable, credit towards satisfying a course required for a diploma of graduation from high school.
- Requires instruction and materials for such an ethnic studies course to meet all of the following requirements:
  - Be appropriate for use with pupils of all races, religions, genders, sexual orientations, and diverse ethnic and cultural backgrounds, pupils with disabilities, and English learners.
o Not reflect or promote, directly or indirectly, any bias, bigotry, or discrimination against any person or group of persons on the basis of any category protected the Education Code.

o Not teach or promote religious doctrine.

o Expressly authorizes LEAs to require a full-year course in ethnic studies at its discretion.

• Requires LEAs, commencing with the 2025-26 school year, to offer at least a one-semester course in ethnic studies.

**Background**

Current law establishes state high school graduation requirements, including the equivalent of three year-long courses in social studies. These courses must include United States history and geography; world history, culture, and geography; a one-semester course in American government and civics, and a one-semester course in economics. Existing law does not require course in ethnic studies for graduation, but does require a school district or charter school that elects to offer a course of study in ethnic studies to offer the course as an elective in the social sciences or English language arts and to make the course available in at least one year during a student’s enrollment in grades 9 to 12. Current law also permits school districts to establish local graduation requirements which exceed those of the state. Several California school districts have made completion of a course in ethnic studies a local graduation requirement.

AB 101 is the third attempt to require a high school ethnic studies graduation requirement. The two previous bills: AB 2772 (Medina, 2018-19 Session) and AB 331 (Medina, 2019-2020 Session) were each vetoed. Most recently, Governor Newsom’s veto message for AB 331, which was substantially similar to this bill, stating “This bill... would require ethnic studies to be taught in high school at a time when there is much uncertainty about the appropriate K-12 model curriculum for ethnic studies. I have been closely monitoring the progress of the development of the K-12 ethnic studies model curriculum. Last year, I expressed concern that the initial draft of the model curriculum was insufficiently balanced and inclusive and needed to be substantially amended. In my opinion, the latest draft, which is currently out for review, still needs revision.”

A review by the National Education Association found that “there is considerable research evidence that well-designed and welltaught ethnic studies curricula have positive academic and social outcomes for students.” A 2016 study from Stanford University (published as a working paper) on the effects of an ethnic studies curriculum piloted in several San Francisco Unified School District (SFUSD) high schools found that assignment to a year-long 9th grade ethnic studies course was associated with an increase of ninth-grade student attendance by 21 percentage points, grade point average (GPA) by 1.4 grade points, and credits earned by 23. The authors conclude that “these surprisingly large effects are consistent with the hypothesis that the course reduced dropout rates and suggest that culturally relevant teaching, when implemented in a supportive, high-fidelity context, can provide effective support to at-risk students.” They also note, “the implementation of ethnic studies in SFUSD was, arguably, conducted with a high degree of fidelity, forethought, and planning. In particular, it appeared to draw upon the work of a core group of dedicated teachers, engaging in a regular professional learning community, with outside support from experts in the subject to create and sustain the program. As scholars from a number of disciplines have noted, the effects of such smaller-scale interventions are often very different when the same policies are implemented at scale.”

Last year, the Legislature passed, and the Governor signed into law, AB 1460 (Weber, 2019), which requires the CSU, commencing with the 2021-22 academic year, to (1) provide courses in ethnic
studies at each of its campuses; and (2) require, as an undergraduate graduation requirement commencing with students graduating in the 2024-25 academic year, the completion of, at minimum, one three-unit course in ethnic studies. This session, the Legislature is also considering AB 1040 (Muratsuchi, 2021), which requires that the California Community Colleges, by the 2022-23 academic year, offer at least one course in ethnic studies at all of its campuses, and requires each community college district, by the 2024-25 academic year, to require the completion of at least one three-unit course in ethnic studies as a requirement to obtain an associate degree. If both AB 101 and AB 1040 were to be enacted, a California student that graduates from a California public high school, earns an associate degree, and ultimately graduates from a CSU, will have been required to take at least two ethnic studies courses.

**Status of Legislation**
AB 101 passed out of the Senate Education Committee and is now headed to the Senate Appropriations Committee.

**Arguments in Support**
According to the author, “The goal of AB 101 is to allow all students to gain knowledge of one’s history and community while also helping students feel more connected and empowered by the curriculum. Studies have proven that attendance, GPA of at-risk high school students have improved when culturally relevant pedagogy is added to the curriculum.”

**Arguments in Opposition**
According to the National Jewish Advocacy Center, “If AB 101 becomes law, hundreds of districts will have to quickly decide which ethnic studies curriculum to adopt as the basis for the new requirement, and although the bill encourages adoption of the SBE-approved Ethnic Studies Model Curriculum (ESMC), we believe that many, if not most, districts will prefer the highly problematic “Liberated” curriculum because of the overwhelming support of the antisemitic first draft of the ESMC from major teachers’ unions and the higher education community, as well as the successful efforts of those promoting the “liberated” curriculum to create pathways for teacher training and professional development using a Critical Ethnic Studies framework.”

**Support**
State Superintendent of Public Instruction
Tony Thurmond
California Latino Legislative Caucus
California Association for Bilingual Education
California Association of Black School Educators
California Association of Student Councils
California Department of Insurance
California Federation of Teachers
California Teachers Association
Californians Together
Compton Unified School District
Dolores Huerta Foundation
Fresno Unified School District
Hispanic Association of Colleges and Universities (HACU)

Oppose
Amcha Initiative
American Association of Jewish Lawyers and Jurists
American Council of Trustees and Alumni
American Truth Project
Americans for Peace and Tolerance
B’nai B’rith International
Black Americans for Inclusive Ethnic Studies
Bulldogs for Israel (Brooklyn College)
California Association of Scholars
California Family Council
Californians for Equal Rights
California Right to Life Committee, Inc.
Californians for Equal Rights
CAMERA on Campus
Campus Anti-Semitism Task Force of the North Shore
Capitol Resource Institute
Chinese American Citizens Alliance Orange County
Christians and Jews United for Israel
Club Z
Coalition for Jewish Values
Committee for Accuracy in Middle East Reporting and Analysis (CAMERA)
Concerned Women for America
Creative Community for Peace
CUFI on Campus
Davis Faculty for Israel
Eagles Wings
Education Without Indoctrination
Educators for Quality and Equality
Endowment for Middle East Truth (EMET)
Facts and Logic About the Middle East (FLAME)
Fuel for Truth
Herut North America, U.S. Division
Hillel of Silicon Valley
Institute for Black Solidarity with Israel
Iranian American Jewish Federation
Iranian Jewish Women’s Organization
Israel Peace Initiative (IPI)
Jewish American Affairs Committee of Indiana (JAA CI)
Jewish War Veterans of the USA
Latinx for Quality Education
Magshimey Herut
Michigan Jewish Action Council
Middle East Forum
Middle East Political and Information Network (MEPIN)
National Christian Leadership Conference for Israel
National Jewish Advocacy Center
North Carolina Coalition for Israel
Pacific Justice Institute
Parents Defending Education
Proclaiming Justice to the Nations
Rabbinical Alliance of America
Real Impact
Rhode Island Coalition for Israel
Russian Jewish Community Foundation
San Diego Asian Americans for Equality
Scholars for Peace in the Middle East
Students and Parents Against Campus Anti-Semitism
Students Supporting Israel National 4
The Israel Christian Nexus
The Israel Group
The Lawfare Project
World Jewish Congress North America
Young Jewish Conservatives
Zachor Legal Institute
Zionist Organization of America
Numerous individuals
Attachment 2
An act to amend Sections 51225.3 and 51226.7 of the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL’S DIGEST

AB 101, as amended, Medina. Pupil instruction: high school graduation requirements: ethnic studies.

(1) Existing law requires a pupil to complete designated coursework while in grades 9 to 12, inclusive, in order to receive a diploma of graduation from high school. These graduation requirements include,
among others, the completion of 3 years of courses in English and 3 years of courses in social studies, including one-year courses in United States history and geography and world history, culture, and geography, a one-semester course in American government and civics, and a one-semester course in economics.

Existing law requires the Instructional Quality Commission to develop, and the State Board of Education to adopt, modify, or revise, a model curriculum in ethnic studies. Existing law also encourages each school district and charter school that maintains any of grades 9 to 12, inclusive, and that does not otherwise offer a standards-based ethnic studies curriculum to offer, beginning in the school year following the adoption of the model curriculum, a course of study in ethnic studies based on the model curriculum.

This bill would specify that the above-referenced graduation requirements apply to a pupil enrolled in a charter school, and would add the completion of a one-semester course in ethnic studies, meeting specified requirements, to the graduation requirements commencing with pupils graduating in the 2029–30 school year. The bill would expressly authorize local educational agencies, including charter schools, to require a full-year course in ethnic studies at their discretion. The bill would require local educational agencies, including charter schools, to offer an ethnic studies course commencing with the 2025–26 school year, as specified. The bill would authorize, subject to the course offerings of a local educational agency, including a charter school, a pupil to satisfy the ethnic studies course requirement by completing either (A) a course based on the model curriculum in ethnic studies developed by the commission, (B) an existing ethnic studies course, (C) an ethnic studies course taught as part of a course that has been approved as meeting the A–G requirements of the University of California and the California State University, or (D) a locally developed ethnic studies course approved by the governing board of the school district or the governing body of the charter school. The bill would prohibit a course that does not use ethnic studies content as the primary content through which the subject is taught from being used to satisfy the ethnic studies course requirement. The bill would require a pupil who completes a course described above to also accrue credit for coursework in the subject that the course is offered, including, if applicable, credit towards satisfying a course required for a diploma of graduation from high school.
Because the bill would add new duties to local educational agencies, it would constitute a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.


The people of the State of California do enact as follows:

SECTION 1. Section 51225.3 of the Education Code, as amended by Section 17 of Chapter 865 of the Statutes of 2018, is amended to read:

51225.3. (a) A pupil, including a pupil enrolled in a charter school, shall complete all of the following while in grades 9 to 12, inclusive, in order to receive a diploma of graduation from high school:

1. At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified:
2. (A) Three courses in English.
3. (B) Two courses in mathematics. If the governing board of a school district requires more than two courses in mathematics for graduation, the governing board of the school district may award a pupil up to one mathematics course credit pursuant to Section 51225.35.
4. (C) Two courses in science, including biological and physical sciences.
5. (D) Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics; and a one-semester course in economics.
6. (E) One course in visual or performing arts, world language, or, commencing with the 2012–13 school year, career technical education.
(i) For purposes of satisfying the requirement specified in this 
subparagraph, a course in American Sign Language shall be 
deemed a course in world language.

(ii) For purposes of this subparagraph, “a course in career 
technical education” means a course in a district-operated career 
technical education program that is aligned to the career technical 
model curriculum standards and framework adopted by the state 
board, including courses through a regional occupational center 
or program operated by a county superintendent of schools or 
pursuant to a joint powers agreement.

(iii) This subparagraph does not require a school or school 
district that currently does not offer career technical education 
courses to start new career technical education programs for 
purposes of this section.

(iv) If a school district or county office of education elects to 
allow a career technical education course to satisfy the requirement 
imposed by this subparagraph, the governing board of the school 
district or county office of education, before offering that 
alternative to pupils, shall notify parents, teachers, pupils, and the 
public at a regularly scheduled meeting of the governing board of 
all of the following:

(I) The intent to offer career technical education courses to fulfill 
the graduation requirement specified in this subparagraph.

(II) The impact that offering career technical education courses, 
pursuant to this subparagraph, will have on the availability of 
courses that meet the eligibility requirements for admission to the 
California State University and the University of California, and 
whether the career technical education courses to be offered 
pursuant to this subparagraph are approved to satisfy those 
eligibility requirements. If a school district elects to allow a career 
technical education course to satisfy the requirement imposed by 
this subparagraph, the school district shall comply with subdivision 
(m) of Section 48980.

(III) The distinction, if any, between the high school graduation 
requirements of the school district or county office of education, 
and the eligibility requirements for admission to the California 
State University and the University of California.

(F) Two courses in physical education, unless the pupil has been 
exempted pursuant to the provisions of this code.
(G) (i) Commencing with pupils graduating in the 2029–30 school year, a one-semester course in ethnic studies. A local educational agency, including a charter school, may require a full-year course in ethnic studies at its discretion. Commencing with the 2025–26 school year, a local educational agency, including a charter school, with pupils in grades 9 to 12, inclusive, shall offer at least a one-semester course in ethnic studies.

(ii) Subject to the course offerings of a local educational agency, including a charter school, a pupil may fulfill the requirement of clause (i) through the completion of any of the following types of courses:

(I) A course based on the model curriculum developed pursuant to Section 51226.7.

(II) An existing ethnic studies course.

(III) An ethnic studies course taught as part of a course that has been approved as meeting the A–G requirements of the University of California and the California State University.

(IV) A locally developed ethnic studies course approved by the governing board of the school district or the governing body of the charter school.

(iii) A course that does not use ethnic studies content as the primary content through which the subject is taught shall not be used to satisfy the requirement of clause (i).

(iv) A pupil completing a course described in clause (ii) shall also accrue credit for coursework in the subject that the course is offered, including, if applicable, credit towards satisfying a course required for a diploma of graduation from high school pursuant to this section.

(v) Instruction and materials for a course described in clause (ii) shall meet all of the following requirements:

(I) Be appropriate for use with pupils of all races, religions, genders, sexual orientations, and diverse ethnic and cultural backgrounds, pupils with disabilities, and English learners.

(II) Not reflect or promote, directly or indirectly, any bias, bigotry, or discrimination against any person or group of persons on the basis of any category protected by Section 220.

(III) Not teach or promote religious doctrine.

(vi) The amendments made to this section by the act adding this subparagraph shall not be construed to alter any other requirement of this section for pupils enrolled in a charter school.
(2) Other coursework requirements adopted by the governing board of the school district.

(b) The governing board, with the active involvement of parents, administrators, teachers, and pupils, shall adopt alternative means for pupils to complete the prescribed course of study that may include practical demonstration of skills and competencies, supervised work experience or other outside school experience, career technical education classes offered in high schools, courses offered by regional occupational centers or programs, interdisciplinary study, independent study, and credit earned at a postsecondary educational institution. Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to pupils, parents, and the public.

(c) On or before July 1, 2017, the department shall submit a comprehensive report to the appropriate policy committees of the Legislature on the addition of career technical education courses to satisfy the requirement specified in subparagraph (E) of paragraph (1) of subdivision (a), including, but not limited to, the following information:

(1) A comparison of the pupil enrollment in career technical education courses, world language courses, and visual and performing arts courses for the 2005–06 to 2011–12 school years, inclusive, to the pupil enrollment in career technical education courses, world language courses, and visual and performing arts courses for the 2012–13 to 2016–17 school years, inclusive.

(2) The reasons, reported by school districts, that pupils give for choosing to enroll in a career technical education course to satisfy the requirement specified in subparagraph (E) of paragraph (1) of subdivision (a).

(3) The type and number of career technical education courses that were conducted for the 2005–06 to 2011–12 school years, inclusive, compared to the type and number of career technical education courses that were conducted for the 2012–13 to 2016–17 school years, inclusive.

(4) The number of career technical education courses that satisfied the subject matter requirements for admission to the University of California or the California State University.

(5) The extent to which the career technical education courses chosen by pupils are aligned with the California Career Technical
Education Model Curriculum Standards, and prepare pupils for employment, advanced training, and postsecondary education.

(6) The number of career technical education courses that also satisfy the visual and performing arts requirement, and the number of career technical education courses that also satisfy the world language requirement.

(7) Annual pupil dropout and graduation rates for the 2011–12 to 2014–15 school years, inclusive.

(d) For purposes of completing the report described in subdivision (c), the Superintendent may use existing state resources and federal funds. If state or federal funds are not available or sufficient, the Superintendent may apply for and accept grants, and receive donations and other financial support from public or private sources for purposes of this section.

(e) For purposes of completing the report described in subdivision (c), the Superintendent may accept support, including, but not limited to, financial and technical support, from high school reform advocates, teachers, chamber organizations, industry representatives, research centers, parents, and pupils.

(f) This section shall become inoperative on the earlier of the following two dates:

(1) On July 1, immediately following the first fiscal year after the enactment of the act that adds this paragraph in which the number of career technical education courses that, as determined by the department, satisfy the world language requirement for admission to the California State University and the University of California is at least twice the number of career technical education courses that meet these admission requirements as of January 1, 2012. This section shall be repealed on the following January 1, unless a later enacted statute, that becomes operative on or before that date, deletes or extends the dates on which it becomes inoperative and is repealed. It is the intent of the Legislature that new career technical education courses that satisfy the world language requirement for admission to the California State University and the University of California focus on world languages aligned with career preparation, emphasizing real-world application and technical content in related career and technical education courses.

(2) On July 1, 2022, and, as of January 1, 2023, is repealed, unless a later enacted statute, that becomes operative on or before
January 1, 2023, deletes or extends the dates on which it becomes
inoperative and is repealed.

SEC. 2. Section 51225.3 of the Education Code, as amended
by Section 18 of Chapter 865 of the Statutes of 2018, is amended
to read:

51225.3. (a) A pupil, including a pupil enrolled in a charter
school, shall complete all of the following while in grades 9 to 12,
inclusive, in order to receive a diploma of graduation from high
school:

1. At least the following numbers of courses in the subjects
specified, each course having a duration of one year, unless
otherwise specified:

(A) Three courses in English.

(B) Two courses in mathematics. If the governing board of a
school district requires more than two courses in mathematics for
graduation, the governing board of the school district may award
a pupil up to one mathematics course credit pursuant to Section
51225.35.

(C) Two courses in science, including biological and physical
sciences.

(D) Three courses in social studies, including United States
history and geography; world history, culture, and geography; a
one-semester course in American government and civics; and a
one-semester course in economics.

(E) One course in visual or performing arts or world language.

For purposes of satisfying the requirement specified in this
subparagraph, a course in American Sign Language shall be
deemed a course in world language.

(F) Two courses in physical education, unless the pupil has been
exempted pursuant to the provisions of this code.

(G) (i) Commencing with pupils graduating in the 2029–30
school year, a one-semester course in ethnic studies. A local
educational agency, including a charter school, may require a
full-year course in ethnic studies at its discretion. Commencing
with the 2025–26 school year, a local educational agency, including
a charter school, with pupils in grades 9 to 12, inclusive, shall offer
at least a one-semester course in ethnic studies.

(ii) Subject to the course offerings of a local educational agency,
including a charter school, a pupil may fulfill the requirement of
clause (i) through the completion of any of the following types of courses:

(I) A course based on the model curriculum developed pursuant to Section 51226.7.

(II) An existing ethnic studies course.

(III) An ethnic studies course taught as part of a course that has been approved as meeting the A–G requirements of the University of California and the California State University.

(IV) A locally developed ethnic studies course approved by the governing board of the school district or the governing body of the charter school.

(iii) A course that does not use ethnic studies content as the primary content through which the subject is taught shall not be used to satisfy the requirement of clause (i).

(iv) A pupil completing a course described in clause (ii) shall also accrue credit for coursework in the subject that the course is offered, including, if applicable, credit towards satisfying a course required for a diploma of graduation from high school pursuant to this section.

(v) Instruction and materials for a course described in clause (ii) shall meet all of the following requirements:

(I) Be appropriate for use with pupils of all races, religions, genders, sexual orientations, and diverse ethnic and cultural backgrounds, pupils with disabilities, and English learners.

(II) Not reflect or promote, directly or indirectly, any bias, bigotry, or discrimination against any person or group of persons on the basis of any category protected by Section 220.

(III) Not teach or promote religious doctrine.

(vi) The amendments made to this section by the act adding this subparagraph shall not be construed to alter any other requirement of this section for pupils enrolled in a charter school.

(2) Other coursework requirements adopted by the governing board of the school district.

(b) The governing board, with the active involvement of parents, administrators, teachers, and pupils, shall adopt alternative means for pupils to complete the prescribed course of study that may include practical demonstration of skills and competencies, supervised work experience or other outside school experience, career technical education classes offered in high schools, courses offered by regional occupational centers or programs,
interdisciplinary study, independent study, and credit earned at a postsecondary educational institution. Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to pupils, parents, and the public.

(c) If a pupil completed a career technical education course that met the requirements of subparagraph (E) of paragraph (1) of subdivision (a) of Section 51225.3, as amended by the act adding this section, before the inoperative date of that section, that course shall be deemed to fulfill the requirements of subparagraph (E) of paragraph (1) of subdivision (a) of this section.

(d) This section shall become operative upon the date that Section 51225.3, as amended by the act adding this section, becomes inoperative.

SEC. 3. Section 51226.7 of the Education Code is amended to read:

51226.7. (a) The Instructional Quality Commission shall develop, and the state board shall adopt, modify, or revise, a model curriculum in ethnic studies to ensure quality courses of study in ethnic studies. The model curriculum shall be developed with participation from faculty of ethnic studies programs at universities and colleges with ethnic studies programs and a group of representatives of local educational agencies, a majority of whom are kindergarten to grade 12, inclusive, teachers who have relevant experience or education background in the study and teaching of ethnic studies.

(b) The model curriculum shall be written as a guide to allow school districts to adapt their courses to reflect the pupil demographics in their communities. The model curriculum shall include examples of courses offered by local educational agencies that have been approved as meeting the A–G admissions requirements of the University of California and the California State University, including, to the extent possible, course outlines for those courses.

(c) On or before December 31, 2020, the Instructional Quality Commission shall submit the model curriculum to the state board for adoption, and the state board shall adopt the model curriculum on or before March 31, 2021.
(d) The Instructional Quality Commission shall provide a minimum of 45 days for public comment before submitting the model curriculum to the state board.

(e) It is the intent of the Legislature that local educational agencies submit course outlines for ethnic studies for approval as A–G courses.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
Item B-3
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 19, 2021
SUBJECT: Assembly Bill 215 (Chiu) - Housing element: regional housing need: relative progress determination
ATTACHMENTS: 1. Summary Memo – AB 215
               2. Bill Text – AB 215

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 215 (Chiu) - Housing element: regional housing need: relative progress determination (AB 215) involves a policy matter that has a nexus to the City’s adopted Legislative Platform language. Specifically, the following statements may apply to AB 215 as it relates to unfunded state mandates:

- In general, oppose any county, state or federal mandates without the direct or indirect reimbursement for the costs associated with complying with new and/or modified laws, regulations, policies, procedures, permits and/or programs
- Oppose legislation with mandates for local agency adherence to operations and programs that may not be reimbursable by State budget funds (e.g. unfunded state mandates)

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 215 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 215, the Liaisons may recommend the following actions:
1) Oppose AB 215;
2) Support AB 215;
3) Support if amended AB 215;
4) Oppose unless amended AB 215;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position of oppose, then staff will prepare a letter for the Mayor to sign as the legislation appears to be consistent with the City’s Legislative Platform. Any other positions recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
Attachment 1
To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange
Tim Sullivan, Legislative Aide, Shaw Yoder Antwih Schmelzer & Lange

Re: AB 215 (Chiu) Housing element: regional housing need: relative progress determination.


Summary
This bill establishes a process for a mid-cycle housing element consultation between the state Department of Housing and Community Development (HCD) and any jurisdiction it deems to have not made sufficient progress toward its regional housing needs allocation (RHNA), including a requirement for the jurisdiction to obtain a pro-housing designation.

Background
Each city and county must include plans and programs in its General Plan’s housing element to facilitate housing production at all income levels. Each is responsible for providing sufficient land to meet the demand for residential development, as determined through the state’s Regional Housing Needs Allocation (RHNA) and is responsible for reviewing and approving housing projects while ensuring any conditions it applies to the approval do not make building the housing economically infeasible.

HCD is responsible for reviewing actions taken by a local government that it deems to be inconsistent with the local government’s adopted housing element. If HCD determines an action is not in substantial compliance, it can facilitate compliance, including referring the local government to the Attorney General for potential prosecution.

In recent years, the state has made reforms to the RHNA process, housing element law, and the Housing Accountability Act (HAA). These reforms require local governments to plan for more housing units, ensure their plans and policies reduce segregation, promote fair housing, and make it harder to disapprove of compliant housing projects. However, there is no requirement for a local government to ensure that during the eight-year planning period, its plans and programs are effective in meeting its policy goals or resulting in meaningful progress towards meeting its share of the regional housing needs.

This bill requires a local government to have a mid-cycle housing element consultation with HCD if housing production in its jurisdiction is below certain standards, and to take specified actions, if required, within one year of the consultation with HCD.

Status of Legislation
AB 215 passed off the Senate Housing Committee and is currently pending in the Senate Appropriations Committee.
Arguments in Support
Supporters of this bill argue that it would increase the accountability of local governments for complying with existing state law to promote housing production at all income levels. According to the California Housing Consortium (the bill’s sponsor), "this legislation will not only improve the state’s ability to keep tabs on affordable housing production, it will also offer timely, targeted support to jurisdictions falling behind their housing targets – helping every community stay on track to build the affordable housing California needs."

Arguments in Opposition:
Opponents of this bill, such as the League of California Cities, argue that this bill is an intrusion into local control and self-determination, while noting that the state already has sufficient oversight capacity over housing elements. Specifically, they argue that the pro-housing designation is meant to be an incentive, not a mandatory requirement, and that the mid-cycle housing element review would mostly capture cities with a weak housing market.

Support
California Housing Consortium (Sponsor)  Habitat for Humanity California
Abundant Housing LA  Hello Housing
Bay Area Council  Housing Action Coalition
Bridge Housing Corporation  LISC San Diego
CalChamber  MidPen Housing
California Apartment Association  Modular Building Institute
California Association of Realtors  Non-profit Housing Association of Northern California
California Building Industry Association  San Francisco Bay Area Planning and Research Association (SPUR)
California Community Builders  Sand Hill Property Company
California Council for Affordable Housing  Silicon Valley @ Home
California YIMBY  Silicon Valley Community Foundation
Casita Coalition  Silicon Valley Leadership Group
Council of Infill Builders  The Two Hundred
Eden Housing  TMG Partners
Greenbelt Alliance

Opposition
California Cities for Local Control  City of Norwalk
California Rural Legal Assistance Foundation  City of Rancho Palos Verdes
California State Association of Counties  City of San Bernardino
City of Beaumont  City of San Jacinto
City of Carlsbad  City of Thousand Oaks
City of Corona  Leadership Counsel for Justice and Accountability
City of El Segundo  League of California Cities
City of Fortuna  Public Advocates
City of Foster City  Public Interest Law Project
City of Garden Grove  Rural County Representatives of California
City of Goleta  Sustainable Tamalmonte
City of Gustine  Urban Counties of California
City of La Habra  Ventura Council of Governments
City of Lathrop  Western Center on Law & Poverty
City of Menifee
Attachment 2
An act to amend Section 65585 of, and to add Sections 65585.5 and 65589.10 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 215, as amended, Chiu. Housing element: regional housing need: relative progress determination.

(1) Existing law, the Planning and Zoning Law, requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the Department of Housing and Community Development to determine whether the housing element is in substantial compliance with specified provisions of that law.

This bill, starting with the 6th housing element revision, would require the department to determine the relative progress toward meeting regional housing needs of each jurisdiction, council of governments, and subregion, as specified. The bill would require the department to make this determination based on the information contained in the annual reports submitted by each jurisdiction, as specified. The bill would require the department to make this determination for all housing and for lower income housing by dividing the applicable entity’s progress toward meeting its share of the regional housing need by its prorated share of the regional housing need, as specified. The bill would
require the department to post the determinations of relative progress on its internet website by July 1 of the year in which relative progress is determined.

The bill would require a jurisdiction to undertake a midcycle housing element consultation with the department if the jurisdiction's progress toward meeting its share of the regional housing need is less than its prorated share of the regional housing need and the relative progress of the jurisdiction for all housing or for lower income housing is less than the relative progress of the affiliated council of governments or subregion, as specified. The bill would require a jurisdiction to undertake specified actions, including a review and update of the jurisdiction's goals, policies, quantified objectives, financial resources, and scheduled programs to review and update its scheduled programs and ensure that all programs have enforceable actions and concrete timelines. The bill would require the department to find that a housing element is not in substantial compliance with the Planning and Zoning Law if the department determines that the jurisdiction has not complied with these provisions.

Because this bill would require certain jurisdictions to participate in a midcycle housing element consultation with the department, the bill imposes a state-mandated local program.

(2) Existing law, for award cycles commencing after July 1, 2021, awards a city or county additional points in the scoring of specified program applications if the city or county, among other things, has been designated by the department as prohousing based upon its adoption of prohousing local policies for housing, as provided. Existing law defines “prohousing local policies” as policies that facilitate the planning, approval, or construction of housing, including, but not limited to, local financial incentives for housing, reduced parking requirements for sites that are zoned for residential development, and the adoption of zoning allowing for use by right for residential and mixed-use development.

This bill, commencing with the 6th revision of the housing element, would require a jurisdiction to attain a prohousing designation by the department if the jurisdiction’s relative progress toward meeting its share of the regional or subregional housing need for all housing is at least 10 percentage points less than the relative progress of their affiliated council of governments or subregion, as determined pursuant to the provisions described above, as specified.
(3) The Planning and Zoning Law also requires the department to notify a city, county, or city and county, and authorizes the department to notify the office of the Attorney General, that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to the housing element does not substantially comply with specified provisions of the Planning and Zoning Law, or that the local government has taken action or failed to act in violation of specified provisions of law.

This bill would add the Housing Crisis Act of 2019 to those specified provisions of law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.


The people of the State of California do enact as follows:

SECTION 1. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.
(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department’s findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes.

The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).
If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

(1) Housing Accountability Act (Section 65589.5 of the Government Code).

(2) Section 65863 of the Government Code.

(3) Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.


(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1), (3), and (4) of subdivision (j).
(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after twelve months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars ($10,000) per month, but shall not exceed one hundred thousand dollars ($100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction’s failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1)
by a factor of three. In the event that the jurisdiction fails to pay
fines imposed by the court in full and on time, the court may
require the Controller to intercept any available state and local
funds and direct such funds to the Building Homes and Jobs Trust
Fund to correct the jurisdiction’s failure to pay. The intercept of
the funds by the Controller for this purpose shall not violate any
 provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or
judgment six months following the imposition of fees described
in paragraph (1), the court shall conduct a status conference. Upon
a determination that the jurisdiction failed to comply with the order
or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to
paragraphs (1) and (2) are insufficient to bring the jurisdiction into
compliance with the order or judgment, the court may multiply
the fine determined pursuant to paragraph (1) by a factor of six.
In the event that the jurisdiction fails to pay fines imposed by the
court in full and on time, the court may require the Controller to
intercept any available state and local funds and direct such funds
to the Building Homes and Jobs Trust Fund to correct the
jurisdiction’s failure to pay. The intercept of the funds by the
Controller for this purpose shall not violate any provision of the
California Constitution.

(B) The court may order remedies available pursuant to Section
564 of the Code of Civil Procedure, under which the agent of the
court may take all governmental actions necessary to bring the
jurisdiction’s housing element into substantial compliance pursuant
to this article in order to remedy identified deficiencies. The court
shall determine whether the housing element of the jurisdiction
substantially complies with this article and, once the court makes
that determination, it shall have the same force and effect, for all
purposes, as the department’s determination that the housing
element substantially complies with this article. An agent appointed
pursuant to this paragraph shall have expertise in planning in
California.

(4) This subdivision does not limit a court’s discretion to apply
any and all remedies in an action or special proceeding for a
violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available
under subdivision (l), the court shall consider whether there are
any mitigating circumstances delaying the jurisdiction from coming
into compliance with state housing law. The court may consider
whether a city, county, or city and county is making a good faith
effort to come into substantial compliance or is facing substantial
undue hardships.
(n) The office of the Attorney General may seek all remedies
available under law including those set forth in this section.
SEC. 2. Section 65585.5 is added to the Government Code, to
read:
65585.5. (a) Commencing with the sixth revision of the
housing element pursuant to Section 65588, the department shall
determine the relative progress toward meeting regional housing
needs subject to the following:
(1) (A) The department shall determine relative progress toward
meeting regional housing needs for all housing and lower income
housing during the fifth year of the applicable planning period.
(B) The department shall also determine relative progress toward
meeting regional housing needs for all housing during the year
after the completion of the jurisdiction’s planning period. The
department’s determination of relative progress under this
subparagraph shall be used to determine jurisdictions that must
attain a prohousing designation pursuant to Section 65589.10 and
shall not be the basis for a midcycle housing element consultation
under subdivision (b).
(2) The department shall make relative progress determinations
based on the information contained in the annual reports submitted
pursuant to Section 65400, and shall measure relative progress
subject to the following:
(A) For each jurisdiction:
(i) Relative progress for all housing shall be measured by
dividing the jurisdiction’s progress toward meeting its share of the
regional housing need by its prorated share of the regional housing
need, as determined pursuant to Section 65584.
(ii) Relative progress for lower income housing shall be
measured by dividing the jurisdiction’s progress toward meeting
its share of the regional housing need for the very low and
low-income categories by its prorated share of the regional housing
need for very low and low-income households, as determined
pursuant to Section 65584.
(B) For each council of governments:
(i) Relative progress for all housing shall be measured by summing the progress of each of the council of governments’ member jurisdictions toward meeting their share of the regional housing need and dividing that sum by the prorated regional housing need, as determined pursuant to Section 65584.01.

(ii) Relative progress for lower income housing shall be measured by summing the progress of each of the council of governments’ member jurisdictions toward meeting their share of the regional housing need for very low and low-income households and dividing that sum by the prorated regional housing need for very low and low-income households, as determined pursuant to Section 65584.01.

(C) For each subregion:

(i) Relative progress for all housing shall be measured by summing the progress of each of the subregion’s member jurisdictions toward meeting their share of the subregional housing need and dividing that sum by the prorated subregional housing need, as determined pursuant to Section 65584.03.

(ii) Relative progress for lower income housing shall be measured by summing the progress of each of the subregion’s member jurisdictions toward meeting their share of the subregional housing need for very low and low-income households and dividing that sum by the prorated subregional housing need for very low and low-income households, as determined pursuant to Section 65584.03.

(3) This subdivision shall only apply to jurisdictions with an eight-year housing element planning period, pursuant to Section 65588.

(4) Determinations of relative progress shall be published on the department’s internet website by July 1 of the year in which relative progress is determined.

(b) (1) A jurisdiction shall undertake a midcycle housing element consultation with the department if both of the following occur:

(A) The jurisdiction’s progress toward meeting its share of the regional housing need is less than its prorated share of the regional housing need.

(B) The jurisdiction meets one of the following:

(i) The jurisdiction’s relative progress for all housing during the fifth year of the applicable planning period, pursuant to
subdivision (a), is less than the relative progress for all housing of
the jurisdiction’s affiliated council of governments or subregion.

(ii) The jurisdiction’s relative progress for very low and
low-income households during the fifth year of the applicable
planning period, pursuant to subdivision (a), is less than the relative
progress for very low and low-income households of the
jurisdiction’s affiliated council of governments or subregion.

(2) A jurisdiction required to conduct a midcycle housing
element consultation pursuant to this subdivision shall, in
coordination with the department, do all of the following:

(A) Review and update, as necessary, all goals, policies,
quantified objectives, financial resources, and scheduled programs.

(B) Ensure that all programs have enforceable actions and
crime timelines.

(3) (A) By July 1 of the year in which the determination of
relative progress has occurred pursuant to subdivision (a), the
department shall notify each jurisdiction, in writing, of their need
to comply with this subdivision.

(B) A midcycle housing element consultation shall occur within
six months of the jurisdiction receiving the notice pursuant to
subparagraph (A).

(C) Any revisions to the housing element required by the
department during a midcycle housing element consultation must
be completed within one year of the consultation.

(4) The department may apply the requirements of this
subdivision to any jurisdiction that fails to submit a substantially
compliant annual report pursuant to the timelines and requirements
of Section 65400.

(5) If the department determines that a jurisdiction has not
complied with the requirements of this subdivision, the department
shall find that their housing element does not substantially comply
with this article, pursuant to Section 65585.

(c) The section shall not be construed to diminish or undermine
the department’s enforcement authority granted elsewhere in
statute or regulation.
SEC. 3. Section 65589.10 is added to the Government Code, to read:

65589.10. (a) Commencing with the sixth revision of the housing element pursuant to Section 65588, any jurisdiction whose relative progress toward meeting its share of the regional or subregional housing need for all housing, as determined pursuant to paragraph (2) of subdivision (a) of Section 65585.5, is at least 10 percentage points less than the relative progress of their affiliated council of governments or subregion shall be required to attain a prohousing designation by the department pursuant to subdivision (c) of Section 65589.9.

(b) (1) The department shall determine whether a jurisdiction is required to attain a prohousing designation pursuant to subdivision (a) by July 1 of the year in which the determination of relative progress has occurred.

(2) The department shall make a second determination of whether a jurisdiction is required to attain a prohousing designation pursuant to subdivision (a) by July 1 of the year after the completion of the jurisdiction’s planning period.

(3) The department shall provide written notice to a jurisdiction that must attain a prohousing designation pursuant to subdivision (a) by July 1 of the year in which the determination is made.

(4) A jurisdiction that receives written notice pursuant to paragraph (3) that does not already have a prohousing designation shall attain a prohousing designation by July 1 of the year after receiving the notice pursuant to paragraph (3). If the jurisdiction does not comply with this timeline, the department shall find that the jurisdiction’s housing element does not substantially comply with this article pursuant to Section 65585.

(c) The department may apply the requirements of this section to any jurisdiction that fails to submit a substantially compliant annual report pursuant to the timelines and requirements of Section 65400.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or
level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Item B-4
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 818 - Solid waste: premoistened nonwoven disposable wipes (AB 818) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. However, the City Council did establish a primary legislative focus for supporting sustainability in the community and this item is related to that particular focus. Additionally, in 2020, the City supported AB 1672 (Bloom), a similar bill which failed to become law.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 818 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 818, the Liaisons may recommend the following actions:

1) Support AB 818;
2) Support if amended AB 818;
3) Oppose AB 818;
4) Oppose unless amended AB 818;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 818, then staff will place the item on a future City Council Agenda for concurrence.
July 14, 2021

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange
Tim Sullivan, Legislative Aide, Shaw Yoder Antwih Schmelzer & Lange

Re: AB 818 (Bloom) Solid waste: premoistened nonwoven disposable

Version: Amended in the Senate July 1, 2021

Summary
AB 818 will establish labeling requirements for premoistened nonwoven disposable wipes so consumers can easily identify which wipes are unsafe to dispose of using sanitary sewer systems.

Specifically, this bill would:

- Requires covered nonwoven disposable wipes, by July 1, 2022, to be labeled clearly and conspicuously to communicate that they should not be flushed, and prescribes specified "Do Not Flush" symbols, size, and location requirements for the label.
- Establishes enforcement provisions.
- Prohibits a covered entity, a manufacturer of a covered product, from making a representation about the flushable attributes, benefits, performance, or efficacy of those premoistened nonwoven disposable wipes, as provided.
- Stipulates that these provisions supersede and preempt all rules, regulations, codes, ordinances, and other laws adopted by a city, county, city and county, municipality, or local agency regarding the labeling of covered products.
- Establishes a consumer education and outreach program, as specified, and sunset the consumer outreach program on December 31, 2026.
- Requires covered entities to report to the Senate Committee on Environmental Quality, the Assembly Committee on Environmental Safety and Toxic Materials Committee, and the State Water Resources Control Board (State Water Board) on their activities on an annual basis.
- Sunset the bill on January 1, 2027.

Background
There are no reliable statistics about how many wipes are flushed down toilets, but there are hundreds of reports each year of clogged household plumbing and costly damage to public sewer systems and treatment plants caused by wipes when they are flushed. In 2019, the National Association of Clean Water Agencies (NACWA) conducted a nationwide study of the costs of wipes. NACWA estimates that wipes result in about $441 million a year in additional operating costs at US clean water utilities. The study estimates that the cost of wipes in California cities with collection systems is over $47 million a year. Individual utilities in California pay on average about $100,000 a year in additional operating costs because of wipes. Individual O&M associated with wipes cost the
average individual in California about $1.85 a year, although that figure varies considerably from city to city, with people in the highest cost city paying $21.39 a year.

Following Governor Newsom’s COVID-19 Stay-At-Home order (Executive Order N-33-20, enacted on March 19, 2020), consumer panic buying and subsequent shortages of toilet paper resulted in the increased flushing of alternatives like baby wipes and other non-flushable debris. As a result, local officials reported a large spike in nonflushable debris in sewer systems last spring, resulting in significant and costly operational impacts. Wastewater operators in Redding, San Clemente, Orange County, Lakeport, Victorville, Beale Air Force Base, Napa, Cupertino, Tiburon, Marin, and San Diego reported wipes clogging sewage systems.

AB 818 is a reintroduction of AB 1672 (Bloom, 2019), that was held in the Senate Appropriations Committee amidst a truncated legislative session due to the pandemic. The City of Beverly Hills was supportive of AB 1672.

**Status of Legislation**
AB 818 passed out of the Senate Appropriations consent calendar. The bill will be heading to Senate floor.

**Arguments in Support**
According to the author, “When wet wipes products are flushed into the sewer system they can cause significant issues for private property owners, sewer collection systems, and wastewater treatment plants. Wet products that do not break down can catch on tree roots or other obstructions in residential sewer laterals and cause costly and dangerous backups for property owners. Wet wipes have been shown to cause significant damage to residential septic systems, resulting in expensive repairs and remediation for homeowners.”

**Support**
- American Forest & Paper Association
- Association of California Water Agencies (ACWA)
- California Association of Sanitation Agencies
- California Municipal Utilities Association (CMUA)
- California Special Districts Association
- California State Association of Counties (CSAC)
- Camarillo; City of
- Central Contra Costa Sanitary District
- City of Roseville
- Cucamonga Valley Water District
- Delta Diablo
- East Bay Municipal Utility District
- Eastern Municipal Water District
- Inda, Association of The Nonwoven Fabric Industry
- Irvine Ranch Water District
- Kimberly-clark Corporation
- Los Angeles County
- Los Angeles County Division, League of California Cities
- Los Angeles County Sanitation Districts
- Monterey One Water
- Rancho Water
- Sonoma Water
- Thousand Oaks; City of
- Upper San Gabriel Valley Municipal Water District
- Western Municipal Water District

**Opposition**
None listed at this time.
An act to add Part 9 (commencing with Section 49650) to Division 30 of, and to repeal Section 49652 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL’S DIGEST

AB 818, as amended, Bloom. Solid waste: premoistened nonwoven disposable wipes.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste.

This bill would require, except as provided, certain premoistened nonwoven disposable wipes manufactured on or after July 1, 2022, to be labeled clearly and conspicuously with the phrase “Do Not Flush” and a related symbol, as specified. The bill would prohibit a covered entity, as defined, from making a representation about the flushable attributes, benefits, performance, or efficacy of those premoistened nonwoven disposable wipes, as provided. The bill would establish enforcement provisions, including authorizing a civil penalty not to exceed $2,500 per day, up to a maximum of $100,000 per violation, to be imposed on a covered entity who violates those provisions.

The bill would establish, until January 1, 2027, the California Consumer Education and Outreach Program, under which covered
entities would be required, among other things, to participate in a
collection study conducted in collaboration with wastewater agencies
for the purpose of gaining understanding of consumer behavior regarding
the flushing of premoistened nonwoven disposable wipes and to conduct
a comprehensive multimedia education and outreach program in the
state. The bill would require covered entities to annually report to
specified legislative committees and the State Water Resources Control
Board on their activities under the program and would require the state
board to post the reports on its internet website.

State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature in enacting this
act to create labeling requirements for premoistened nonwoven
disposable wipes that will enable consumers to easily identify
which premoistened nonwoven disposable wipes are composed of
petrochemical-derived fibers and therefore are not safe to dispose
of using sanitary sewer systems, in order to protect public health,
the environment, water quality, and public infrastructure used for
the collection, transport, and treatment of wastewater.

SEC. 2. Part 9 (commencing with Section 49650) is added to
Division 30 of the Public Resources Code, to read:

PART 9. PREMOISTENED NONWOVEN DISPOSABLE
WIPES

49650. For purposes of this part, the following definitions
apply:
(a) “Covered entity” means the manufacturer of a covered
product that is sold in the state or offered for sale in the state.
“Covered entity” includes a wholesaler, supplier, or retailer that
is responsible for the labeling or packaging of a covered product.
(b) “Covered product” means a consumer product sold in the
state or offered for sale in the state that is either of the following:
(1) A premoistened nonwoven disposable wipe marketed as a
baby wipe or diapering wipe.
(2) A premoistened nonwoven disposable wipe that is both of
the following:
(A) Composed entirely of or in part of petrochemical-derived fibers.

(B) Likely to be used in a bathroom and has significant potential to be flushed, including baby wipes, bathroom cleaning wipes, toilet cleaning wipes, hard surface cleaning wipes, disinfecting wipes, hand sanitizing wipes, antibacterial wipes, facial and makeup removal wipes, general purpose cleaning wipes, personal care wipes for use on the body, feminine hygiene wipes, adult incontinence wipes, adult hygiene wipes, and body cleansing wipes.

(c) “High contrast” means satisfying both of the following conditions:

1. Provided by either a light symbol on a solid dark background or a dark symbol on a solid light background.
2. Has at least 70 percent contrast between the symbol artwork and background using the following formula:
   
   \[
   \text{(A)} \quad \frac{B_1 - B_2}{B_1} \times 100 = \text{contrast percentage.}
   \]
   
   \[
   \text{(B)} \quad B_1 = \text{the light reflectance value of the lighter area and } B_2 = \text{the light reflectance value of the darker area.}
   \]

(d) (1) “Label notice” means the phrase “Do Not Flush” and the size of the label notice shall be equal to at least 2 percent of the surface area of the principal display panel in size.

2. For covered products regulated pursuant to the Federal Hazardous Substances Act (15 U.S.C. Sec. 1261 et seq.) by the United States Consumer Product Safety Commission under Section 1500.121 of Title 16 of the Code of Federal Regulations, if the label notice requirements in paragraph (1) would result in a type size larger than first aid instructions pursuant to the Federal Hazardous Substances Act, then the type size for the label notice shall, to the extent permitted by federal law, be equal to or greater than the type size required for the first aid instructions.

3. For covered products required to be registered by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.), if the label notice requirements in paragraph (1) would result in a type size on the principal display panel larger than a warning pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, then the type size for the label notice shall, to the extent permitted by federal law, be equal to or greater than the type size required for the “keep out of reach of children” statement under the Federal Insecticide, Fungicide, and Rodenticide Act.
(e) (1) “Principal display panel” means the side of the product package that is most likely to be displayed, presented, or shown under customary conditions of display for retail sale.

(2) In the case of a cylindrical or nearly cylindrical package, the surface area of the principal display panel constitutes 40 percent of the product package as measured by multiplying the height of the container by the circumference.

(3) In the case of a flexible film package in which a rectangular prism or nearly rectangular prism stack of wipes is housed within the film, the surface area of the principal display panel is measured by multiplying the length by the width of the side of the package when the flexible packaging film is pressed flat against the stack of wipes on all sides of the stack.

(f) “Symbol” means the “Do Not Flush” symbol, or a gender equivalent thereof, as depicted in the INDA/EDANA Code of Practice Second Edition and published within “Guidelines for Assessing the Flushability of Disposable Nonwoven Products,” Edition 4, May 2018. The symbol shall be sized equal to at least 2 percent of the surface area of the principal display panel, except as specified in clause (iii) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 49651.

49651. (a) Except as provided in subdivisions (b), (c), (d), and (f), a covered product manufactured on or after July 1, 2022, shall be labeled clearly and conspicuously in adherence with the following labeling requirements:

(1) In the case of cylindrical or near cylindrical packaging intended to dispense individual wipes, a covered entity shall comply with one of the following options:

(A) Place the symbol and label notice on the principal display panel in a location reasonably viewable each time a wipe is dispensed.

(B) Place the symbol on the principal display panel, and either the symbol or label notice, or the symbol and label notice in combination, on the flip lid, subject to the following:

(i) If the label notice does not appear on the flip lid, the label notice shall be placed on the principal display panel.

(ii) The symbol or label notice, or the symbol and label notice in combination, on the flip lid may be embossed, and in that case are not required to comply with paragraph (6).
(iii) The symbol or label notice, or the symbol and label notice in combination, on the flip lid shall cover a minimum of 8 percent of the surface area of the flip lid.

(2) In the case of flexible film packaging intended to dispense individual wipes, a covered entity shall place the symbol on the principal display panel and dispensing side panel and place the label notice on either the principal display panel or dispensing side panel in a prominent location reasonably visible to the user each time a wipe is dispensed. If the principal display panel is on the dispensing side of the package, two symbols are not required.

(3) In the case of refillable tubs or other rigid packaging intended to dispense individual wipes and be reused by the consumer for that purpose, a covered entity shall place the symbol and label notice on the principal display panel in a prominent location reasonably visible to the user each time a wipe is dispensed.

(4) In the case of packaging not intended to dispense individual wipes, a covered entity shall place the symbol and label notice on the principal display panel in a prominent and reasonably visible location.

(5) A covered entity shall ensure the packaging seams, folds, or other package design elements do not obscure the symbol or the label notice.

(6) A covered entity shall ensure the symbol and label notice have sufficiently high contrast with the immediate background of the packaging to render it likely to be seen and read by the ordinary individual under customary conditions of purchase and use.

(b) For covered products sold in bulk at retail, both the outer package visible at retail and the individual packages contained within shall comply with the labeling requirements in subdivision (a) applicable to the particular packaging types, except the following:

(1) Individual packages contained within the outer package that are not intended to dispense individual wipes and contain no retail labeling.

(2) Outer packages that do not obscure the symbol and label notice on individual packages contained within.

(c) If a covered product is provided within the same packaging as another consumer product for use in combination with the other product, the outside retail packaging of the other consumer product
does not need to comply with the labeling requirements of subdivision (a).

(d) If a covered product is provided within the same package as another consumer product for use in combination with the other product and is in a package smaller than three inches by three inches, the covered entity may comply with the requirements of subdivision (a) by placing the symbol and label notice in a prominent location reasonably visible to the user of the covered product.

(e) A covered entity, directly or through a corporation, partnership, subsidiary, division, trade name, or association in connection to the manufacturing, labeling, packaging, advertising, promotion, offering for sale, sale, or distribution of a covered product, shall not make any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, illustration, trademark, or trade name, about the flushable attributes, flushable benefits, flushable performance, or flushable efficacy of a covered product.

(f) (1) If a covered product is required to be registered by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.) and the Department of Pesticide Regulation under Division 6 (commencing with Section 11401) of the Food and Agricultural Code, then the covered entity shall submit a label compliant with the labeling requirements of subdivision (a) no later than January 1, 2023, to the United States Environmental Protection Agency, and upon its approval, to the Department of Pesticide Regulation.

(2) If the United States Environmental Protection Agency or the Department of Pesticide Regulation does not approve a product label that otherwise complies with the labeling requirements of subdivision (a), the covered entity shall use a label with as many of the requirements of this section as the relevant agency has approved.

(g) A covered entity may include on a covered product words or phrases in addition to those required for the label notice if the words or phrases are consistent with the purposes of this part.

49652. (a) The California Consumer Education and Outreach Program is hereby established. As part of the program, covered entities, in collaboration with other covered entities, shall do all of the following:
Participate in a collection study conducted in collaboration with wastewater agencies for the purpose of gaining understanding of consumer behavior regarding the flushing of covered products as a key input into the design of a consumer education and outreach program. The collection study shall be jointly coordinated by the California Association of Sanitation Agencies and a group of covered entities.

Conduct a consumer opinion survey to identify baseline consumer behavior and awareness regarding the flushing or other disposal of covered products.

Measure effectiveness of the consumer education program on consumer awareness of the symbol and label notice and consumer attitudes about disposal of covered products by conducting a subsequent consumer awareness survey comparing the baseline data provided by the 2022 survey with survey data from subsequent years. The surveys to determine the effectiveness and ongoing success of the consumer education program shall take place annually until December 31, 2026.

Covered entities, either independently or in collaboration with other covered entities or other organizations, shall conduct a comprehensive multimedia education and outreach program in the state. At a minimum, the education and outreach program shall do both of the following:

Promote consumer awareness and understanding of and compliance with the symbol and label notice requirements. Covered entities shall provide wastewater agencies with the consumer education messaging for the symbol and the label notice. The wastewater agencies may include the messaging as part of their routine communications with customers within their service area.

Provide education and outreach in Spanish and English.

Covered entities shall take reasonable steps to ensure that they do not promote products outside of the scope of this part as part of the education and outreach program.

Covered entities shall take reasonable steps to ensure that their education and outreach program does not conflict with the programs of other covered entities or groups of covered entities.

Covered entities, either independently or in collaboration with other covered entities, shall report to the Senate Committee on Environmental Quality, the Assembly Committee on Environmental Safety and Toxic Materials, and the State Water
Resources Control Board on their activities under this section on an annual basis. The State Water Resources Control Board shall post the reports on its internet website.

(f) The California Consumer Education and Outreach Program shall conclude on December 31, 2026.

(g) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

49653. (a) A person who violates Section 49651 may be enjoined in any court of competent jurisdiction.

(b) (1) A covered entity who violates Section 49651 may be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) per day, up to a maximum of one hundred thousand dollars ($100,000) for each violation. That civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction. For purposes of this section, offering for sale or selling in California one or more units of the same covered product labeled in violation of Section 49651 shall constitute a single violation for each day the noncompliant units are offered for sale or sold.

(2) In assessing the amount of a civil penalty for a violation of Section 49651, the court shall consider all of the following:
(A) The nature, circumstances, extent, and gravity of the violation.
(B) The violator’s past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment.
(C) The violator’s ability to pay the proposed penalty.
(D) The effect that the proposed penalty would have on the violator and the community as a whole.
(E) Whether the violator took good faith measures to comply with this part and when these measures were taken.
(F) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole.
(G) Any other factor that justice may require.

(c) Actions may be brought pursuant to this section by the Attorney General in the name of the people of the state, by a district attorney, by a city attorney, by a county counsel, or by a city prosecutor in a city or city and county having a full-time city prosecutor.
(d) (1) Civil penalties collected pursuant to this section shall
be paid to the office of the city attorney, county counsel, city
prosecutor, district attorney, or Attorney General, whichever office
brought the action.

(2) Moneys collected by the Attorney General pursuant to this
subdivision shall be deposited into the Unfair Competition Law
Fund established pursuant to Section 17206 of the Business and
Professions Code.

49654. (a) The provisions of this part are severable. If any
provision of this part or its application is held invalid, that
invalidity shall not affect other provisions or applications that can
be given effect without the invalid provision or application.

(b) The Legislature finds and declares that this part addresses
a matter of statewide concern rather than a municipal affair as that
term is used in Section 5 of Article XI of the California
Constitution. Therefore, this part applies to all cities, including
charter cities. This part supersedes and preempts all rules,
regulations, codes, ordinances, and other laws adopted by a city,
County, city and county, municipality, or local agency regarding
the labeling of covered products.
Item B-5
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 19, 2021
SUBJECT: Assembly Bill 889 (Gipson) Business entities: landlords: reporting requirements

ATTACHMENTS: 1. Summary Memo – AB 889
2. Bill Text – AB 889

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 889 (Gipson) Business entities: landlords: reporting requirements (AB 889) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 889 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 889, the Liaisons may recommend the following actions:

1) Support AB 889;
2) Support if amended AB 889;
3) Oppose AB 889;
4) Oppose unless amended AB 889;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 889, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
July 13, 2021

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange

Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange

Tim Sullivan, Legislative Aide, Shaw Yoder Antwih Schmelzer & Lange

Re: AB 889 (Gipson) Business entities: landlords: reporting requirements.


Summary
Requires landlords who hold rental property in the name of a corporation or limited liability company to report the identity of the beneficial owners of the property to the California Secretary of State. Specifically, this bill:

1) Requires a corporation or limited liability company that owns and operates residential rental property to report the identity of the beneficial owner of the property to the California Secretary of State.

2) Defines “beneficial owner” to mean natural person for whom, directly or indirectly and through any contract arrangement, understanding, relationship, or otherwise, any of the following applies:
   a) the person exercises substantial control over a qualified entity;
   b) the person owns 25 percent or more of the equity interest of a qualified entity; and
   c) the person receives substantial economic benefits from the assets of a qualified entity.

3) Excludes all the following from the meaning of “beneficial owner”:
   a) a minor child;
   b) a person acting as a nominee, intermediary, custodian, or agent on behalf of another person;
   c) a person acting solely as an employee of a qualified entity and whose control over or economic benefits from that qualified entity derives solely from the employment status of the person;
   d) a person whose only interest in a qualified entity is through a right of inheritance; and
   e) a creditor of a qualified entity, unless the creditor meets the requirements specified in this measure.

Background
Under existing law, the owner of residential property that is offered to the public for rent, or an entity that signs a rental agreement or lease on behalf of the owner must do all of the following:

• Disclose the name, telephone number, and usual street address at which personal service may be delivered of each person who is authorized to manage the property and each person who is an owner of the property or their agent for the purpose of receiving all notices and demands.

SYASLpartners.com
• Owners must disclose the name, telephone number, and address of the person or entity to whom rent payments are made.

Entities that manage mobile home parks must provide written information detailing the name, business address, and business telephone number of the mobile home park owner upon the receipt of a written request of a homeowner. This information must be provided within ten business days from the request for information from the homeowner.

Beginning 2023, limited liability companies, corporations, or other similar entities must register information about their beneficial owners with the Financial Crimes Enforcement Network of the Department of the Treasury (FinCEN).

For purposes of this disclosure, the beneficial owners mean any of the following:
• The person exercises substantial control over a qualified entity;
• The person owns 25 percent or more of the equity interest of a qualified entity; and
• The person receives substantial economic benefits from the assets of a qualified entity.

This bill is sponsored by the California Reinvestment Coalition. They argue that AB 889 (Gipson) will provide much-needed transparency to the rental property industry such that governments and researchers can study the markets as necessary for effective policy making, and tenants can seek repairs and recourse when landlords are neglectful. They argue that large corporate landlords benefited from the last crisis by gobbling up foreclosed homes and renting them out to vulnerable families and argue further that the same corporations are once again poised to take advantage of an economic crisis.

Transparency about who owns rental property in California could provide the data that public policy makers need to make informed decisions. Currently, the anonymous nature of a lot of California property ownership makes it difficult to detect patterns and trends. Supporters argue that this presence is ruining communities. They point out that institutional investment in real estate drives up the price of real estate and drives down rates of homeownership. They further assert that corporate landlords, motivated primarily by profit, raise rents as high as possible while cutting costs on things like maintenance, as much as they can.

AB 889 (Gipson) would not prevent institutional investors from buying and renting out real estate, but it would arguably provide policy makers with more detailed information that could be used to assess the role of institutional investment in the housing market and take corrective action where warranted. Setting up ownership in the form of shell companies and then layering on other LLCs, partnerships, and corporations is, according to the author and sponsors, one of the ways that slumlords make it difficult to trace their involvement with the property and hold them responsible for what goes on there.

Opponents argue that AB 889 is an unnecessary idea that fails to move California forward, introduced during an extremely challenging time for landlords and tenants alike. They point out that the California Civil Code already requires any owner of residential property or a party signing a rental agreement on behalf of the owner to disclose the name, telephone number, and street address of the person who is authorized to manage the property; the owner of the property or a person who is authorized to act for and on behalf of the owner; and the name, telephone number and address of the person or entity to whom rent payments are to be made. Opponents argue further that there is no reason to create an expensive system for the reporting of property owner information in California.
A tenant is not left wondering who to call when it comes to requests for repairs or other property operations.

**Status of Legislation**
This measure is currently pending in the Senate Judiciary Committee

**SUPPORT**
California Reinvestment Coalition (sponsor)
Abundant Housing LA
Alliance of Californians for Community Empowerment
Bend the Arc Jewish Action of Southern California
Berkeley Tenants Union
California Democratic Renters Council
California Housing Partnership
California Rural Legal Assistance Foundation
California YIMBY
Causa Justa :: Just Cause
Community Legal Services in East Palo Alto
East Bay for Everyone
East Bay Housing Organizations
East Bay YIMBY
The Greenlining Institute
Grow the Richmond
House Sacramento
Housing Equality & Advocacy Resource Team
Housing Rights Committee of San Francisco
Inland SoCal Housing Collective
Inner City Law Center
Law Foundation of Silicon Valley
Long Beach YIMBY
Neighborhood Housing Services of Los Angeles County
North Bay Organizing Project
Northern California Land Trust
Peninsula for Everyone
Public Advocates
Public Law Center
San Fernando Valley YIMBY
San Francisco YIMBY
Santa Cruz YIMBY
Sonoma County Tenants Union
South Bay YIMBY
TechEquity Collaborative
Tenderloin Housing Clinic
Western Center on Law and Poverty
Westside for Everyone

**OPPOSITION**
BOMA California
Business Properties Association California
California Apartment Association
Attachment 2
An act to add Chapter 14.6 (commencing with Section 18995.5) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to food access; Article 8.1 (commencing with Section 12285) to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, relating to business entities.

LEGISLATIVE COUNSEL’S DIGEST

AB 889, as amended, Gipson. Food access; grocery stores; Business entities: landlords: reporting requirements.

Existing law requires the Secretary of State to perform various duties relating to business entities.

This bill would require a qualified entity, defined as a corporation or limited liability company that owns real property that is offered for rent or lease, to report to the Secretary of State specified information regarding the qualified entity.

Existing federal law establishes the federal Supplemental Nutrition Assistance Program (SNAP), known in California as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county, under the administration of the State Department of Social Services. Existing law also establishes and requires the department to
administer the CalFood Program to provide food and funding to food banks whose primary function is to facilitate the distribution of food to low-income households, as specified.

This bill would require the owner of a grocery establishment, as described, to, as soon as possible, but not later than 60 days or 180 days prior to a planned closure of the grocery establishment, provide written notice of the intended closure to the city and county in which the grocery establishment is located, the local workforce development board, and the State Department of Social Services. The bill would require a county and local workforce development board to provide the grocery establishment with information about safety net programs and local workforce training services, and would require the grocery establishment to provide that information to each employee. The bill would also require a city to keep track of the grocery establishment closures in its jurisdiction, identify any trends in grocery establishment closures, and address reasons for the closures if findings suggest the possible need for intervention by the city. By increasing the duties of local officials, this bill would impose a state mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.


The people of the State of California do enact as follows:

SECTION 1. Article 8.1 (commencing with Section 12285) is added to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 8.1. Reporting Requirements for Business Entity Landlords

12285. (a) A qualified entity shall report, upon registration or renewal of registration with the Secretary of State or submission of a statement of information to the Secretary of State, the identity
of the beneficial owner of the qualified entity to the Secretary of State in the form and manner as required by the Secretary of State.

(b) For the purposes of this section, the following definitions apply:

(1) (A) Except as otherwise provided in subparagraph (B), “beneficial owner” means a natural person for whom, directly or indirectly and through any contract arrangement, understanding, relationship, or otherwise, any of the following applies:

(i) The person exercises substantial control over a qualified entity.

(ii) The person owns 25 percent or more of the equity interest of a qualified entity.

(iii) The person receives substantial economic benefits from the assets of a qualified entity.

(B) “Beneficial owner” does not include any of the following:

(i) A minor child.

(ii) A person acting as a nominee, intermediary, custodian, or agent on behalf of another person.

(iii) A person acting solely as an employee of a qualified entity and whose control over or economic benefits from that qualified entity derives solely from the employment status of the person.

(iv) A person whose only interest in a qualified entity is through a right of inheritance.

(v) A creditor of a qualified entity, unless the creditor meets the requirements specified in subparagraph (A).

(2) “Qualified entity” means a corporation or limited liability company that owns real property that is offered for rent or lease.

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) California is home to two million individuals, of the estimated 23.5 million individuals throughout the country, that live in food deserts, as reported by the United States Department of Agriculture. Kroger, a large grocery retailer, plans to close down two grocery stores in the City of Long Beach due to the city council’s passing of an ordinance for grocery store frontline workers to be paid an additional $4 per hour. This may lead to rising unemployment and leave constituents to lose access to healthy and affordable food in their community.

(2) Other cities and counties in California, including the Cities of Berkeley, Coachella, Montebello, Oakland, San Leandro, Santa
Monica, and West Hollywood and the Counties of Los Angeles and Santa Clara are instituting or considering hazard pay measures for grocery store workers because grocery store workers have been an integral part of grocery store operations in order to keep the grocery stores open and food on the table.

(3) The retail–grocery–store workforce is growing faster in California than the private–employment sector as a whole, yet median hourly wages of grocery stores workers, the largest segment of food retail workers, fell from $12.97 in 1999 to $11.33 in 2010, a decline of 12.6 percent. Meanwhile, overall private sector median hourly wages rose slightly, from $16 to $16.16, an increase of 1 percent. Thus, by 2010, the median hourly wage for grocery store workers was about 70 percent of that earned by the private sector workforce overall.

(4) A June 2014 report on food retail workers commissioned by the United Food and Commercial Workers, Western States Council reported the demographics of workers in California grocery stores as 43.7 percent Latino, 37.3 percent non-Hispanic White, 4.1 percent Black, 13.9 percent Asian-Pacific Islander, and 1 percent other. Although statistics show that non-White Hispanics are the second highest number of those employed by grocery stores, people of color earn lower wages.

(5) CalFresh is California’s version of the federal Supplemental Nutrition Assistance Program, which provides up to $194 monthly food benefits to low-income residents, older people, and those on Supplemental Security Income, depending on need. These food benefits allow households to meet nutrition needs and prevent food insecurity.

(6) Advance notification of grocery store closures is needed because many low-income Californians are suffering and losing access to healthy and affordable food. Thus, they need to be made aware of a closure ahead of time, and informed of comparable services in the local area. According to the California Association of Food Banks, one in four Californians, an estimated 10 million individuals, are currently struggling with food insecurity and do not know where their next meal will come from. Food insecurity is described as the occasional or constant lack of access to the food one needs for a healthy, active life. Food insecurity seriously impacts one’s well-being and can result in poor school attendance.
and performance, lowered workplace productivity, and physical and mental health problems.

(7) Grocery store workers have served as some of our greatest heroes during the COVID-19 pandemic because they have been showing up to work, day in and day out, ensuring that their fellow Californians have food on their table to feed their families. In addition to grocery store workers earning low wages, a Harvard University study found that frontline workers participating in essential work duties have left them vulnerable to become at least five times more likely to test positive for COVID-19 due to everyday interactions with customers.

(8) The top 12 non-English language groups in California, according to the United State Census Bureau’s American Community Survey 2013–17 estimates, are: Spanish, Chinese, including Mandarin and Cantonese, Vietnamese, Tagalog, including Filipino, Korean, Armenian, Farsi, Arabic, Russian, Japanese, Punjabi, and Khmer. Therefore, notices are needed in a number of languages because California is home to 11 million immigrants that speak a variety of languages and access to information in a language that they understand is a priority.

(9) If grocery establishments are going to close their doors, then the least they can do is provide enough notice to the city, county, local workforce development board, and State Department of Social Services of intended closure, and ensure that their employees are equipped with resources necessary to gain employment elsewhere and to locate healthy and affordable food in the surrounding community.

(b) It is the intent of the Legislature that this act ensures that grocery establishment customers who receive CalFresh have information that grocery stores are going to be closed before they are closed, and that employees of those stores have information about California’s primary safety net programs and job training opportunities.

SEC. 2. Chapter 14.6 (commencing with Section 18995.5) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:
Chapter 14.6. Community Grocery Access

18995.5. (a) (1) The owner of a grocery establishment that is 15,000 square feet or more in size shall, as soon as possible, but not later than 180 days prior to a planned closure of the grocery establishment, provide written notice of the intended closure to the city and county in which the grocery establishment is located, the local workforce development board, and the State Department of Social Services.

(2) The owner of a grocery establishment that is less than 15,000 square feet in size shall, as soon as possible, but not later than 60 days prior to a planned closure of the grocery establishment, provide written notice of the intended closure to the city and county in which the grocery establishment is located, the local workforce development board, and the State Department of Social Services.

(b) The owner of a grocery establishment shall provide oral and written notice of intended closure to the employees of the grocery establishment and in all languages necessary for all employees to be able to understand. The written notice shall be posted in each entrance and exit door of the grocery establishment. The owner of a grocery establishment shall explore if there are other grocery establishment locations to which the employees may transfer.

(c) The notices described in subdivisions (a) and (b) shall include, but not be limited to, the planned closure date, the reasons for the closure, and identification of the three nearest grocery establishments that provide comparable services in the community.

(d) After receiving the notice described in subdivision (a), the State Department of Social Services shall post on its internet website for the electronic benefit transfer system, established pursuant to Section 10071, that lists the stores that accept CalFresh benefits information stating that the grocery establishment will be closing and the closing date.

(e) After receiving the notice described in subdivision (a), a county shall provide the grocery establishment with information about safety net programs, including, but not limited to, CalWORKs, CalFresh, and Medi-Cal, and a local workforce development board shall provide the grocery establishment with information about the availability of local workforce training services. The grocery establishment shall provide the information
described in this subdivision to each employee of the grocery establishment.

(f) Each city that receives a notice described in subdivision (a) shall keep track of the grocery establishment closures in its jurisdiction, identify any trends in grocery establishment closures, and address reasons for the closures if findings suggest the possible need for intervention by the city.

(g) For purposes of this chapter, “grocery establishment” means a retail store in this state that sells primarily household foodstuffs for offsite consumption, including the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods. Other household supplies or other products shall be secondary to the primary purpose of food sales.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
Item B-6
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 1126 (Bloom) - Commission on the State of Hate (AB 1126) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. This bill would provide resources to various state agencies and the public to inform them on the state of hate, and advise the Legislature, the Governor, and state agencies on policy recommendations to promote intersocial education designed to foster mutual respect and understanding among California's diverse population.

Staff is presenting AB 1126 to the Legislative/Lobby Liaison Committee to see if there is a desire to make a recommendation of support on AB 1126 as this bill appears to align with the expressed interest of the City Council to end the cycle of hate in California, particularly as it relates to Anti-Semitic behavior.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1126 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1126, the Liaisons may recommend the following actions:

1) Support AB 1126;
2) Support if amended AB 1126;
3) Oppose AB 1126;
4) Oppose unless amended AB 1126;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1126, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
July 15, 2021

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange
Tim Sullivan, Legislative Aide, Shaw Yoder Antwih Schmelzer & Lange

Re: AB 1126 (Bloom) Commission on the State of Hate


Summary
AB 1126 establishes the Commission on the State of Hate, which would provide resources to various state agencies and the public to inform them on the state of hate, and advise the Legislature, the Governor, and state agencies on policy recommendations to promote intersocial education designed to foster mutual respect and understanding among California’s diverse population.

Specifically, this bill would:
1. Establishes the Commission on the State of Hate (Commission).
2. Provides that the Commission shall be composed of 11 members, as follows:
   a. Five members shall be appointed by the Governor; three members shall be appointed by the Speaker of the Assembly; and three members shall be appointed by the Senate Rules Committee.
   b. Appointments shall be considered among individuals who possess professional experience, expertise, or specialized knowledge in combating hate, intolerance, and discrimination on the basis of sex, color, race, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, citizenship, primary language, immigration status, or genetic information, including and especially persons who serve in human relations and community service positions, social scientists, researchers, data scientists, or other related civilian capacities.
   c. The members shall serve at the pleasure of the appointing power and for a set term.
3. Provides that the Commission has the following goals:
   a. Provide resources and assistance to the Department of Justice, the office of the Attorney General, the Office of Emergency Services, federal, state, and local law enforcement agencies, and the public on the state of hate in order to keep these entities and the public informed of emerging trends in hate-related crime.
   b. Engage in fact finding, data collection, and the production of annual reports on the state of hate and hate-related crimes.
   c. Collaborate with other subject-matter experts in the fields of hate, public safety, and other related fields to gain a deeper understanding to monitor and assess trends relative to the state of hate or hate-related crime.
   d. Advise the Legislature, the Governor, and state agencies on policy recommendations to promote intersocial education designed to foster mutual respect and understanding among California’s diverse population, suggest and prescribe
recommended training for state officials and staff to recognize and address
dangerous acts of hate and intolerance, and advise on related matters.

4. Requires the Commission to host and coordinate four in-person or virtual community forums
on the state of hate per year. The forums shall be open to the public, and shall focus on local,
state, and national evolving trends relative to the state of hate or hate-related crime and
include presentations from subject-matter experts.

5. Requires the Commission to issue an annual State of Hate Commission Report to the Governor
and the Legislature by July 1 of each year, starting July 1, 2023, that describes the
Commission’s activities in the previous year and its recommendations for the following year.

Background
In the last few years, there has been a rise of hate crimes, especially violent hate crimes, in this state
and in this country. According to the Federal Bureau of Investigations, hate crimes reported by local
law enforcement across the United States reached a 10-year high in 2019, nearly 14 percent of
which occurred in California. While national and statewide statistics are not yet available for 2020
and 2021, data suggest that hate crimes have continued to increase. 2020 and 2021, with marked
increases in hate crimes against Asian American and Pacific Islanders (AAPIs) and Black and Latinx
transgender women, and hate crimes against other groups at or near historic highs. The real numbers
are likely much higher, because hate crimes are generally underreported.

The state’s Attorney General is already required, subject to the availability of adequate funding, to
direct local law enforcement agencies to report hate crime data to the Department of Justice, which
must be compiled and made public. This bill establishes the Commission on the State of Hate to fill
the gaps in current hate crime reporting by working with community and academic partners to
improve hate crime and hate incident reporting to help the commission identify trends in California.
The Commission would specifically engage with community organizations and programs to try and
reduce the problem of underreporting and build community and academic partnerships with groups
like Stop AAPI Hate.

Status of Legislation
AB 1672 passed out of Senate Judiciary Committee and will headed to the Senate Appropriations
Committee.

Arguments in Support
According to the Anti-Defamation League, “(the) ADL recorded 2,024 criminal and non-criminal
anti-Semitic incidents in the U.S. in 2020, the third-highest total since our first Audit of Anti-Semitic
Incidents in 1979. California accounted for 289 of those incidents, the third-highest in the country.
And in May [2021] anti-Semitic incidents nationwide more than doubled over the same period in
2020 as a result of the conflict between Israel and Hamas—including a widely publicized assault
against Jewish diners in Los Angeles. We note these dark statistics alongside the spike in Asian
American and Pacific Islander hate due to COVID scapegoating, the open wound of racism against the
African-American community, and persistent conspiracy theories around immigration and the Latino
community.

Data drives policy, but the data detailed above represents only a snapshot of the problem that hate
and hate violence pose. Hate crimes are notoriously underreported for numerous reasons, including
a distrust of law enforcement, and we also need more direct input from community members to
decisionmakers about their real-life experiences with hate in its many forms. The California
Commission on the State of Hate is needed to fully understand the current trends in hate and violence
so we can develop policy solutions to address and reduce their continuing prevalence.”
Support
AMAAD
American Jewish Committee Los Angeles
Anti-Defamation League
Armenian National Committee of America—Western Region
California Asian Pacific American Bar Association
California Association of Community Managers
California State University, San Bernardino, Center for the Study of Hate & Extremism
City of Compton
City of West Hollywood
Courage California
Equality California
Hadassah Southern California
Islamic Networks Group
Iranian American Jewish Federation
Israel-American Civic Action Network
Jewish Public Affairs Committee of California
Jews United for Democracy & Justice
Muslim Public Affairs Council Foundation
National Association of Social Workers, California Chapter
Network Contagion Research Institute
OC Human Relations
Simon Wiesenthal Center
The Arc and United Cerebral Palsy California Collaboration
The Sikh Coalition
Unique Women’s Coalition

Opposition
None listed at this time.
Attachment 2
An act to add and repeal Chapter 1.1 (commencing with Section 8010) to Division 1 of Title 2 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL’S DIGEST

AB 1126, as amended, Bloom. Commission on the State of Hate.

Existing law, the Unruh Civil Rights Act, specifies that all persons within the jurisdiction of the state are free and equal. Existing law entitles people regardless of their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind.

This bill would establish the Commission on the State of Hate in the state government. The bill would provide for the appointment of 11 members, appointed by the Governor, the Speaker of the Assembly, and the Senate Committee on Rules, as provided. The bill would prescribe the goals of the commission, which would include, among
other things, providing resources to various state agencies and the public
to inform them on the state of hate and advising the Legislature, the
Governor, and state agencies on policy recommendations to promote
intersocial education designed to foster mutual respect and understanding
among California’s diverse population. The bill would require the
commission to host and coordinate a minimum of 4 in-person or virtual
community forums, open to the public, on the state of hate per year.
Starting July 1, 2023, the bill would require the commission to make
publically available and issue to the Governor and the Legislature an
Annual State of Hate Commission Report that describes its activities
for the previous year and its recommendations for the following year.
The bill would require this report, among other things, to provide a
comprehensive accounting of hate crime activity statewide and report
on relevant national hate crime trends and statistics. The bill would
require the commission to report to the Legislature through the Joint
Committee on Rules annually, as provided. The bill would require the
commission to seek to protect civil liberties in accordance with
applicable law. The bill would be repealed by its own provisions on
January 1, 2027.

State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 1.1 (commencing with Section 8010) is
added to Division 1 of Title 2 of the Government Code, to read:

Chapter 1.1. Commission on the State of Hate

(a) There is hereby established in state government the
Commission on the State of Hate. The commission shall be
composed of 11 members, as follows:

(1) Five members appointed by the Governor.

(2) Three members appointed by the Speaker of the Assembly.

(3) Three members appointed by the Senate Committee on
Rules.

(b) Appointments to the commission shall be considered among
individuals who possess professional experience, expertise, or
specialized knowledge in combating hate, intolerance, and
discrimination on the basis of sex, color, race, religion, ancestry,
national origin, disability, medical condition, marital status, sexual
orientation, citizenship, primary language, immigration status, or
genetic information, including and especially persons who serve
in human relations and community service positions, social
scientists, researchers, data scientists, or other related civilian
capacities.

(c) The members of the commission shall serve at the pleasure
of the appointing power and shall be appointed for terms of four
years, except those who are first appointed, who shall serve for
the following terms:

(1) Two members appointed by the Governor, one member
appointed by the Speaker of the Assembly, and one member
appointed by the Senate Committee on Rules shall be appointed
for a term of two years.

(2) Two members appointed by the Governor, one member
appointed by the Speaker of the Assembly, and one member
appointed by the Senate Committee on Rules shall be appointed
for a term of three years.

(3) One member appointed by the Governor, one member
appointed by the Speaker of the Assembly, and one member
appointed by the Senate Committee on Rules shall be appointed
for a term of four years.

(d) The members shall elect one of their number to serve as
chairperson of the commission.

(e) (1) The commission may appoint officers from its
membership and form advisory committees, as needed, in order
to carry out and fulfill its duties under this subdivision. The
commission shall determine the powers and duties of appointed
officers and advisory committee chairpersons.

(2) Any advisory committee formed by the commission shall
be led by an advisory chairperson, who is a member of the
commission, and may be comprised of member or nonmember
advisors who possess specialized knowledge or experience
to inform the work and further the goals of the commission, ensure
that the work of the commission reflects the current experience of
the state’s diverse population and communities, and promulgate
the recommendations, practices, strategies, tools, and resources
developed by the commission.

(f) (1) Members of the Legislature shall serve on the
commission as ex officio members without vote and shall
participate in the activities of the commission to the extent that their participation is not inconsistent with their legislative duties.

(2) The Attorney General or their designee shall serve on the commission as an ex officio nonvoting member and shall participate in the activities of the commission to the extent that their participation is not inconsistent with their duties.

(3) The Director of the Office of Emergency Services or their designee shall serve on the commission as an ex officio nonvoting member and shall participate in the activities of the commission to the extent that their participation is not inconsistent with their duties.

(g) Members of the commission may select representatives to attend commission activities if they are unable to attend.

(h) Nonlegislative members of the commission shall receive reimbursement for per diem and expenses while engaged in commission activities, upon appropriation by the Legislature. Legislative members, ex officio members, and nonmember advisers of the commission shall not receive compensation.

(i) The commission shall have the following goals:

(1) Provide resources and assistance to the Department of Justice, the office of the Attorney General, the Office of Emergency Services, federal, state, and local law enforcement agencies, and the public on the state of hate in order to keep these entities and the public informed of emerging trends in hate-related crime.

(2) Engage in fact finding, data collection, and the production of annual reports on the state of hate and hate-related crimes.

(3) Collaborate with other subject-matter experts in the fields of hate, public safety, and other related fields to gain a deeper understanding to monitor and assess trends relative to the state of hate or hate-related crime.

(4) Advise the Legislature, the Governor, and state agencies on policy recommendations to do all of the following:

(A) Promote intersocial education designed to foster mutual respect and understanding among California’s diverse population.

(B) Suggest and prescribe recommended training for state officials and staff to recognize and address dangerous acts of hate and intolerance.

(C) Advise on related matters periodically.

(j) The commission shall host and coordinate a minimum of four in-person or virtual community forums on the state of hate.
per year. The forums shall be open to the public. Each forum shall focus on local, state, and national evolving trends relative to the state of hate or hate-related crime and include presentations from subject-matter experts.

(k) Notwithstanding Section 10231.5, the commission shall issue an Annual State of Hate Commission Report to the Governor and the Legislature, by July 1 of each year, that describes its activities for the previous year, and its recommendations for the following year. The report shall be made publicly available. The first such annual report shall be made available by July 1, 2023.

(1) The Annual State of Hate Commission Report shall:

(A) Provide a comprehensive accounting of hate crime activity statewide and report on relevant national hate crime trends and statistics.

(B) Make recommendations to improve the practices, resources, and relevant trainings available to and used by law enforcement statewide to respond to and reduce instances of hate crimes.

(C) Make recommendations for actions to be taken by the Governor and the Legislature, including, but not limited to, policy solutions and legislation that will help the state respond to and reduce instances of hate crimes.

(D) Make recommendations for actions to be taken by communities that will help respond to and reduce instances of hate crimes.

(E) Identify existing tools, practices, resources, and trainings that have proven successful in other states and countries that may be implemented by state law enforcement, the Governor, the Legislature, relevant state departments and agencies, and communities throughout the state in order to respond to and reduce instances of hate crimes.

(2) For purposes of this section, “hate crime” has the same meaning as defined in Section 422.55 of the Penal Code.

(3) Data acquired pursuant to this subdivision shall be used for research or statistical purposes and may not disclose any personal information that may reveal the identity of an individual.

(l) Notwithstanding Section 10231.5, the commission shall report to the Legislature annually through the Joint Committee on Rules on the work of the commission beginning on July 1, 2023.

(m) All reports submitted to the Legislature pursuant to this section shall be submitted in compliance with Section 9795.
In all its activities, the commission shall seek to protect civil liberties, including, but not limited to, freedom of speech, freedom of association, freedom of religion, and the right to privacy in accordance with the United States Constitution and relevant law.

This chapter shall remain in effect only until January 1, 2027, and as of that date is repealed.
Item B-7
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Senate Bill 262 (Hertzberg) - Bail (SB 242) involves a policy matter that does not have a nexus to the City’s adopted Legislative Platform. However, the City passed a vote of no confidence in Los Angeles County District Attorney George Gascón in March 2021 as Mr. Gascón issued Special Directive 20-06: Pretrial Release Policy, which eliminated cash bail for any misdemeanor, non-serious felony, or non-violent felony offense. This bill is similar in nature as it sets bail at $0 for all offenses statewide except for serious or violent felonies, violations of specified protective orders, domestic violence, sex offenses, and driving under the influence.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 262 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 262, the Liaisons may recommend the following actions:
1) Oppose SB 262;
2) Support SB 262;
3) Oppose unless Amended;
4) Support if Amended;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 262, then staff will place the item on a future City Council Agenda for concurrence.
July 15, 2021

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange
Tim Sullivan, Legislative Aide, Shaw Yoder Antwih Schmelzer & Lange

Re: SB 262 (Hertzberg) Bail


Introduction and Background
SB 262 (Hertzberg) Requires bail to be set at $0 for all offenses except, among others, serious or violent felonies, violations of specified protective orders, domestic violence, sex offenses, and driving under the influence. Requires the court to order a return of money or property paid to a bail bond company under specified circumstances, including when the individual makes all court appearances in a criminal case charged in connection with the arrest.

Specifically, this bill:

• Requires bail to be set at $0 (no bail money required to secure release) for all misdemeanor and felony offenses except the following:
  o A serious felony, as defined, or a violent felony;
  o A felony violation of resisting an officer;
  o A violation of violating a domestic violence restraining order;
  o A violation of dissuading a witness from testifying when punishment is imposed based on specified additional allegations.
  o A violation of spousal rape;
  o A violation of domestic violence;
  o A violation of specified protective orders if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party;
  o A violation of criminal threats where the offense is charged as a felony;
  o Stalking;
  o A violation of an offense requiring registration as a sex offender;
  o Driving under the influence and driving under the influence causing injury;
  o A felony violation of looting;
  o Felon in possession of a firearm;
  o Criminal threats;
  o Human trafficking;
  o Child abuse or neglect;
  o Elder and dependent adult abuse; and,
  o Assault with force likely to produce great bodily injury.
• Requires the Judicial Council to prepare, adopt, and annually revise a schedule of bail amounts, which shall apply statewide.

• States that while released on bail for $0, bail for subsequent separate offenses shall be set pursuant to the statewide bail schedule established by the Judicial Council. This does not apply to those subsequent and separate offenses after the original offense is resolved.

• Specifies that prior to setting bail for one of the specified offenses, that is excepted from zero dollar bail, or for a subsequent separate offense while released on zero-dollar bail, the court shall first consider whether nonfinancial conditions will reasonably protect the public and the victim and reasonably assure the arrestee’s presence at trial.

• States that if the court concludes that money bail is reasonably necessary to protect the public and the victim or reasonably assure the arrestee’s presence at trial, the court shall consider the arrestee’s ability to pay and set bail at a level the arrestee can reasonably afford.

• Requires the court to order a return of money or property paid to a bail bond licensee by or on behalf of the arrestee to obtain bail under any of the following circumstances:
  o An action or proceeding against an arrestee who has been admitted to bail is dismissed;
  o No charges are filed against the arrestee within 60 days of arrest; or,
  o The arrestee has made all court appearances during the pendency of the action or proceeding against the arrestee.

• Specifies that money or property shall be returned within 30 days and shall be to the entity or person who paid the money or property to the bail bond licensee to obtain bail.

• States that a court shall order a return of money or property pursuant to this section only for a bail contract entered into on or after January 1, 2022.

**Background**

Existing law provides a process whereby the court may set a bail amount for a criminal defendant. (Penal Code Section 1269b.) Additionally, Section 12 of Article 1 of the California Constitution provides, with limited exceptions, that a criminal defendant has a right to bail and what conditions shall be considered in setting bail. A defendant may post bail by depositing cash or an equivalent form of currency, providing security in real property, or undertaking bail using a bail bond.

The bail bond is the most likely means by which a person posts bail and is essentially a private-party contract that provides the court with a guarantee that the defendant will appear for a hearing or trial. A defendant pays a licensed bail agent a percentage of the total amount of bail ordered as a non-refundable fee – often an amount in the range of 10%. The bail agent will contract with a surety company to issue a bail bond – essentially, an insurance policy. The bond is issued, providing that if the defendant fails to appear, the county will receive the full amount of bail set by the court. The bond is provided to the court, and, if accepted, the defendant is released. As designed, the bail system often allows the court to rely on the private sector to ensure appearances and provide a means for the county to be made whole if a person fails to appear.
While the primary purpose of a bail bond is to provide some assurance that a defendant will return to court to resolve the pending charges, courts also consider the danger a released defendant will pose to the public or specific persons. Bail is set through a bail schedule that lists preset amounts of bail for various crimes. A committee of judges in each county promulgates the bail schedule for that county. A defendant or the prosecution can move the judge presiding over a particular case to raise or lower the bail amount, or the defendant can request release on their recognizance. Additional statutory rules apply if the defendant is charged with a serious felony or domestic violence.

The existing bail system has come under scrutiny because it claims that it does not promote public safety and unfairly penalizes defendants who are poor while allowing defendants who have the means to buy their way out of jail. The Chief Justice of the California Supreme Court set up a working group to study pretrial detention practices and provide recommendations for reform. The study found that California’s "pretrial and release detention system unnecessarily compromises victim and public safety because it bases a person’s liberty on financial resources rather than the likelihood of future criminal behavior and exacerbates socioeconomic disparities and racial bias." The working group recommended several reforms, including implementing a robust risk-based pretrial assessment and supervision to replace the monetary bail system.

The Legislature passed legislation that would have implemented significant changes to the bail system by replacing cash bail with pretrial risk assessments and non-monetary conditions of release [[SB 10 (Hertzberg, 2018)], however a veto referendum on the law was placed on the November 2020 ballot and the law was repealed. (Proposition 25, failed passage by California voters, Gen. Elec. (November 3, 2020).) When a referendum fails, the Legislature is limited in enacting the same or "essentially similar" legislation. Thus, if a challenge is made against any bills related to bail because the Legislature is violating the peoples’ referendum powers, there must be a showing that the new legislation is "substantially different" than the rejected law. (Rubalcava v. Martinez (2007) 158 Cal.App.4th 563, 578.)

**Status of Legislation**
The bill is pending in the Assembly Appropriations Committee.

**Arguments in Support**
According to the Western Center on Law and Poverty:

“In California, 97% of people who make bail use a bail agent and pay a non-refundable fee for their freedom. For most, this is not a simple transaction. People often have to borrow from friends and family, enter into exploitative financing schemes, or put up their property – even their homes – as collateral. Regardless of whether a case is dismissed or charges are not ultimately filed after an arrest, the bail company keeps its premium. Despite this plain inequity, the only alternative is worse: being stuck in jail could mean losing a job, missing rent payments, losing custody of a child, or ultimately pleading guilty when innocent just to get home and prevent these harms.

This alternative is a reality for too many Californians. According to the Public Policy Institute of California, on any given day, 63% or roughly 46,000 people in California jails are awaiting trial or sentencing. This presents staggering costs not only for people accused and their families, but for local governments, which pay an average of $100 per day to hold someone pending trial. The Pretrial Justice Institute reports that the cost of supervising a person in the community while pending trial is about 10% of the cost of keeping them in jail. With data showing that the vast majority of people released pretrial do not reoffend, and that very little is needed to ensure they show up to court on time, these costs – both human and financial – are unjustifiable.”
Arguments in Opposition
According to Golden State Bail Agents Association, Inc.:

“This bill requires a mandatory state bail schedule that sets bail at zero for all but a few charges. Even for those not set at zero bail amounts, the bail agent must refund all but 5% of the bail bond premium if the case against the arrestee has been dismissed, the prosecutor fails to file charges within 60 days of arrest or the arrestee attends all court appearances.

Bail agents are exposed to the full risk of forfeiture the moment the arrestee is bailed out of jail because the arrestee could flee. A bail agent that posts a $50,000 bail bond is liable to pay $50,000 to the court if the arrestee fails to attend all of his or her required court dates. This is why under current law, the bail agents’ premium is fully earned upon release of the arrestee. Obviously, no bail agent will post bail for free, at zero bail, be exposed to the risk of forfeiture and be unable to pay employees and other overhead expenses.

As for the few cases where a bail amount will be set, bail agents have no control over when prosecutors file or dismiss cases, and requiring the refund of 95% of the bail premium when arrestees attend all their court dates creates a perverse incentive. Under current law, bail agents are incentivized to make sure arrestees attend all of their court dates. SB 262 would disincentivize bail agents to help arrestees attend court.

It is clear from the above that SB 262 is invalid because it has been introduced in bad faith in an attempt to evade the referendum result by destroying the business model of bail agents.”

Support
Californians for Safety and Justice (Co-Sponsor)  Democratic Woman’s Club of San Diego County
American Academy of Pediatrics, California  Drug Policy Alliance
Anti-recidivism Coalition  Ella Baker Center for Human Rights
Asian Solidarity Collective  Essie Justice Group
California Catholic Conference  Friends Committee on Legislation of California
California Department of Insurance  Hillcrest Indivisible
California Federation of Teachers Afl-cio  Initiate Justice
California Innocence Coalition: Northern  League of Women Voters of California
California Innocence Project, California  Los Angeles County Democratic Party
Innocence Project, Loyola Project for The Innocent  Los Angeles County District Attorney’s Office
California Labor Federation, Afl-cio  Mission Impact Philanthropy
California Public Defenders Association  Multi-faith Action Coalition
Change Begins With Me Indivisible Group  National Association of Social Workers, California Chapter
City and County of San Francisco  Nextgen California
City of Alameda  Partnership for The Advancement of New Americans
Community Advocates for Just and Moral Governance  Pillars of The Community
Conference of California Bar Associations  Racial Justice Coalition of San Diego
Del Cerro for Black Lives Matter  Reentry Council of The City and County of San Francisco
Democratic Club of Vista  Riseup
Democratic Party of The San Fernando Valley

4
Rubicon Programs
Sacramento Advocates INC.
San Diego Progressive Democratic Club
San Francisco Public Defender
Sd-qpoc Colectivo
Seiu California
Showing Up for Racial Justice (SURJ) San Diego
Showing Up for Racial Justice North County San Diego

**Opposition**
American Bail Coalition
American Property Casualty Insurance Association
Bail Hotline Bail Bonds, the
California Attorneys for Criminal Justice
California District Attorneys Association
California Judges Association
California Peace Officers Association
California Police Chiefs Association
California State Sheriffs' Association
City of Cypress
Crime Survivors Resource Center
Crime Victims Alliance
Crime Victims United of California
Golden State Bail Agents Association, INC.
Peace Officers Research Association of California (PORAC)

Smart Justice California
Social Workers for Equity & Leadership
Team Justice
Think Dignity
Uncommon Law
Uprise Theatre
We the People - San Diego
Western Center on Law & Poverty, INC.
Attachment 2
An act to amend Section 1269b of, and to add Sections 1269d and 1302.5 to, the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

SB 262, as amended, Hertzberg. Bail.

Existing law provides for the procedure of approving and accepting bail, and issuing an order for the appearance and release of an arrested person. Existing law authorizes specified sheriff, police, and court employees to approve and accept bail in the amount fixed by the warrant of arrest, schedule of bail, or order admitting to bail. Existing law requires the superior court judges in each county to prepare, adopt, and annually revise a uniform countywide schedule of bail, as specified.

This bill would require bail to be set at $0 for all offenses except, among others, serious or violent felonies, violations of specified protective orders, battery against a spouse, sex offenses, and driving under the influence. The bill would require the Judicial Council to prepare, adopt, and annually revise a bail schedule for the exempt offenses. The bill would state the intent of the Legislature to enact further changes to current law to ensure that a defendant is not detained pending trial simply due to an inability to pay for the amount of bail in the statewide schedule. The bill would require bail to be set according to the statewide schedule for any subsequent
separate offense while the defendant is released on bail that was set at $0. The bill would require the court, prior to setting bail, to consider whether nonfinancial conditions will reasonably protect the public and the victim and reasonably assure the arrestee’s presence at trial. The bill would, if the court concludes that money bail is necessary, require the court to consider the arrestee’s ability to pay and to set bail at a level the arrestee can reasonably afford. The bill would prohibit costs relating to conditions of release on bail from being imposed on persons released on bail or on their own recognizance. The bill would require the sheriff, police, and court employees above to approve and accept bail in the amount fixed by the bail schedule.

This bill would require the court to order a return of money or property paid to a bail bond licensee by or on behalf of the arrestee to obtain bail if the action or proceeding against the arrestee who has been admitted to bail is dismissed, no charges are filed against the arrestee within 60 days of arrest, or the arrestee has made all court appearances during the pendency of the action or proceeding against the arrestee, as specified. The bill would authorize the bail bond licensee to retain a surcharge not to exceed 5% of the amount paid by the arrestee or on behalf of the arrestee. The bill would require the court to order this return of money or property only for a bail contract entered into on or after January 1, 2022.


The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The pretrial justice system in California is fundamentally broken. Not only has it failed to achieve its stated objectives of preventing recidivism and assuring court appearance, but it has significantly eroded a sacred principle in our criminal justice system: the presumption of innocence.

(b) California’s high incarceration rate is a direct consequence of our heavy reliance on pretrial detention. In 2015, the Public Policy Institute of California reported that roughly 50,000, or 62 percent, of jail beds in California were filled with inmates awaiting trial or sentencing. According to a more recent report, 44,241 county jail inmates across California in 2020, approximately
three-quarters of the state’s total jail population, had not been
convicted of or sentenced for a crime.

(c) As the California Supreme Court has observed, the
consequences of pretrial detention on the accused and their
families are immense and profound. Research suggests that pretrial
detention heightens the risk of losing a job, a home, and custody
of a child. Time in jail awaiting trial may even be associated with
a higher likelihood of reoffending, beginning anew a vicious cycle.

(d) These consequences are intensified by California’s money
bail system, which often keeps people incarcerated before trial
simply because they cannot afford to pay bail. Indeed, as the
California Supreme Court has adduced, the median bail amount
in California, roughly $50,000, is more than five times the median
for the rest of the nation on average.

(e) A recent report published by the University of California,
Los Angeles, Bunch Center estimated that approximately 97
percent of people who make bail in California use a bail agent
and pay a nonrefundable fee to a private company in order to
secure their freedom. This is not a simple transaction because
people often have to borrow from friends and family, enter into
exploitative financing schemes, or put up their property, even their
homes, as collateral. Arrestees unable to gather the funds are often
pressured into taking a plea without having a full and fair
opportunity to defend their case, or worse, when they are actually
innocent.

(f) The money bail industry in California has evolved into a
predatory scheme that puts profits over people and does not
enhance public safety or improve court appearance rates.

According to the Public Policy Institute of California, despite
higher rates of pretrial detention compared to other states,
California, under the current system, still has lower court
appearance rates and higher rearrest rates.

(g) The California Supreme Court has noted that the excessive
pretrial detention that results from California’s money bail system
forces the state to bear the cost of housing and feeding arrestees
that could be properly released. For instance, just six California
counties spent $37,500,000 over a two-year period jailing people
who were never charged or who had charges dropped or dismissed.

(h) By shifting from a system focused on pretrial detention to
one focused on pretrial release, outcomes could be vastly improved.
Studies show that the cost of supervising a person in the community pending trial is generally about 10 percent the cost of keeping them in jail. Several jurisdictions across the country have transitioned to release-based models that save taxpayers millions of dollars without sacrificing public safety.

(i) Modern technology provides an array of valuable tools that have already proven effective in the pretrial context, rendering many current practices obsolete. For instance, recent research suggests that simple text message reminders can significantly improve court appearance. The pretrial system in the County of Santa Clara, which relies on text message reminders, has maintained a 95-percent court appearance rate for defendants released before trial.

(j) In March 2021, the California Supreme Court ruled that conditioning freedom solely on whether an arrestee can afford bail is unconstitutional, and that in setting bail, judges must consider an arrestee’s ability to pay.

(k) California should be a leader in enacting meaningful bail reform that upholds the values of equal protection and due process without compromising the safety of victims and the general public.

SECTION 1.

SEC. 2. Section 1269b of the Penal Code is amended to read:

1269b. (a) The officer in charge of a jail in which an arrested person is held in custody, an officer of a sheriff’s department or police department of a city who is in charge of a jail or is employed at a fixed police or sheriff’s facility and is acting under an agreement with the agency that keeps the jail in which an arrested person is held in custody, an employee of a sheriff’s department or police department of a city who is assigned by the department to collect bail, the clerk of the superior court of the county in which the offense was alleged to have been committed, and the clerk of the superior court in which the case against the defendant is pending shall approve and accept bail in the amount fixed pursuant to this section in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time and place for the appearance of the arrested person before the appropriate court and give notice thereof.

(b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information,
the bail shall be in the amount fixed by the judge at the time of the
appearance, in accordance with subdivisions (c) and (d). If that
appearance has not been made, the amount of bail shall be fixed
pursuant to subdivisions (c) and (d).
(c) Bail shall be set at zero dollars ($0) for all misdemeanor and
felony offenses except the following:
(1) A serious felony, as defined in subdivision (c) of Section
1192.7, or a violent felony, as defined in subdivision (c) of Section
667.5.
(2) A felony violation of Section 69.
(3) A violation of paragraph (1) of subdivision (c) of Section
166.
(4) A violation of Section 136.1 when punishment is imposed
under subdivision (c) of Section 136.1.
(5) A violation of Section 262.
(6) A violation of paragraph (1) of subdivision (e) of Section
243 or Section 273.5.
(7) A violation of Section 273.6 if the detained person made
threats to kill or harm, has engaged in violence against, or has gone
to the residence or workplace of, the protected party.
(8) A violation of Section 422 where the offense is charged as
a felony.
(9) A violation of Section 646.9.
(10) A violation of an offense listed in subdivision (c) of Section
290.
(11) A violation of Section 23152 or 23153 of the Vehicle Code.
(12) A felony violation of Section 463.
(13) A violation of Section 29800.
(14) A violation of Section 422.6 or Section 422.7.
(15) A violation of Section 236.1.
(16) A violation of Section 273a or Section 273d.
(17) A violation of Section 368.
(18) A violation of paragraph (4) of subdivision (a) of Section
245.
(d) (1) For all offenses listed in paragraphs (1) to (13), (18),
inclusive, of subdivision (c), and for the purposes of subdivision
(e), the Judicial Council shall prepare, adopt, and annually revise
a schedule of bail amounts, which shall apply statewide.
(2) It is the intent of the Legislature to enact further changes to
current law to ensure that a defendant is not detained pending trial
simply due to an inability to pay for the amount of bail in the
statewide schedule set pursuant to paragraph (1).

(e) While released on bail for zero dollars ($0), bail for
subsequent separate offenses shall be set pursuant to the statewide
bail schedule established by Judicial Council pursuant to
subdivision (d), and subject to the provisions in subdivision (f).
This subdivision does not apply to those subsequent and separate
offenses that occur after the original offense is resolved.

(f) (1) Prior to setting bail for an offense listed in paragraphs
(1) to (18), inclusive, of subdivision (c), or for an offense pursuant
to subdivision (e), the court shall first consider whether
nonfinancial conditions will reasonably protect the public and the
victim and reasonably assure the arrestee’s presence at trial.
(2) If the court concludes that money bail is reasonably
necessary to protect the public and the victim or reasonably assure
the arrestee’s presence at trial, the court shall consider the
arrestee’s ability to pay, and set bail at a level the arrestee can
reasonably afford.

(g) The penalty schedule for infraction violations of the Vehicle
Code shall be established by the Judicial Council in accordance
with Section 40310 of the Vehicle Code.

(h) In adopting a uniform statewide schedule of bail for all
offenses listed in paragraphs (1) to (18), inclusive, of
subdivision (c), the Judicial Council shall consider the seriousness
of the offense charged. In considering the seriousness of the offense
charged the judges shall assign an additional amount of required
bail for each aggravating or enhancing factor chargeable in the
complaint, including, but not limited to, additional bail for charges
alleging facts that would bring a person within any of the following
sections: Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9,
667.10, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5,
12022.53, 12022.7, 12022.8, or 12022.9 of this code, or Section
11356.5, 11370.2, or 11370.4 of the Health and Safety Code.

(i) The statewide bail schedule shall contain a list of the offenses
and the amounts of bail applicable for each offense. The Judicial
Council shall send a copy of the statewide bail schedule to the
presiding judge of each superior court, and the presiding judge
shall provide a copy of the statewide bail schedule to the officer in charge of the county jail, to the officer in charge of each city jail within the county, and to each superior court judge and commissioner in the county.

(j) (1) Upon posting bail, the defendant or arrested person shall be discharged from custody as to the offense on which the bail is posted.

(2) All money and surety bonds so deposited with an officer authorized to receive bail shall be transmitted immediately to the judge or clerk of the court by which the order was made or warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, the judge or clerk of the court shall transmit all of the money and surety bonds to the clerk of the court.

(k) If a defendant or arrested person so released fails to appear at the time and in the court so ordered upon their release from custody, Sections 1305 and 1306 apply.

SEC. 2.

SEC. 3. Section 1269d is added to the Penal Code, to read:

1269d. Costs relating to conditions of release from custody shall not be imposed on a person released on bail or their own recognizance pursuant to this chapter.

SEC. 4. Section 1302.5 is added to the Penal Code, to read:

1302.5. (a) The court shall order a return of money or property paid to a bail bond licensee by or on behalf of the arrestee to obtain bail under any of the following circumstances:

(1) An action or proceeding against an arrestee who has been admitted to bail is dismissed.

(2) No charges are filed against the arrestee within 60 days of arrest.

(3) The arrestee has made all court appearances during the pendency of the action or proceeding against the arrestee.

(b) The bail bond licensee shall be entitled to retain a surcharge not to exceed 5 percent of the amount paid by the arrestee or on behalf of the arrestee.

(c) Money or property shall be returned pursuant to subdivision (a) within 30 days of the court order issued pursuant to subdivision
(a) and shall be to the entity or person who paid the money or property to the bail bond licensee to obtain bail.

(d) A court shall order a return of money or property pursuant to this section only for a bail contract entered into on or after January 1, 2022.
Item B-8
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Senate Bill 341 (McGuire) - Telecommunications service: outages (SB 341) involves a policy matter that does not have a nexus to the City’s adopted Legislative Platform. However, given the potential public safety benefit of this bill, staff is presenting it to the Legislative/Lobby Liaison Committee for consideration.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 341 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 341, the Liaisons may recommend the following actions:

1) Oppose SB 341;
2) Support SB 341;
3) Oppose unless Amended;
4) Support if Amended;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 341, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
July 13, 2021

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
       Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange
       Tim Sullivan, Legislative Aide, Shaw Yoder Antwih Schmelzer & Lange

Re: SB 341 (McGuire) Telecommunications service: outages.

Version: Amended in the Assembly July 9, 2021

Summary
Requires telecommunications providers to maintain public outage maps and directs the California Office of Emergency Services (Cal OES) to develop regulations for such maps by July 1, 2022. Additionally, the bill directs the California Public Utilities Commission (CPUC) to adopt and implement backup electricity rules for telecommunications providers to maintain service for at least 72 hours and authorizes Cal OES to share information related to community isolation incidents with the CPUC. Specifically, this bill:

1) Requires Cal OES, on or before July 1, 2022, in consultation with the CPUC, to adopt requirements for the public outage maps maintained by telecommunications service providers, as specified.

2) Authorizes Cal OES to provide the CPUC with all of the community isolation outage information provided to it pursuant to existing law, as specified.

3) Requires Cal OES to aggregate the data regarding community isolation outage incidents provided to it pursuant to existing law and to post that aggregated data on its internet website in a manner that does not identify individual telecommunications service providers.

4) Requires each provider of telecommunications service that provides access to 911 service, upon the adoption of regulations pursuant to this bill, to maintain on its internet website a public outage map showing that provider's outages.

5) Requires the CPUC, in consultation with OES, to develop and implement backup electricity rules to require providers of telecommunications service to maintain backup electricity of their telecommunications infrastructure sufficient to maintain telecommunications service for at least 72 hours, as specified.

6) Requires the CPUC to develop, publish and annually update a report, among other things, on the actions taken by the CPUC on information provided by Cal OES to enhance telecommunication service resiliency, as specified.
Background
Over the last decade, California has experienced increased, intense, and record-breaking wildfires in Northern and Southern California. These fires have resulted in devastating loss of life and billions of dollars in damage to property and infrastructure. Electric utility infrastructure has historically been responsible for less than ten percent of reported wildfires; however, fires attributed to power lines comprise roughly half of the most destructive fires in California history.

With the continuing threat of wildfire, utilities may proactively cut power to electrical lines that may fail in certain weather conditions to reduce the likelihood that their infrastructure could cause or contribute to a wildfire. This effort to reduce the risk of fires caused by electric infrastructure by temporarily turning off power to specific areas is called a PSPS. An extended PSPS can leave communities and essential facilities without power, which brings its own risks and hardships, particularly for vulnerable communities and individuals. In 2012, the CPUC ruled that California Public Utilities Code Sections 451 and 399.2(a) give electric utilities authority to shut off electric power to protect public safety. This allows the energy companies (SDG&E, PG&E, SCE, Liberty, Bear Valley and PacifiCorp) to shut off power for the prevention of fires where strong winds, heat events, and related conditions are present.

The author argues that “Our phones are our lifelines. It is how we keep in touch with the rest of the world and how we receive emergency alerts. Yet, up until last year, our current telecommunication system is not mandated to have backup power. Over the last several years, the Legislature and the Public Utilities Commission (CPUC) have taken steps to make sure our telecommunication networks are more resilient and that we know when they are working. SB 341 provides the Public Utilities Commission the explicit authority to create backup power rules for cell towers, landline operations and cable phone systems. SB 341 also mandates the State Office of Emergency Services shares the information they are already receive from telecom companies – on network outages - to the Public Utilities Commission.”

The author adds, “This crucial information regarding when there has been a failure in the network may only be shared with local public safety officials so they know where outages—that put the public as risk—are occurring, but not with the CPUC, who is the regulator of telecoms.SB 341 is a common sense bill to make sure that telecommunications providers and the CPUC are doing what they need to do to improve the state’s 911 networks and to ensure the public has access to crucial information about outages across the golden state.”

In 2017, fires raged in Santa Rosa, Los Angeles, and Ventura making it one of the most devastating wildfire seasons in California’s history. In response to the 2017 wildfires and SB 901 (Dodd), the CPUC revised earlier guidelines on the de-energization of power lines and ultimately adopted a new set of PSPS guidelines on June 5, 2020.

Telecommunications outage notifications to Cal OES. In 2019, the Legislature passed SB 670 (McGuire), which required OES to establish regulations regarding community isolation outages that impact a community’s ability to call 911 and receive emergency notifications. This bill required telecommunications providers to submit a specified notice to OES within 60 minutes of identifying a community isolation outage and made OES responsible for notifying local affected emergency responders. Cal OES issued emergency regulations to implement SB 670 in June 2020. The emergency rulemaking authority for those regulations will expire on April 12, 2021, unless it is made permanent with additional regulatory action. On February 2021, OES issued a notice of its intent to make the community isolation outage regulations permanent.
Status of Legislation

This measure is currently pending in the Assembly Committee on Appropriations.

Arguments in Support
The California State Sheriffs’ Association writes in support, “this bill would further require the PUC, in consultation with CalOES, to develop and implement backup electrical supply rules to require providers of telecommunications service to maintain backup electrical supply for their telecommunications infrastructure sufficient to maintain telecommunications service for at least 72 hours, except as otherwise provided. Having access to information about 911 outages is vital not only to the public but also law enforcement and first responders. Bolstering outage map requirements will make this important information more accessible and will improve public safety."

Arguments in Opposition:
The California Cable and Telecommunications Association (CCTA) writes in opposition, “The CCTA appreciates the public safety goals of SB 341 but respectfully continues to oppose this bill because recent amendments do not address CCTA’s concerns. Moreover, the bill fails to address the obstacles providers currently face in obtaining permits to deploy safe backup power facilities in time to meet 2021 backup power mandates imposed by the CPUC.” Additionally, CCTA adds, “The SB 341 requirement to maintain online maps of all SB 670 outages would be overly burdensome and nearly impossible to maintain accurately given the scope of covered outages, many of which are resolved very quickly. Moreover, this would duplicate a new CPUC requirement for each wireline service provider to post on its website, and update at least daily, maps of outages caused by disasters and public safety power shutoffs and a description of outage impacts and expected restoration time.”

Arguments in opposition unless amended: The (CTIA) writes in opposition unless amended, “Unfortunately, this bill imposes a series of duplicative and unnecessary processes and mandates that conflict with existing policy and risk the safety of wireless critical infrastructure. SB 341 adds redundant disaster and emergency outage reporting and mapping requirements that will result in higher costs and risk diversion of critical resources away from carrier efforts to deploy generators and to expand their 5G networks at a time where they are needed now more than ever as demonstrated during the pandemic.”

Support
California Chapter National Emergency Number Association (CALNENA)
California Fire Chiefs Association
California Professional Firefighters
California State Sheriffs’ Association
County of Napa

Opposition
California Cable & Telecommunications Association
California Chamber of Commerce
Consolidated Communications Services Inc.

Oppose Unless Amended
Fire Districts Association of California League of California Cities
Public Advocates Office
Rural County Representatives of California
City of Santa Clarita
The Utility Reform Network (TURN)
City of Thousand Oaks
AT&T
CTIA
Frontier Communications Corporation
Attachment 2
SENATE BILL No. 341

Introduced by Senator McGuire
(Coauthors: Senators Dahle, Dodd, Glazer, and Nielsen)
(Coauthors: Assembly Members Berman, Gallagher, Levine, and Wood)

February 9, 2021

An act to amend Section 53122 of the Government Code, and to amend Section 910 of, and to add Section 776.2 to, the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL’S DIGEST

SB 341, as amended, McGuire. Telecommunications service: outages.
(1) Existing law requires the Office of Emergency Services, on or before July 1, 2020, by regulation, to adopt appropriate thresholds for determining whether a telecommunications service outage constitutes a community isolation outage based on the risks to public health and safety resulting from the outage. Existing law requires all providers of telecommunications service that provide access to 911 service to notify the office whenever a community isolation outage occurs that limits their customers’ ability to make 911 calls or receive emergency notifications. Existing law requires those community isolation outage notifications to include certain information, including a description of the estimated area and community affected by the outage.

This bill would require each provider of telecommunications service to maintain on its internet website a public outage map showing that
provider’s outages, and would require the office, in consultation with the Public Utilities Commission, on or before July 1, 2022, to adopt by regulation requirements for those maps, as specified. The bill would authorize the office to provide the commission with all of the information provided to it as part of a telecommunications service provider’s community isolation outage notification and require the office to aggregate that data and post that aggregated data on its internet website.

(2) Under the California Constitution and the Public Utilities Act, the commission has regulatory authority over public utilities, including telephone corporations. The act requires the commission to develop and implement performance reliability standards for backup power systems installed on the property of residential and small commercial customers by facilities-based providers of telephony services upon determining that the benefits of the standards exceed the costs.

This bill would require the commission, in consultation with the office, to develop and implement backup electricity rules to require providers of telecommunications service to submit resiliency plans and to maintain backup electricity for their telecommunications infrastructure sufficient to maintain telecommunications service for at least 72 hours, except as provided.

(3) The act requires the commission to develop, publish, and annually update a report that contains specified information, including an accounting of the commission’s transactions and proceedings from the prior year, together with other facts, suggestions, and recommendations that the commission deems of value to the people of the state.

This bill would require that the report additionally include a description of the actions taken by the commission using the information provided to it by the office, as described in paragraph (1), a summary of deenergization event trends and the effect of deenergization events on telecommunications service and public safety, and an analysis of how the impacts of deenergization events on telecommunications service could be mitigated.

(4) Under existing law, a violation of the act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain provisions of this bill would be parts of the act and because a violation of a commission action implementing the bill’s requirements would be a crime, the bill would impose a state-mandated local program.
The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.


The people of the State of California do enact as follows:

SECTION 1. Section 53122 of the Government Code is amended to read:

53122. (a) For purposes of this section, the following definitions apply:

(1) “Office” means the Office of Emergency Services.

(2) “Telecommunications service” has the same meaning as defined in Section 2892.1 of the Public Utilities Code, but does not include voice communication provided by a provider of satellite telephone service.

(b) (1) (A) On or before July 1, 2020, the office, by regulation, shall adopt appropriate thresholds for determining whether a telecommunications service outage constitutes a community isolation outage based on the risks to public health and safety resulting from the outage.

(B) On or before July 1, 2022, the office, in consultation with the Public Utilities Commission, by regulation, shall adopt requirements for the public outage maps maintained by telecommunications service providers pursuant to subdivision (f). Those requirements shall include the format of, requirements for updating, and the level of detail to be included in the public outage maps derived from community isolation outages, and shall be consistent with the requirements of Public Utilities Commission Decision 20-07-011 (July 16, 2020), Decision Adopting Wireless Provider Resiliency Strategies, and Decision 21-02-029 (February 11, 2021), Decision Adopting Wireline Provider Resiliency Strategies.

(2) In adopting regulations pursuant to paragraph (1), the office shall comply with the rulemaking process in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.
(3) Notwithstanding any other law, the office may issue emergency regulations in accordance with the process in Section 11346.1 if necessary to meet the deadlines in paragraph (1).

(c)(1) Upon the adoption of regulations pursuant to subparagraph (A) of paragraph (1) of subdivision (b), all providers of telecommunications service that provide access to 911 service shall notify the office whenever a community isolation outage occurs that limits their customers’ ability to make 911 calls or receive emergency notifications. The community isolation outage notification shall be provided within 60 minutes of discovery of the outage by the provider, and the office shall be responsible for notifying any applicable county office of emergency services, the sheriff of any county, and any public safety answering point affected by the outage. The community isolation outage notification to the office shall be by a medium specified by the office, and shall include the telecommunications service provider’s contact name and calling number, a description of the estimated area affected by the outage, and the approximate communities, including cities, counties, and regions, affected by the outage. The telecommunications service provider shall also notify the office by a medium specified by the office of both of the following:

(A) The estimated time to repair the outage.

(B) When achieved, the restoration of service.

(2) The office may provide the Public Utilities Commission with all of the information provided to it pursuant to paragraph (1).

(3) The office shall aggregate the data provided to it pursuant to paragraph (1) and shall post that aggregated data on its internet website. The aggregated data shall not name individual telecommunications service providers.

(4) The Public Utilities Commission shall treat any confidential information obtained from the office pursuant to this section consistent with its processes, including General Order 66-D, and statutory requirements for maintaining confidential information otherwise received from telecommunications service providers.

(d) The telecommunications service provider shall ensure that the calling number provided to the office with the community isolation outage notification is staffed by a contact person who shall be available to respond to inquiries about the outage at all
times until the provider notifies the office that service has been restored.

(e) Except as provided in subdivision (c), the office shall keep community isolation outage notifications confidential and shall not disclose the contents of the notifications.

(f) Upon the adoption of regulations pursuant to subparagraph (B) of paragraph (1) of subdivision (b), each provider of telecommunications service that provides access to 911 service shall maintain on its internet website a public outage map showing that provider’s outages.

SEC. 2. Section 776.2 is added to the Public Utilities Code, to read:

776.2. (a) For purposes of this section, “telecommunications service” has the same meaning as defined in Section 2892.1, but does not include voice communication provided by a provider of satellite telephone service.

(b) As part of a new or existing proceeding, the commission, in consultation with the Office of Emergency Services, shall develop and implement backup electricity rules to require providers of telecommunications service to submit resiliency plans and to maintain backup electricity for their telecommunications infrastructure sufficient to maintain telecommunications service for at least 72 hours, except as provided in subdivision (c).

(c) In developing and implementing backup electricity rules pursuant to subdivision (b), the commission shall consider best practices and practices, the feasibility of the rules, and stakeholder input. In considering best practices and feasibility, the commission may authorize, in appropriate circumstances, providers of telecommunications service to maintain backup electricity for their telecommunications infrastructure sufficient to maintain telecommunications service for less than 72 hours.

(d) This section does not require the commission to modify the communications resiliency requirements adopted in commission Decision 20-07-011 (July 16, 2020), Decision Adopting Wireless Provider Resiliency Strategies, or Decision 21-02-029 (February 11, 2021), Decision Adopting Wireline Provider Resiliency Strategies.

SEC. 3. Section 910 of the Public Utilities Code is amended to read:
910. (a) The commission shall develop, publish, and annually update a report that contains all of the following information:

(1) A workplan that describes in clear detail the scheduled proceedings and other decisions that may be considered by the commission during the calendar year.

(2) Performance criteria for the commission and the executive director, and an evaluation of the performance of the executive director during the previous year based on criteria established in the prior year’s workplan.

(3) An accounting of the commission’s transactions and proceedings from the prior year, together with other facts, suggestions, and recommendations that the commission deems of value to the people of the state. The accounting shall include the activities that the commission has taken, and plans to take, to reduce the costs of, and the rates for, water and energy, including electricity, to improve the competitiveness of the state’s industries, including agriculture, and, to the extent possible, shall include suggestions and recommendations for the reduction of those costs and rates.

(4) A description of activities taken and processes instituted to both solicit the input of customers from diverse regions of the state in ratesetting and quasi-legislative proceedings and to process that input in a way that makes it usable in commission decisionmaking. The report shall describe the successes and challenges of these processes, the effect of resource constraints, and efforts to be made during the calendar year to further the goal of increased public participation.

(5) A list of the public meetings held outside San Francisco in the previous year, and a schedule of meetings anticipated to be held outside San Francisco during the coming year.

(6) A description of the actions taken by the commission using the information provided to it pursuant to Section 53122 of the Government Code, a summary of deenergization event trends and the effect of deenergization events on telecommunications service and public safety, and an analysis of how the impacts of deenergization events on telecommunications service could be mitigated.

(b) (1) The commission shall submit the report required pursuant to subdivision (a) to the Governor and the Legislature,
in compliance with Section 9795 of the Government Code, no later
than February 1 of each year.

(2) The commission shall post the report in a conspicuous area
of its internet website and shall have a program to disseminate the
information in the report using computer mailing lists to provide
regular updates on the information to those members of the public
and organizations that request that information.

SEC. 4. No reimbursement is required by this act pursuant to
Section 6 of Article XIIIB of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIIIB of the California
Constitution.
Item B-9
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Senate Bill 555 (McGuire) - Local agencies: transient occupancy taxes: short-term rental facilitator: collection (SB 555) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. While the City's Legislative Platform contains two statements around transient occupancy tax, staff believes the intent of those statements most likely do not apply to SB 555. For reference, those two statements are:

- Protect the City's right to levy and collect Transient Occupancy Taxes from hotels, including online hotel intermediaries.
- Oppose any federal or state legislation that would provide immunity to online hotel intermediaries and/or prohibit the City from collecting (retroactively or otherwise) Transient Occupancy Taxes.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 555 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 555, the Liaisons may recommend the following actions:

1) Support SB 555;
2) Support if amended SB 555;
3) Oppose SB 555;
4) Oppose unless amended SB 555;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 555, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
July 13, 2021

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange
Tim Sullivan, Legislative Aide, Shaw Yoder Antwih Schmelzer & Lange

Re: SB 555 (McGuire) Local agencies: transient occupancy taxes: short-term rental facilitator: collection

Version: Amended in the Senate April 12, 2021

Summary
SB 555 authorizes local agencies to enact an ordinance exclusively delegating their authority to collect transient occupancy taxes to the California Department of Tax and Fee Administration (CDTFA) and requires a “short-term rental facilitator” to collect such tax from a “purchaser” and transmit it to the CDTFA, which would then transmit the county’s Transient Occupancy Tax (TOT) back to the county.

Specifically, this bill would:

- Enact the Fair and Effective Collection of Due and Payable Transient Occupancy Taxes Derived from Short-term Rentals Arranged by Short-term Rental Facilitators Act of 2021, allowing local agencies to delegate the collection of TOTs from short-term rental facilitators to CDTFA by enacting an ordinance with specified contents.

- Specify that local agencies must take the following actions to trigger facilitator collection requirements and CDTFA administration for short-term rentals within their jurisdictions:
  - Enact an ordinance exclusively delegating its authority to collect local charges to CDTFA, including the effective date of the delegation.
  - Enter into a contract with CDTFA for purposes of registration, rate posting, collection, and transmission of local revenues.
  - Agree to certify that its ordinance applies its TOT on short-term rentals, the applicable short-term rental TOT rate, and any other information CDTFA deems necessary.

- Set up a process where local agencies can notify CDTFA when adopting a new TOT on short-term rentals or an increased rate. CDTFA begins collection on the April 1 of the year following the notification, so long as the notification occurs before December 1 of the previous year.
• State that local agencies eliminating its TOT on short-term rentals or reducing the rate must notify CDTFA within 30 days of the reduction or elimination, which becomes operative on the date of the first calendar quarter 60 days after CDTFA receives the notification.

• Provides that the authority of a local agency to collect a local charge imposed on a short-term rental is suspended as of the effective date specified in its ordinance.

• Allows local agencies to revoke the delegation by enacting another ordinance.

• Require CDTFA to deposit local charges collected from facilitators in the Local Charges for Short-term Rentals Fund.

• Appropriate continuously, after deducting amounts necessary to administer its tax collection and administration duties, funds to CDTFA to transmit to local agencies as promptly as feasible, but at least once per calendar quarter.

• Requires CDTFA to furnish a quarterly statement indicating the amounts paid and withheld for expenses, notify short-term rental facilitators when a local agency that delegates collection increases or decreases the TOT rate, eliminates its TOT, or terminates its delegation.

• Allows CDTFA to request local agency information regarding the proper collection and remittance of short-term rental TOTs.

• Makes unlawful disclosure of this information punishable as a misdemeanor and provides that this information is not a public record subject to disclosure.

• Imports standard provisions from the Local Prepaid MTS Surcharge Act to clarify local agency responsibilities.

• Directs CDTFA to publish and maintain a list of local agencies delegating its authority to collect local charges on short-term rentals on its internet website, including the rate and other information and issue regulations, including emergency regulations, necessary and appropriate to implement the bill.

• Requires short-term rental facilitators, as defined, to collect “local charges” from purchasers, defined as a TOT imposed by a local agency on the privilege of occupying a home, house, a room in a home or house, or other lodging that is not a hotel or motel in this state for 30 days or less, and under any other circumstances specified by the local agency in its ordinance.

• Requires the facilitator to register with CDTFA and remit local charges along with a return filed electronically in a CDTFA-prescribed format quarterly, due on or before the last day of the month following the close of the calendar quarter.

**Background**
Marketplace facilitators contract with marketplace sellers to sell goods and services on a platform. Facilitators generally list products, process payments, collect receipts, and in some cases, take possession of a seller’s inventory, hold it in warehouses, and ship it to customers. Marketplace
facilitators must collect and remit sales and use tax when selling their merchandise; however, until the Legislature enacted AB 147 (Burke, 2019), the Marketplace Facilitator Act, they were not legally required to do so when facilitating sales for its marketplace sellers. Because collecting tax from a few larger marketplaces is easier than from several thousand sellers scattered worldwide, most states have recently enacted laws requiring marketplace facilitators to collect and remit taxes on behalf of their sellers.

In recent years, internet-based platforms like HomeAway, VRBO, and Airbnb have facilitated increasing numbers of short-term rentals of homes and rooms within residences. Short-term rentals, also known as vacation rentals, are usually an individual’s residential property, such as a home, room, apartment, or condominium they rent out to a visitor for fewer than 30 consecutive days. Generally, the home-sharing industry involves three primary participants: (1) the home-sharing platforms, such as Airbnb, that advertises residential properties offered for temporary rental and facilitates connecting renters with hosts for a fee, and process payment for the rental, (2) the consumer who is often referred to as the “renter” “guest,” or “visitor” of the residential property, and (3) the supplier, owner, operator, or “host” of the residential property. Short-term rentals are not a new practice, but the development of online hosting platforms, bookings, advertisements, and payments has increased. In 2018, it was reported that there were 1.8 million short-term rental listings in the United States. California’s 235,000 short-term rental listings are second in the nation (Florida being first).

Some local agencies have enacted short-term rental ordinances that include regulations on permitting, tax compliance, noise, parking, and occupancy, as well as host and platform obligations and responsibilities. For instance, many short-term rental ordinances require short-term rentals to limit the number of occupants per bedroom in the residential property and require the host to be physically present to monitor and regulate activity during the short-term rental for a specified number of days. Other local agencies have enacted ordinances banning short-term rentals entirely or required hosts also stay on-site.

Unlike hotels and motels, local agencies have difficulty collecting and enforcing TOT collections from short-term rental hosts, who may be unaware of the requirements to collect TOT. Cities and counties may not be aware that hosts are using their properties for taxable short-term rental purposes. Platforms do not collect and remit tax in all jurisdictions in which they facilitate short-term rentals. As a result, cities and counties may not be receiving due and payable TOT revenue. Former Multistate Tax Commission Executive Director Dan Bucks estimated revenue loss from uncollected TOT for short-term rentals at $20.75 million annually for the median U.S. state, a figure that should be higher for local agencies in California because of its status as a major tourism destination. Additionally, local agencies cannot compel platforms to disclose information about short-term rentals in their jurisdictions that may be operating in violation of zoning or other local ordinances.

Short-term rental platforms have entered into voluntary agreements with cities, states, and nations to collect and remit taxes on behalf of their hosts. Agreements generally allow the local agency to audit the platform instead of the operator but preclude platforms from disclosing local information that could identify operators outside the terms of the agreement. The agreements generally state that the platform is not an operator for purposes of local ordinances or state laws but that they will register as one for purposes of TOT collection. Either party can usually terminate the agreement without cause with 30 days’ notice.

**Status of Legislation**
SB 555 passed out of the Assembly Judiciary Committee and is headed to the Assembly Appropriations Committee.

**Arguments in Support**
Supporters state that this bill “would offer an immediate lifeline to cities and counties across the state whose budgets have been impacted by the COVID-19 pandemic and would create a valuable source of recurring annual income. SB 555 proposes a new, innovative, and streamlined statewide system for collecting and dispensing [TOT] revenue from short-term rental hosting platforms back to local communities. All hosting platforms, including Airbnb, would be mandated to comply should a local city or county opt into the system proposed in the bill — enabling participating local governments to more efficiently collect the full tax revenue due from short-term rental activity.”

**Arguments in Opposition:**
Opponents of the bill, including the League of California City state that “[a]s currently drafted, this measure could unfortunately result in less effective and less transparent TOT collection in addition to the swift termination of existing and future voluntary collection agreements. Any option to contract with CDTFA should be effective and transparent. This measure should be amended to require platforms to provide CDTFA and contracting cities robust rental information to ensure proper collection, protect existing arrangements, protect local tax rates and charges as adopted by contracting agencies, and clarify that this measure does not pre-empt any local short-term rental ordinances.” Additionally, opponents state that “as currently drafted, the language does not provide sufficient or clear data collection authority to CDTFA. Requiring platforms to disclose real-time information such as the length of a stay, the nightly rate, and the taxing jurisdiction locations of the hosts to CDTFA and contracting local governments would help to ensure proper collection and auditing. Without such information and robust real-time tracking by CDTFA, accuracy of platform collections will be impossible to determine.”

**Support**
- Airbnb
- California Chamber of Commerce
- California Hispanic Chambers of Commerce
- Home Sharers Democratic Club
- Homeshare Alliance Los Angeles
- Huntington Beach Short-term Rental Alliance
- Long Beach Hosting Club
- Rural County Representatives of California
- Sf.citi
- Silicon Valley Leadership Group

**Opposition**
- Booking.com
- League of California Cities
- California Hotel and Lodging Association
Attachment 2
An act to add Part 1.65 (commencing with Section 7279.61) to Division 2 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST


Existing law authorizes a city, county, or city and county to impose taxes within its jurisdiction, as provided, including a transient occupancy tax, which is generally paid by a person for the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging for a period of less than 30 days.

This bill would authorize a local agency, defined to mean a city, county, or city and county, including a charter city, county, or city and county, to enact an ordinance exclusively delegating its authority to collect any transient occupancy tax imposed by that local agency on short-term rentals to the California Department of Tax and Fee Administration and to enter into a contract with the department for purposes of registration, rate posting, collection, and transmission of revenues necessary to collect and administer any transient occupancy tax imposed on a short-term rental as specified in this bill. This bill would define a short-term rental to mean the occupancy of a home, house, a room in a home or house, or other lodging that is not a hotel or motel in this state for a period of 30 days or less and under any other
circumstances specified by the local agency in its ordinance that is facilitated by a short-term rental facilitator, as defined. This bill would require the department to perform those functions, as specified, and would require all local charges collected by the department to be deposited in the Local Charges for Short-term Rentals Fund, which would be created by the bill in the State Treasury. This bill would continuously appropriate all amounts in the fund to the department and would require the department to transmit the funds to the local agencies periodically as promptly as feasible, as provided.

This bill would require a short-term rental facilitator engaged in business in this state to be responsible for collecting from the purchaser any local charge imposed on a short-term rental by any local agency exclusively delegating its authority to the department pursuant to this bill to collect those charges and would require the short-term rental facilitator to register with the department. The bill would require the department to administer and collect the local charges pursuant to the Fee Collection Procedures Law. This bill would also make it a misdemeanor for any deputy, agent, clerk, or other officer or employee of the department, or any former officer or employee or other individual, who in the course of that individual’s employment or duty has or had access to returns, reports, or documents required to be filed under this bill, to disclose or make known in any manner information as to the amount of any local charges or any particulars, including the business affairs of a corporation, set forth or disclosed therein.

By extending the application of the Fee Collection Procedures Law, the violation of which is a crime, and imposing a new crime, this bill would impose a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares that occupancy taxes are local taxes, not state taxes, which are due and payable to local agencies, and support vital programs and services provided by California’s cities and counties.

(b) The Legislature encourages short-term rental facilitators to ensure the full and prompt collection and remission directly to local agencies of all due and payable occupancy taxes derived from their facilitation of the occupancy of short-term rentals, including by entering into voluntary agreements with cities and counties to ensure that any occupancy taxes due and payable to a city or county are timely paid in full or continuing existing agreements previously entered into with a local agency for these purposes.

SEC. 2. Part 1.65 (commencing with Section 7279.61) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 1.65. FAIR AND EFFECTIVE COLLECTION OF DUE AND PAYABLE TRANSIENT OCCUPANCY TAXES DERIVED FROM SHORT-TERM RENTALS ARRANGED BY SHORT-TERM RENTAL FACILITATORS ACT OF 2021

7279.61. This part shall be known, and may be cited, as the “Fair and Effective Collection of Due and Payable Transient Occupancy Taxes Derived from Short-term Rentals Arranged by Short-term Rental Facilitators Act of 2021.” This act does not preclude or prohibit a local agency from entering into an agreement with a short-term rental facilitator to collect a local charge from a purchaser and remit the local charge to the local agency pursuant to a procedure adopted by local ordinance or resolution.

7279.62. All of the following definitions shall apply for purposes of this part:

(a) “Department” means the California Department of Tax and Fee Administration.

(b) “Local agency” means a city, county, or city and county, which includes a charter city, county, or city and county.

(c) “Local charge” means a transient occupancy tax imposed by a local agency on the privilege of occupying a home, house, a
room in a home or house, or other lodging that is not a hotel or
motel in this state for a period of 30 days or less and under any
other circumstances specified by the local agency in its ordinance.
(d) “Ordinance” refers to an ordinance of a local agency
imposing a local charge, including any local enactment relating to
the filing of a refund or a claim arising under the ordinance.
“Ordinance” also refers to an ordinance of a local agency
exclusively delegating the collection of transient occupancy taxes
imposed on short-term rentals within its jurisdiction to the
department.
(e) “Purchaser” means a person who is required to pay the local
charge imposed by a local agency and who uses a short-term rental
facilitator to facilitate the occupation of a short-term rental in this
state.
(f) “Short-term rental” means the occupancy of a home, house,
a room in a home or house, or other lodging that is not a hotel or
motel in this state for a period of 30 days or less and under any
other circumstances specified by the local agency in its ordinance
that is facilitated by a short-term rental facilitator.
(g) “Short-term rental facilitator” means a person, including a person described in Section 6005, that facilitates for
consideration, regardless of whether it is deducted as fees from
the transaction, the use of a short-term rental of a home, house, a
room in a home or house, or other lodging that is not a hotel or
motel that is not owned by the person facilitating the rental, through
a marketplace operated by the person or a related person, and that
does both of the following:
(1) Directly or indirectly, through one or more related persons,
engages in any of the following:
(A) Transmits or otherwise communicates the offer or
acceptance between the purchaser and the operator.
(B) Owns or operates the infrastructure, electronic or physical,
or technology that brings purchasers and operators together.
(C) Provides a virtual currency that purchasers are allowed or
required to use to rent a lodging from the operator.
(D) Software development or research and development
activities related to any of the activities described in paragraph
(2), if such activities are directly related to facilitating short-term
rentals.
(2) Directly or indirectly, through one or more related persons, engages in any of the following activities with respect to facilitating short-term rentals:

(A) Payment processing services.

(B) Listing homes, houses, or rooms in homes or houses, or other lodgings that are not a hotel or motel, and that are not owned by that person or a related person, for rental on a short-term basis.

(C) Setting prices.

(D) Branding short-term rentals as those of the short-term rental facilitator.

(E) Taking orders or reservations.

7279.64. For purposes of this part, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code, as that section was amended by Public Law 114-113, and the regulations thereunder.

7279.66. (a) (1) On or after July 1, 2022, a local charge imposed by a local agency on a short-term rental shall be collected from the purchaser by a short-term rental facilitator pursuant to Section 7279.70, and the department shall perform all functions incident to the collection and administration of that local charge pursuant to Section 7279.68 if the local agency does both of the following:

(A) Enacts an ordinance exclusively delegating its authority to collect local charges imposed by that local agency on short-term rentals to the department. The ordinance shall contain the effective date of the delegation, which must correspond with the date that commences a calendar quarter, and be at least six months from the date the local agency enacts the ordinance.

(B) Enters into a contract with the department for purposes of registration, rate posting, collection, and transmission of revenues necessary to collect and administer the local charges of a local agency imposed on a short-term rental as specified in Section 7279.68. In the contract, the local agency shall certify to the department that its ordinance applies its local charge on short-term rentals, the applicable transient occupancy tax rate for short-term rentals, any other information the department deems necessary to implement this part, and that the local agency agrees to indemnify, and hold and save harmless, the department, its officers, agents, and employees for any and all liability for damages that may result from collection pursuant to the contract.
(2) If a local agency adopts a new local charge that is imposed on short-term rentals on or after the effective date of this part, the local agency can enact an ordinance exclusively delegating the collection of its transient occupancy taxes imposed on short-term rentals to the department and enter into a contract with the department to perform the functions set forth in this part, on or before December 1 of each year, with collection of the local charge to commence April 1 of the next calendar year. In the contract, the local agency shall certify to the department that its ordinance applies its local charge on short-term rentals, the applicable transient occupancy tax rate for short-term rentals, any other information the department deems necessary to implement this part, and that the local agency agrees to indemnify, and hold and save harmless, the department, its officers, agents, and employees for any and all liability for damages that may result from collection pursuant to the contract.

(3) If a local agency increases modifies its local charge after the effective date of this part, the local agency shall provide the department with written notice of the increased modifications made to the local charge on or before December 1, with collection of the local charge to commence April 1 of the next calendar year.

(4) If a local agency reduces or eliminates a local charge imposed on short-term rentals, the local agency shall provide the department with written notice within 30 days of the reduction or elimination. The reduction or elimination shall become operative on the first day of the calendar quarter commencing more than 60 days from the date the local agency notifies the department that it no longer imposes a local charge or that the rate of its local charge has been reduced.

(5) If a local agency enters into a contract with the department pursuant to paragraph (2), provides the department with written notice of an increased modifications made to the local charge pursuant to paragraph (3), or provides the department with written notice of a reduction or elimination pursuant to paragraph (4), the department shall provide short-term rental facilitators with written notice within 30 days of that event.

(b) Notwithstanding any other law, the authority of a local agency to collect a local charge imposed on a short-term rental is suspended as of the effective date specified in its ordinance described in paragraph (1) of subdivision (a).
(c) (1) A local agency may enact an ordinance terminating the
delegation of authority to the department pursuant to paragraph
(1) of subdivision (a), so long as the effective date of the
termination of the delegation corresponds with the date that
commences a calendar quarter, and is at least six months from the
date the local agency enacts the ordinance terminating the
delegation.

(2) The department shall provide notice of a termination
pursuant to this subdivision to the short-term rental facilitators
within 30 days of the local agency terminating the delegation of
authority to the department.

7279.68. (a) If delegated the authority pursuant to an ordinance
described in Section 7279.66, the department shall perform the
registration, rate posting, collection, and transmission of revenues
necessary to collect and administer local charges, subject to the
limitations set forth in subdivision (f).

(b) All local charges collected by the department shall be
deposited in the Local Charges for Short-term Rentals Fund, which
is hereby created in the State Treasury, and shall be held in trust
for the local agency, and shall not be used for any other purpose.
Local charges shall consist of all taxes, charges, interest, penalties,
and other amounts collected and paid to the department resulting
from the imposition of the transient occupancy tax, less payments
for refunds and reimbursement to the department for expenses
incurred in the administration and collection of the local charges.
Notwithstanding Section 13340 of the Government Code, all
amounts in the Local Charges for Short-term Rentals Fund are
continuously appropriated to the department. The department shall
transmit the funds to the local agencies periodically as promptly
as feasible, but shall be made at least once in each calendar quarter.
The department shall furnish a quarterly statement indicating the
amounts paid and withheld for expenses of the department.

(c) The department shall prescribe and adopt rules and
regulations as may be necessary or desirable for the administration
and collection of local charges and the distribution of the local
charges collected.

(d) The department’s audit duties under this part shall be limited
to verification that the short-term rental facilitator complied with
this part.
(e) (1) The department shall make available to a requesting local agency any information that is reasonably available to the department regarding the proper collection and remittance of a local charge of the local agency by a short-term rental facilitator.

(2) Except as otherwise provided in paragraph (1) and as required to administer this part, it is a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000), by imprisonment in a county jail not exceeding one year, or by both, in the discretion of the court, for any deputy, agent, clerk, or other officer or employee of the department, or any former officer or employee or other individual, who in the course of that individual’s employment or duty has or had access to returns, reports, or documents required to be filed under this part, to disclose or make known in any manner information as to the amount of any local charges or any particulars, including the business affairs of a corporation, set forth or disclosed therein.

(3) Any information that is subject to disclosure to a local agency pursuant to paragraph (1) is exempted from any requirement of that is exempt from public disclosure by the department pursuant to subdivisions (i) and (k) of Section 6254 of the Government Code. Code is also exempt from disclosure by the local agency.

(f) The local agency that has adopted an ordinance to impose a local charge that applies to short-term rentals and exclusively delegates the authority to the department shall be solely responsible for:

(1) Defending any claim regarding the validity of the ordinance in its application to short-term rentals.

(2) Interpreting any provision of the ordinance, except to the extent specifically superseded by this statute.

(3) Responding to any claim for refund by a purchaser arising under local charges collected pursuant to an ordinance described in Section 7279.66. The claim shall be processed in accordance with the provisions of the local enactment that allows the claim to be filed.

(4) Certifying that the ordinance of the local agency applies the local charge to the privilege of occupying short-term rentals and agreeing to indemnify and hold harmless the department and its
officers, agents, and employees for any and all liability for damages
that may result from collection of the local charge.

(4) Reallocation of local charges as a result of correcting errors
relating to the location of the short-term rental, for up to two past
quarters from the date of knowledge.

(g) In connection with any actions or claims relating to or arising
from the invalidity of a local tax ordinance, in whole or in part,
the short-term rental facilitator shall not be liable to any consumer
as a consequence of collecting the tax. In the event a local agency
is ordered to refund the tax, it shall be the sole responsibility of
the local agency to refund the tax. In any action seeking to enjoin
collection of a local charge by a short-term rental facilitator, in
any action seeking declaratory relief concerning a local charge, in
any action seeking a refund of a local charge, or in any action
seeking to otherwise invalidate a local charge, the sole necessary
party defendant in the action shall be the local agency on whose
behalf the department collects the charge. There shall be no
recovery from the state for the imposition of any unconstitutional
or otherwise invalid local charge that is collected pursuant to this
part.

(h) For purposes of this section:

(1) “Quarterly local charges” means the total amount of local
charges transmitted by the department to a local agency for a
calendar quarter.

(2) “Refund” means the amount of local charges deducted by
the department from a local agency’s quarterly local charges in
order to pay the local agency’s share of a local charge refund due
to one taxpayer.

(3) “Offset portion” means that portion of the refund which
exceeds the greater of fifty thousand dollars ($50,000) or 20 percent
of the local agency’s quarterly local charges.

(i) Except as provided in subdivision (j), if the department has
deducted a refund from a local agency’s quarterly local charges
that includes an offset portion, then the following provisions apply:

(1) Within three months after the department has deducted an
offset portion, the local agency may request the department to
transmit the offset portion to the local agency.

(2) As promptly as feasible after the department receives the
local agency’s request, the department shall transmit to the local
agency the offset portion as part of the department’s periodic transmittal of local charges.

(3) The department shall thereafter deduct a pro rata share of the offset portion from future transmittals of local charges to the local agency over a period to be determined by the department, but not less than two calendar quarters and not more than eight calendar quarters, until the entire amount of the offset portion has been deducted.

(j) The department shall not transmit the offset portion of the refund to the local agency if that transmittal would reduce or delay either the department’s payment of the refund to the taxpayer or the department’s periodic transmittals of local charges to other local agencies.

(k) A local agency shall pay to the department its pro rata share of the department’s cost of collection and administration.

(l) The department shall annually prepare a report showing the amount of both reimbursed and unreimbursed costs incurred by it in administering the collection of local charges pursuant to this part.

7279.70. (a) (1) A short-term rental facilitator engaged in business in this state shall be responsible for collecting from the purchaser any local charge imposed on a short-term rental by any local agency exclusively delegating its authority to the department pursuant to Section 7279.66 to collect those charges. The short-term rental facilitator shall remit those local charges collected to the department. The responsibility for the charge is not extinguished until it has been paid to this state.

(2) All amounts collected by the short-term rental facilitator pursuant to this section are due and payable to the department on or before the last day of the month following each calendar quarter. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the department by each short-term rental facilitator using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(b) The department shall administer and collect the local charges exclusively delegated by a local agency under this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to “fee” shall include local charges
delegated by a local agency to be collected by the department pursuant to this part, and references to "feepayer" shall include any short-term rental facilitator required to collect and remit local charges exclusively delegated by a local agency to be collected by the department pursuant to this part.

(c) The department shall publish and maintain a list of local agencies delegating its authority to collect local charges on short-term rentals on its internet website, including the rate. The list shall also include any other information determined to be relevant to the department for the proper collection of the local charges, including, but not limited to, the duration period of the short-term rental, or any other circumstances specified by the local agency applicable in those jurisdictions for determining whether any local charge is due for the occupancy of a short-term rental.

(d) (1) The department may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(2) The department may prescribe, adopt, and enforce any emergency regulations as necessary to implement this part. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

7279.72. A short-term rental facilitator that is subject to a local agency ordinance that delegates authority for collection of a local charge to the department pursuant to Section 7279.66 is required to register with the department. Every application for registration shall be made upon a form prescribed by the department and shall set forth the name under which the applicant transacts or intends to transact business, the location of its place or places of business, and such other information as the department may require. An application for registration shall be authenticated in a form or pursuant to methods as may be prescribed by the department.
SEC. 3. The Legislature finds and declares that Section 2 of 
this act, which adds Section 7279.68 to the Revenue and Taxation 
Code, imposes a limitation on the public’s right of access to the 
meetings of public bodies or the writings of public officials and 
agencies within the meaning of Section 3 of Article I of the 
California Constitution. Pursuant to that constitutional provision, 
the Legislature makes the following findings to demonstrate the 
interest protected by this limitation and the need for protecting 
that interest:

In order to comply with existing law and to prevent unfair 
competitive disadvantages, it is necessary for information provided 
to local agencies by the California Department of Tax and Fee 
Administration pursuant to Section 2 of this act to remain 
confidential.

SEC. 4. No reimbursement is required by this act pursuant to 
Section 6 of Article XII B of the California Constitution because 
the only costs that may be incurred by a local agency or school 
district will be incurred because this act creates a new crime or 
infraction, eliminates a crime or infraction, or changes the penalty 
for a crime or infraction, within the meaning of Section 17556 of 
the Government Code, or changes the definition of a crime within 
the meaning of Section 6 of Article XIII B of the California 
Constitution.
Item B-10
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Senate Bill 619 (Laird) - Organic waste: reduction regulations (SB 619) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 619 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 619, the Liaisons may recommend the following actions:

1) Support SB 619;
2) Support if amended SB 619;
3) Oppose SB 619;
4) Oppose unless amended SB 619;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 619, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
July 14, 2021

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange  
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange  
Tim Sullivan, Legislative Aide, Shaw Yoder Antwih Schmelzer & Lange

Re: SB 619 (Laird) Organic waste: reduction regulations

Version: Amended in the Senate April 13, 2021

Summary
SB 619 intends to prohibit the Department of Resources Recycling and Recovery (CalRecycle) from imposing penalties against local jurisdictions that have not met the organic waste recycling requirements pursuant to SB 1383 (Lara, 2016), before January 1, 2023, unless the jurisdiction did not make a reasonable effort to comply.

Existing Law
1. Requires the Air Resources Board (ARB) to complete, approve, and implement a comprehensive strategy to reduce emissions of short-lived climate pollutants (SLCPs) in the state to achieve, among other things, a reduction in the statewide emissions of methane by 40%.
2. Establishes a target of 50% reduction in the statewide disposal of organic waste from the 2014 level by 2020 and a 75% reduction by 2025, and requires CalRecycle and ARB to adopt regulations to achieve the organic waste reduction targets.
3. Requires CalRecycle, in consultation with ARB, to adopt regulations to achieve the organic waste reduction targets (SB 1383 regulations). Requires the regulations to take effect on or after January 1, 2022.
4. Specifies that penalties may be assessed for noncompliance, but shall not exceed the $10,000 per day.

Background
In 2016, the Legislature passed and Governor Brown signed SB 1383 (Lara, 2016), establishing methane emissions reduction targets in a statewide effort to reduce emissions of SLCPs in various sectors of California’s economy. SB 1383 required ARB to approve and implement a comprehensive short-lived climate pollutant strategy to achieve. In order to accomplish these goals, the bill specified that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste. CalRecycle was given authority to adopt regulations that would achieve these organic waste reduction requirements.

CalRecycle’s regulations were approved by the Office of Administrative Law (OAL) in November 2020 and take effect January 1, 2022. The regulatory package is comprehensive, placing various responsibilities on local jurisdictions. The six main requirements of the regulations are: a) Providing mandatory organic waste collection services; b) Edible food recovery program; c) Education and
outreach to the community; d) Procurement requirements for products made from organic materials; e) Providing access to edible food and composting facilities; and, f) Monitoring and enforcement by the local jurisdictions. Pursuant to statutory requirements, local jurisdictions cannot issue enforcement penalties until two years after the operative date of the regulations – January 1, 2024.

Beginning January 1, 2022, when the regulations become effective, enforcement may begin against jurisdictions. The enforcement process begins when a Notice of Violation (NOV) is issued. CalRecycle has discretion, but not a requirement, to address compliance issues with a jurisdiction through compliance evaluations before commencing enforcement proceedings. Prior to issuance of an NOV, CalRecycle will consider the totality of circumstances surrounding a jurisdiction's compliance and has discretion, depending on circumstances, to not seek penalties. When an NOV is issued, a jurisdiction has 90 days, which may be extended up to 180 days at the discretion of CalRecycle, to come into compliance. When taking enforcement action, CalRecycle can consider “extenuating circumstances” whether a jurisdiction has made a “substantial effort” to comply and place the jurisdiction on a Corrective Action Plan (CAP), which may include a longer timeline for compliance. Extenuating circumstances include acts of God, including pandemics, delays in obtaining permits or other government agency approvals, and inadequate organic waste recycling infrastructure capacity. Substantial effort is defined by CalRecycle to mean a jurisdiction has done “everything within its authority and ability” to comply. After NOV and CAP processes, or if a jurisdiction fails to comply with the NOV or CAP, penalties will be imposed.

Enforcement of SB 1383 regulations have some local jurisdictions worried due to the comprehensiveness of the regulations and the short timeframe in which they have to comply. While SB 1383 was enacted in 2016, the regulations weren’t finalized until November 2020, giving local jurisdictions 14 months to adopt compliant organic waste management programs that would fulfill the requirements of the regulations. Stakeholders have also indicated that because city budgets have been impacted by COVID-19, some cities will be forced to dramatically increase the collection rates for their constituents to cover the costs of implementing the regulations. Additionally, stakeholders have expressed concern that if they are found to be in noncompliance of the regulations, they could be subject to large fines in 2022. Since the extended compliance process is largely discretionary, local jurisdictions still seek assurances that they will not be subject to hefty fines when the regulations go into effect next year.

**Status of Legislation**
SB 619 is currently in Assembly Appropriations committee.

**Arguments in Support**
According to the author, “SB 619 support continued efforts by local jurisdictions to achieve statewide organic waste recycling targets and climate goals. Local governments across California face severe budget shortfalls in response to the COVID-19 pandemic and state leaders must support local efforts to meet our statewide climate goals. SB 619 provides the support needed by all local governments in their ongoing endeavors to design and implement thoughtful and successful organic waste recycling program.”

**Support**
American Public Works Association California City of Arcata
Advocacy Committee City of Camarillo
California Association of Food Banks City of Carmel-by-the-Sea
California State Association of Counties City of Corona
| City of Cupertino             | City of La Canada Flintridge |
| City of Cypress              | City of La Verne             |
| City of Diamond Bar          | City of Lakewood             |
| City of Escalon              | City of Long Beach           |
| City of Fountain Valley      | City of Los Alamitos         |
| City of Glendora             | City of Moorpark             |
| City of Goleta               | City of Murrieta             |
| City of Irwindale            | County of Napa               |
| City of Pleasanton           | League of California Cities  |
| City of Rancho Cucamonga     | Madera County                |
| City of Salinas              | RecycleSmart                |
| City of San Jose             | RethinkWaste                |
| City of Santa Clara          | Rural County Representatives of California |
| City of Scotts Valley        | San Diego Food Bank          |
| City of South Pasadena       | Second Harvest Food Bank Santa Cruz County |
| City of Torrance             | Town of Apple Valley         |
| City of Tustin               | Town of Danville             |
| City of Walnut Creek         | Ventura Council of Governments |
| City of Whittier             | West Contra Costa Integrated Waste |
| City of Yucaipa              | Management Authority         |
| CleanEarth4Kids.org          |                              |

**Opposition**

City of Winters Councilmember Jesse Loren
Yolo Climate Emergency Coalition
Yolo Food Bank
Attachment 2
An act to amend Section 42652.5 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL’S DIGEST

SB 619, as amended, Laird. Organic waste: reduction regulations. Existing law requires the State Air Resources Board to complete, approve, and implement a comprehensive strategy to reduce emissions of short-lived climate pollutants in the state to achieve, among other things, a reduction in the statewide emissions of methane by 40%. Existing law requires the methane emissions reduction goals to include specified targets to reduce the landfill disposal of organics. Existing law requires the Department of Resources Recycling and Recovery, in consultation with the state board, to adopt regulations to achieve those targets for reducing organic waste in landfills, and authorizes those regulations to require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction, to authorize local jurisdictions to impose penalties on generators for noncompliance, and to include penalties to be imposed by the department for noncompliance. Existing law provides that those regulations shall take effect on or after January 1, 2022, except that the imposition of penalties by local jurisdictions pursuant to the regulations shall not take effect until 2 years after the effective date of the regulations.

This bill would delay the effective date of the regulations from January 1, 2022, to January 1 of an unspecified year, and would provide that
the operative date of each of the requirements in the regulations in effect as of December 31, 2021, shall be an unspecified amount of years after the operative date identified in the regulations. The bill would delay the imposition of penalties by local jurisdictions and the department pursuant to the regulations to January 1 of an unspecified year and would authorize the department to develop tools and incentives that encourage and reward early action by local jurisdictions.

This bill, until January 1, 2023, would require the department to only impose a penalty on a local jurisdiction, and would require a penalty to only accrue, for a violation of the regulations if the local jurisdiction did not make a reasonable effort, as determined by the department, to comply with the regulations.


The people of the State of California do enact as follows:

SECTION 1. Section 42652.5 of the Public Resources Code is amended to read:

42652.5. (a) The department, in consultation with the State Air Resources Board, shall adopt regulations to achieve the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code. The regulations shall comply with all of the following:

(1) May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.

(2) Shall include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed of is recovered for human consumption by 2025.

(3) Shall not establish a numeric organic waste disposal limit for individual landfills.

(4) May include different levels of requirements for local jurisdictions and phased timelines based upon their progress in meeting the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code. The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825, the amount of organic waste disposed compared
to the 2014 level, per capita disposal rates, the review required by Section 42653, and other relevant information provided by a jurisdiction.

(5) May include penalties to be imposed by the department for noncompliance. If penalties are included, they shall not exceed the amount authorized pursuant to Section 41850.

(6) Shall take effect on or after January 1, 2022, except the imposition of penalties pursuant to paragraph (1) shall not take effect until two years after the effective date of the regulations.

(b) Until January 1, 2023, the department shall only impose, in accordance with the enforcement procedures specified in Section 18996.2 of Title 14 of the California Code of Regulations, a penalty on a local jurisdiction, and a penalty shall only accrue, for a violation of the regulations if the local jurisdiction did not make a reasonable effort, as determined by the department, to comply with the regulations.

(c) A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.

SECTION 1. Section 42652.5 of the Public Resources Code is amended to read:

42652.5. (a) The department, in consultation with the State Air Resources Board, shall adopt regulations to achieve the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code. The regulations shall comply with all of the following:

(1) May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.

(2) Shall include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed of is recovered for human consumption by 2025.

(3) Shall not establish a numeric organic waste disposal limit for individual landfills.

(4) May include different levels of requirements for local jurisdictions and phased timelines based upon their progress in meeting the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code. The
(5) May include penalties to be imposed by the department for noncompliance. If penalties are included, they shall not exceed the amount authorized pursuant to Section 41850.

(6) Shall take effect on or after January 1, ____. The operative date of each of the requirements in the regulations in effect as of December 31, 2021, shall be ____ years after the operative date identified in the regulations. The imposition of penalties shall not take effect until January 1, ____. The department may develop tools and incentives that encourage and reward early action by local jurisdictions.

(b) A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.
Item B-11
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 19, 2021
SUBJECT: State and Federal Legislative Updates
ATTACHMENTS: None

Verbal updates on legislative issues will be presented by the City’s state and federal lobbyists.
Item B-12
The Legislative/Lobby Liaison Committee may request items related to the purview of the Committee be placed on the next agenda.