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:

Video Teleconference
Call in: (916) 235-1420 or (888) 468-1195
Participant Pin: 872120
Beverly Hills City Hall
Beverly Hills, CA 90210

May 20, 2020
9:00 AM

TELEPHONIC/VIDEO CONFERENCE MEETING

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 participate by listening to the Special Meeting at (916) 235-1420 or (888) 468-1195 (participant code 872120) and offer comment through email at 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. H.R. 6615 Rent and Mortgage Cancellation Act of 2020

Comment: This item seeks direction on H.R. 6515, which would suspend obligations of residential renters and mortgagors to make payments during the COVID-19 emergency, and for other purposes.

2. H.R. 6643 – the Supporting State and Local Leaders Act

Comment: This item seeks direction on H.R. 6643, which would allow federal, state, and local governments to receive a tax credit for required paid sick leave and family medical leave.

3. S. 3614 – FEMA Empowering Essential Deliveries Act

Comment: This item seeks direction on S. 3614, which allows the federal government to pay 100 percent of the cost to states and localities so they can collaborate with restaurants and nonprofits to prepare nutritious meals for vulnerable populations, such as seniors and underprivileged children. There is a companion bill in the House.

4. Assembly Bill 664 (Cooper and Gonzalez) – Worker’s Compensation: Injury: Communicable Diseases

Comment: This item seeks direction on AB 664, which would define “injury” for certain state and local firefighting personnel, peace officers, certain hospital employees, and certain fire and rescue services coordinators who work for the Office of Emergency
Services to include being exposed to or contracting, on or after January 1, 2020, a communicable disease, including coronavirus disease 2019 (COVID-19), that is the subject of a state or local declaration of a state of emergency that is issued on or after January 1, 2020.

5. Assembly Bill 2256 (Garcia) – Regional Housing Needs Allocation: Adjacent Cities: Agreements

Comment: This item seeks direction on AB 2256, which would authorize two cities that meet specified requirements to enter into a memorandum of understanding to build a housing project in one jurisdiction and share the credit associated with the housing project for purposes of satisfying their regional housing needs allocation requirements. Among other things, the bill would require the memorandum of understanding to provide for the creation of housing for households of low income and very low income and provide for an explicit, mutual agreement for distribution of the credit associated with the housing project in connection with regional housing needs allocation requirements.

6. Assembly Bill 3040 (Chiu) – Planning: Regional Housing Needs Assessment

Comment: This item seeks direction on AB 3040, which would authorize a city or county to include in its inventory of land suitable for residential development specified sites that contain an existing single-family dwelling unit, but that the city or county authorizes to contain up to four dwelling units as a use by right.

7. Assembly Bill 3269 (Chiu) – State and Local Agencies: Homelessness Plan

Comment: This item seeks direction on AB 3269, which would amongst many things cause the following to occur: (1) Create a Homeless Coordinating and Financing Council, (2) Require this Council to set a benchmark goal in reducing homelessness by January 1, 2028, for each state and local agency subject to these provisions, based upon the needs and gaps analysis, (3) Require each state and local agency, as defined, to develop an actionable plan to achieve the benchmark goal set by the Council by January 1, 2022.

8. State and Federal Legislative Updates

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

C. Adjournment

George Chavez
City Manager

Posted: May 18, 2020

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. City Hall, including Conference Room 4A, is wheelchair accessible.
Item B-1
TO: City Council Liaison/Legislative/Lobby Committee  
FROM: Cynthia Owens, Policy and Management Analyst  
DATE: May 20, 2020  
SUBJECT: HR 6515 – Rent and Mortgage Cancellation Act of 2020  
ATTACHMENTS:  
1. Summary Memo – H.R. 6515  
2. Bill Text – H.R. 6515  

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.

HR 6515 – Rent and Mortgage Cancellation Act of 2020 (H.R. 6515) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City's federal lobbyist, David Turch & Associates, provided a summary memo for H.R. 6515 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of H.R. 6515, the Liaisons may recommend the following actions:

1) Support H.R. 6515;  
2) Support if amended H.R. 6515;  
3) Oppose H.R. 6515;  
4) Oppose unless amended H.R. 6515;  
5) Remain neutral; or  
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on H.R. 6515, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
Democratic Representative Ilhan Omar of Minnesota introduced H.R. 6515, the Rent and Mortgage Cancellation Act of 2020, on April 17. The bill proposes to cancel rent and home mortgage payments nationwide for the duration of the COVID-19 pandemic. The legislation would constitute a full payment forgiveness, with no accumulation of debt for renters or homeowners and no negative impact on their credit rating or rental history. The legislation establishes a relief fund for landlords and mortgage holders to cover losses from the cancelled payments and creates an optional fund to fully finance the purchase of private rental properties by non-profits, public housing authorities, cooperatives, community land trusts, and states or local governments—in order to increase the availability of affordable housing during this downturn.

The bill is designed to stabilize both local communities and the housing market during this time of economic crisis and uncertainty. In promoting her bill, Representative Omar declares that in 2008, during the Great Recession, Congress bailed out Wall Street -- this time, she contends, Congress has an obligation to bail out the American people who, by the millions, are at risk of becoming homeless through no fault of their own. The core argument for the bill is that the nation cannot afford to allow a public health crisis to mushroom into a national housing crisis.

**Legislative Provisions:**

- HR 6515 would apply to all tenants who have a lease and all homeowners who have a mortgage on their primary residence. (It would only cancel mortgage payments for that primary residence.)

- The bill stipulates that payments would not have to be made up, though it leaves open the possibility that people over a certain income threshold might owe taxes on the relief they receive.

- The bill is retroactive to April 1, 2020 and carries through one calendar month following the end of the declaration of national emergency announced on March 13, 2020.

- Under the bill, tenants would not have to apply for rent cancellation. (Any rent paid for April or May before the bill passed would be reimbursed to tenants.) Instead, the bill would establish funds, which would be managed by HUD, to which property owners and lenders could apply for relief based on their lost income. That relief would make up the entire amount of lost payments, but would come with stipulations—for example, property owners accepting the relief must not
increase rent for five years, follow just-cause eviction guidelines, and not discriminate against tenants based on their source of income, immigration status, conviction or arrest record, sexuality or gender, or credit score.

- The bill would prioritize payments to nonprofit owners and small landlords first and require financial disclosures in order to determine this prioritization.

- H.R. 6515 establishes an acquisition fund to allow nonprofits, public housing agencies, cooperatives, community land trusts, and local governments to acquire housing that comes up for sale during the economic upheaval surrounding the pandemic, and would require sellers of multifamily properties to give sufficient notice of that sale to enable purchasers working through the fund a chance to buy.

- The bill’s costs are not delineated. However, it has been estimated that renters paid $40 billion per month in 2017.

**HR. 6515 Support:**

- The bill is cosponsored by 27 House Democratic Members including: Alexandria Ocasio-Cortez (D-NY), Rashida Tlaib (D-MI), Ayanna Pressley (D-MA), Pramila Jayapal (D-WA), Sheila Jackson Lee (D-TX), Joseph Kennedy (D-MA), Grace Napolitano (D-CA), Lucille Roybal-Allard (D-CA), Alan Lowenthal (D-CA) and Barbara Lee (D-CA). There are no Republican cosponsors.

- H.R. 6515 has been endorsed by the following organizations: People’s Action, Center for Popular Democracy, Minneapolis Regional Labor Federation, Take Action MN, National Coalition for the Homeless, PolicyLink, Public Advocates, National Domestic Workers Alliance, Action Center on Race and the Economy, Islamic Relief USA, Citizen Action of New York, Citizen Action of Wisconsin, Community Voices Heard NY, Jane Addams Senior Caucus IL, KC Tenants MO, LUCHA AZ, Maine People’s Alliance, New Jersey Citizen Action, Northwest Bronx Community and Clergy Coalition NY, ONE Northside IL, People Organized for Westside Renewal CA, Progressive Leadership Alliance of Nevada, PUSH Buffalo NY, Reclaim Philadelphia PA, San Francisco Rising CA, Washington CAN VOCAL NY, Housing Justice for All New York, New York Communities for Change, Organize Florida, Texas Organizing Project, Make the Road NV, Make the Road PA, New Florida Majority Alliance of Californians for Community Empowerment Action, Arkansas Community Organization Detroit Action Spaces In Action MD, Churches United for Fair Housing NY, One Pennsylvania Housing Now! CA, and Our Future West Virginia.

**HR 6515 Opposition:**

The bill does not have congressional Republican support and is likely to be opposed by President Trump as well.

**Outlook:** Representative Omar’s bill was not included in the latest COVID-19 relief package (H.R. 6800/HEROES Act) advanced by Speaker Nancy Pelosi.
Attachment 2
To suspend obligations of residential renters and mortgagors to make payments during the COVID-19 emergency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2020

Ms. Omar (for herself, Ms. Ocasio-Cortez, Ms. Tlaib, Ms. Pressley, Ms. Jayapal, Mr. Pocan, Ms. Escobar, Mr. Garcia of Illinois, and Ms. Meng) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To suspend obligations of residential renters and mortgagors to make payments during the COVID-19 emergency, and for other purposes.

1   Be it enacted by the Senate and House of Representa-
2   tives of the United States of America in Congress assembled,
3   SECTION 1. SHORT TITLE.
4   This Act may be cited as the “Rent and Mortgage
5   Cancellation Act of 2020”.
6   SEC. 2. SUSPENSION OF OBLIGATIONS TO MAKE RESIDEN-
7   TIAL MORTGAGE AND RENT PAYMENTS.
8   (a) Rent Payments.—
(1) Suspension.—Notwithstanding any other provision of law, the obligation of each tenant household of a covered rental dwelling unit to pay rent for occupancy in such dwelling unit shall be suspended with respect to such occupancy during the COVID-19 suspension period.

(2) Prohibitions.—

(A) On fines.—No tenant or tenant household may be charged a fine or fee for non-payment of rent in accordance with paragraph (1) and such nonpayment of rent shall not be grounds for any termination of tenancy or eviction.

(B) On debt.—No tenant or tenant household may be treated as accruing any debt by reason of suspension of contribution of rent under paragraph (1).

(C) On repayment.—No tenant or tenant household may be held liable for repayment of any amount of rent contribution suspended under paragraph (1).

(D) On credit scores.—The non-payment of rent by a tenant or tenant household shall not be reported to a consumer reporting agency nor shall such nonpayment adversely
affect a tenant or member of a tenant house-
hold’s credit score.

(b) MORTGAGE PAYMENTS.—

(1) SUSPENSION.—Notwithstanding any other
provision of law, the obligation of each mortgagor
under a covered residential mortgage loan to make
mortgage payments of principal and interest that be-
come due during the COVID-19 suspension period is
hereby suspended.

(2) REQUIREMENTS AND PROHIBITIONS.—

(A) ON DEBT.—No mortgagor under any
covered residential mortgage loan may be held
responsible for payment of mortgage payments
suspended under paragraph (1) or treated as
accruing any debt by reason of suspension
under such paragraph of the obligation to make
mortgage payments.

(B) ON FORECLOSURE.—A mortgagee
under a covered residential mortgage loan (or
servicer for such mortgagee) may not commence
or continue any judicial foreclosure action or
non-judicial foreclosure process or any action
for failure to make a payment due under such
mortgage that is suspended pursuant to para-
graph (1).
(C) On fees, penalties, and interest.—No fees, penalties, or additional interest beyond the amounts scheduled or calculated as if the mortgagor made all contractual payments on time and in full under the terms of the mortgage contract in effect as of the commencement of the COVID-19 suspension period shall accrue.

(D) On credit scores.—The non-payment of a mortgage payment by a mortgagor pursuant to suspension under paragraph (1) of the obligation to make such payment shall not be reported to a consumer reporting agency nor shall such nonpayment adversely affect a mortgagor’s credit score.

(e) Notice.—The Secretary of Housing and Urban Development shall establish and carry out a system to notify all tenants of covered rental dwelling units, including tenants described in section 7(1)(B)(ii), and all mortgagors under covered residential mortgage loans, of the suspensions under paragraph (1) of subsections (a) and (b) of the obligations to make rental payments or mortgage payments, respectively, and of their right to pursue legal action pursuant to section 3.
SEC. 3. CIVIL ACTION.

(a) IN GENERAL.—Any individual aggrieved by an adverse action taken by a lessor or mortgagee for exercising rights under section 2 may commence a civil action under this section against the lessor or mortgagee violating such section in an appropriate United States district court or State court not later than 2 years after such violation occurs for damages under subsection (b).

(b) DAMAGES; PENALTY.—Any lessor or mortgagee found to have taken adverse action against any lessee or mortgagor for exercising rights under section 2 shall be liable—

(1) to the individual aggrieved by such violation, for any actual damages as a result of such adverse action; and

(2) for a fine in the amount of—

(A) $5,000, in the case of violation that is the first violation by such lessor or mortgagee;

(B) $10,000, in the case of violation that is the second violation by such lessor or mortgagee; and

(C) $50,000 or forfeiture of the property, in the case of violation that is the third or subsequent violation by such lessor or mortgagee.

(c) AUTHORITY OF COURT.—In an action brought under this section, the court—
(1) may award preventative relief, including a permanent or temporary injunction or other order, to ensure the full rights granted by subsections (a) and (b) of section 2; and

(2) shall award any prevailing plaintiff, other than the United States, reasonable attorney’s fee and costs.

(d) ATTORNEY GENERAL ENFORCEMENT.—The Attorney General may bring a civil action in any appropriate United States district court against any individual who violates subsection (a) or (b) of section 2 for fines under subsection (b)(2) of this section.

SEC. 4. LANDLORD RELIEF FUND.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish and manage a Landlord Relief Fund (in this section referred to as the “Fund”), to provide lessors payments under this section to reimburse such lessors for payments under covered residential mortgage loans suspended pursuant to section 2(b).

(b) APPLICATION.—The Secretary shall provide for lessors of covered rental dwelling units to apply for reimbursement payments from the Fund, which applications shall include the certifications and binding agreements required pursuant to subsection (c).
(c) ELIGIBILITY.—The Secretary may provide a pay-
ment under this section only with respect to covered rental
dwelling units that meet all of the following requirements:

(1) FAIR RENTAL REQUIREMENTS.—The lessor
of the covered rental dwelling unit has made such
certifications to, and entered into such binding
agreements with, the Secretary as the Secretary con-
siders necessary to ensure that during the 5-year pe-
period beginning upon initial receipt by such lessor of
payment under this section for such dwelling unit,
such dwelling unit shall be subject to the following
requirements:

(A) RENT FREEZE.—The monthly rent for
the dwelling unit may not be increased from the
amount of such rent charged as of the date of
the enactment of this Act.

(B) JUST-CAUSE EVICTIONS.—A tenant of
the dwelling unit may be evicted only for just
cause and only pursuant to advance written no-
tice to the tenant of such just cause.

(C) SOURCE OF INCOME DISCRIMINA-
TION.—The lessor may not refuse to rent the
dwelling unit, or discriminate in the renting of
the dwelling unit, to a household based on the
source of income of such household, including
income under the program under section 8(o) of
the United States Housing Act of 1937 (42
U.S.C. 1437f(o)) or any similar tenant-based
rental assistance program.

(D) NEW VACANCIES.—The lessor shall co-
ordinate with the public and other housing au-
thorities for the jurisdiction within which the
dwelling unit is located to make the dwelling
unit available, upon any vacancy, to households
assisted as described in subparagraph (C).

(E) ADMISSIONS RESTRICTIONS.—The les-
sor may not restrict tenancy of the dwelling
unit on the basis of sexual identity or orienta-
tion, gender identity or expression, conviction or
arrest record, credit history, or immigration
status.

(F) ARREARAGES.—The lessor may not
collect an arrearage in rent owed by the tenant
as of the expiration of such 5-year period.

(G) RETALIATION.—The lessor may not
retaliate in any way against a tenant of the
dwelling unit.

(H) DEBT COLLECTORS AND CREDIT RE-
PORTING AGENCIES.—The lessor may not re-
port the tenant of the dwelling unit to a debt
collector or provide any adverse information regard-

ing the tenant to any credit reporting agen-
cy.

(2) Prohibition on duplication of assist-

ance.—Assistance may not be provided under this
section with respect to any dwelling unit for which
assistance is provided pursuant to section 5.

(d) Amount.—

(1) In general.—Subject to paragraph (2),
the amount of a payment under this section with re-
spect to a covered rental dwelling unit may not ex-
ceed the aggregate amount of rent for the dwelling
unit suspended pursuant to section 2(a) and attrib-
utable only to days during the COVID-19 suspen-
sion period that the dwelling unit was occupied by
a tenant otherwise required to pay rent for such oc-
cupancy.

(2) Reimbursement for rent paid by ten-
ants.—In making payments under this section with
respect to any covered dwelling unit for which tenant
made a payment of rent during the COVID-19 sus-
pension period, the Secretary shall—

(A) reduce the amount of the payment to
the lessor under paragraph (1) by the amount
of any such rent paid; and
(B) make a payment to such tenant in the amount of any such rent paid.

(c) PRIORITY.—In making payments under this section, the Secretary shall establish a tiered system for priority for such payments based on assets, revenues, disclosure requirements, and profit status with respect to lessors. Such system shall provide priority for making payments to eligible lessors that are nonprofit organizations or entities and lessors having the fewest available amount of assets.

(f) RECAPTURE.—If a lessor violates any requirement with respect to a covered rental dwelling unit under any certification or agreement entered into pursuant to subsection (c)(2), the Secretary shall recapture from the lessor an amount equal to the entire amount of assistance provided under this section that is attributable to such dwelling unit and cover such amount recaptured into the Fund.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Landlord Relief Fund established pursuant to this section such sums as may be necessary to reimburse all lessors for all rent payments suspended pursuant to section 2(a).
SEC. 5. LENDER RELIEF FUND.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish and manage a Lender Relief Fund (in this section referred to as the “Fund”), to provide mortgagees payments under this section to reimburse such mortgagees for mortgage payments suspended pursuant to section 2(b).

(b) APPLICATION.—The Secretary shall provide for mortgagees under covered residential mortgage loans to apply for reimbursement payments from the Fund, which applications shall include the certifications and binding agreements required pursuant to subsection (c). The Secretary shall provide that an eligible mortgagee may apply for assistance from the Fund only once with respect to any covered residential mortgage loan.

(c) ELIGIBILITY.—The Secretary may provide a payment under this section only with respect to covered residential mortgage loans that meet all of the following requirements:

(1) FAIR AND INCLUSIVE LENDING REQUIREMENTS.—The mortgagee for the mortgage loan has made such certifications to, and entered into such binding agreements with, the Secretary as the Secretary considers necessary to ensure that during the 5-year period beginning upon initial receipt by such mortgagee of payment under this section for such
mortgage loan, such mortgagee shall be subject to
the following requirements:

(A) REPORTING ON LENDING.—The mort-
gagee shall report annually to the Secretary
such detailed information regarding residential
mortgage loans made by such mortgagee as the
Secretary shall require, including the race, eth-
icity, age, and credit score of mortgagors, the
zip codes of properties for which mortgages
were made, and the interest rates and other
loan pricing features of such mortgage loans.

(B) REPORTING ON LENDER.—The mort-
gagee shall report annually to the Secretary
such detailed information regarding the mort-
gagee as the Secretary shall require, including
the location of the offices of the mortgagee, and
practices and systems for outreach to and refer-
ral of borrowers.

(2) PROHIBITION ON DUPLICATION OF ASSIST-
ANCE.—Assistance may not be provided under this
section with respect to any dwelling unit subject to
a covered residential mortgage loan for which assist-
ance is provided pursuant to section 4.

(d) AMOUNT.—
(1) IN GENERAL.—Subject to paragraph (2), the amount of a payment under this section with respect to a covered residential mortgage may not exceed the aggregate amount of mortgage payments under the mortgage suspended pursuant to section 2(b).

(2) REIMBURSEMENT FOR MORTGAGE PAYMENTS MADE BY MORTGAGORS.—In making payments under this section with respect to any covered residential mortgage loan for which the mortgagor made a mortgage payment during the COVID-19 suspension period, the Secretary shall—

(A) reduce the amount of the payment to the mortgagee under paragraph (1) by the amount of any such mortgage payments paid; and

(B) make a payment to the mortgagor in the amount of any such mortgages payments paid.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Lender Relief Fund established pursuant to this section such sums as may be necessary to reimburse all lessors for all rent payments suspended pursuant to section 2(b).
SEC. 6. AFFORDABLE HOUSING ACQUISITION FUND.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish and manage an Affordable Housing Acquisition Fund (in this section referred to as the “Fund”), to fund the acquisition of multifamily housing projects by eligible purchasers to—

(1) ensure that tenants have access to safe and habitable housing conditions regardless of their landlords’ ability to pay for repairs and maintenance during and after the COVID-19 pandemic;

(2) prevent financial hardship for rental property owners; and

(3) prevent a mass exit in the rental housing market that results in massive corporate purchases similar to the 2008 economic crisis.

(b) FIRST RIGHT OF PURCHASE.—

(1) NOTICE TO SECRETARY.—During the 5-year period beginning upon the date of the enactment of this Act, the owner of a multifamily housing property may not sell or transfer ownership of such property unless—

(A) the owner has notified the Secretary, in accordance with such requirements as the Secretary shall establish, of the owner’s intent to sell or transfer the property;
(B) a period of 60 days, beginning upon provision of such notice to the Secretary, has elapsed; and

(C) if during such 60-day period any eligible purchaser under paragraph (3) applies to the Secretary for purchase assistance under subsection (c) with respect to such property, the Secretary has approved or denied such application and, if approved, the eligible purchaser has made a bona fide offer to the owner to purchase such project in the amount determined under subsection (c)(3)(A).

(2) NOTICE TO ELIGIBLE PURCHASERS.—Upon provision to the Secretary of notice under paragraph (1)(A) regarding a multifamily housing project, the Secretary shall take such actions as may be necessary to provide notice to eligible purchasers of the owner’s intent to sell or transfer the property.

(3) ELIGIBLE PURCHASERS.—For purposes of this section, an eligible purchaser under this paragraph shall be a nonprofit organization, a public housing agency, a cooperative housing association, a community land trust, or a State or unit of local government or an agency thereof, as such terms are defined by the Secretary.
(c) **Purchase Assistance.—**

(1) **Application.**—The Secretary shall provide for eligible purchasers to apply for assistance from the Fund to cover the cost of acquisition of a multifamily housing project for which notice has been submitted pursuant to subsection (1)(A).

(2) **Criteria.**—The Secretary shall establish such criteria and preferences as the Secretary considers appropriate to select an eligible purchaser for assistance under this section in cases in which more than one approvable application for such assistance is submitted with respect to a single multifamily housing project.

(3) **Amount.**—Pursuant to an application submitted under paragraph (1) with respect to a multifamily housing project, the Secretary may provide assistance from the Fund on behalf of eligible purchaser submitting such application, in an amount equal to the purchase price for the project agreed to under subparagraph (A) of this paragraph, but only if the Secretary determines that—

(A) such eligible purchaser and the owner of such multifamily housing project have voluntarily agreed to a sale of such project to the eligible purchaser for an amount not exceeding
the fair market value of the project as of the
time of provision of assistance from the Fund
for purchase of the project, as determined by
the Secretary; and

(B) the eligible purchaser has made the
certifications and entered into the agreements
required under subsection (d) with respect to
the project.

(d) AFFORDABLE HOUSING RESTRICTIONS.—The
certifications and agreements required under this sub-
section with respect to a multifamily housing project are
such certifications to, and binding agreements with, the
Secretary as the Secretary considers necessary to ensure
that during the useful life of the project the project will
comply with the following requirements:

(1) AFFORDABLE HOUSING.—The project shall
comply with the requirements under section 215(a)
of the Cranston-Gonzalez National Affordable Hous-
ing Act (42 U.S.C. 12745(a)) necessary to qualify
under such section as affordable housing.

(2) JUST-CAUSE EVICTIONS.—A tenant of the
project may be evicted only for just cause and only
pursuant to advance written notice to the tenant of
such just cause.
(3) **Source of Income Discrimination.**—A prospective tenant household of the project may not be refused rental of a dwelling unit in the project, and a prospective tenant household or tenant household may not be discriminated against in the renting of a dwelling unit in the project, based on the source of income of such household, including income under the program under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) or any similar tenant-based rental assistance program.

(4) **Admissions Restrictions.**—Tenancy of dwelling units in the project may not be restricted on the basis of sexual identity or orientation, gender identity or expression, conviction or arrest record, credit history, or immigration status.

(5) **Supportive Services.**—Residents of the project shall be provided with free, voluntary supportive services that help address the needs of those experiencing chronic homelessness or housing instability, including access to healthcare, employment or education assistance, childcare, financial literacy education, and other community-based support services, as the Secretary shall require.

(6) **Democratic Control.**—Tenants of the project shall have control of living and operating
conditions in the project through a democratically
elected resident board or council.

(c) Recapture.—If an eligible purchaser violates
any requirement with respect to a multifamily housing
project purchased with assistance provided from the Fund
under any certification or agreement entered into pursuant
to subsection (d), the Secretary shall recapture from
the eligible purchase an amount equal to the amount of
such assistance provided and shall cover such amount re-
captured into the Fund.

(f) Authorization of Appropriations.—There is
authorized to be appropriated for the Affordable Housing
Acquisition Fund established pursuant to this section such
sums as may be necessary—

(1) for assistance under this section to fund ac-
quision of multifamily housing projects by eligible
purchasers; and

(2) for each fiscal year, for assistance for the
operation and maintenance of eligible properties pur-
chased with assistance provided from the Fund.

SEC. 7. DEFINITIONS.

For purposes of this Act, the following definitions
shall apply:
(1) COVERED RENTAL DWELLING UNIT.—The term "covered rental dwelling unit" means a dwelling that is occupied by a tenant—

(A) as a primary residence; and

(B)(i) pursuant to a residential lease; or

(ii) without a lease or with a lease terminable at will under State law.

Such term includes such a dwelling unit in multi-family housing, single-family housing, a condominium unit, a unit in cooperative housing, a dwelling unit that is occupied pursuant to a sublease, a single-room occupancy unit, and a manufactured housing dwelling unit and the lot on which it is located.

(2) COVERED RESIDENTIAL MORTGAGE LOAN.—The term "covered residential mortgage loan" means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on residence consisting of a single dwelling unit that is occupied by the mortgagor as a primary residence.

(3) COVID-19 SUSPENSION PERIOD.—The term "COVID-19 suspension period" means the period beginning on April 1, 2020, and ending upon the expiration of the 30-day period that begins upon the
date of the termination by the Federal Emergency
Management Agency of the emergency declared on
March 13, 2020, by the President under the Robert
T. Stafford Disaster Relief and Emergency Assist-
ance Act (42 U.S.C. 4121 et seq.) relating to the
Coronavirus Disease 2019 (COVID–19) pandemic.

(4) **MULTIFAMILY HOUSING PROJECT.**—The
term “multifamily housing project” means a resi-
tential structure consisting of 5 or more dwelling units.

(5) **SECRETARY.**—The term “Secretary” means
the Secretary of Housing and Urban Development.

**SEC. 8. REGULATIONS.**

The Secretary may issue any regulations necessary
to carry out this Act.
Item B-2
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: May 20, 2020

SUBJECT: H.R. 6643 – the Supporting State and Local Leaders Act

ATTACHMENTS:
1. Summary Memo – H.R. 6643
2. Bill Text – H.R. 6643

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.

H.R. 6643 – the Supporting State and Local Leaders Act (H.R. 6643) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s federal lobbyist, David Turch & Associates, provided a summary memo for H.R. 6643 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of H.R. 6643, the Liaisons may recommend the following actions:

1) Support H.R. 6643;
2) Support if amended H.R. 6643;
3) Oppose H.R. 6643;
4) Oppose unless amended H.R. 6643;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on H.R. 6643, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
TO: Cindy Owens, Policy and Management Analyst  
City of Beverly Hills

FROM: Jamie Jones  
Jamie.jones@davdurtch.com  
202-543-3744

DATE: May 15, 2020

RE: HR 6643 – The Supporting State and Local Leaders Act

Illinois Democratic Representative Bradley Schneider introduced H.R. 6643, the Supporting State and Local Leaders Act, on April 28, 2020. The bill repeals the prohibition against granting federal, state, and local governments a tax credit for paid sick and paid family medical leave that was enacted into law last March as part of H.R. 6201, the Families First Coronavirus Response Act.

Representative Schneider’s bill was included in the House Democrats latest COVID-19 relief package, H.R. 6800, the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act. Section 20225 of the bill removes the exclusion disallowing the paid sick and family leave credits enacted in the Families First Coronavirus Response Act for federal, state, and local governments. This section also makes conforming changes to the definition of qualified wagers to align the credit with the intent that the credit cover the leave required by the respective mandates. This provision is effective as if included in the Families First Coronavirus Response Act.

The House of Representatives is expected to pass the HEROES Act on a party line vote later today, Friday, May 15. While Senate Majority Leader Mitch McConnell (R-KY) has called the HEROES Act a $3 trillion Democratic wish list that is “dead on arrival” in the Senate, the measure will nevertheless act as a catalyst in congressional and White House negotiations on shaping the next COVID-19 stimulus bill.

Background

The Families First Coronavirus Response Act expanded Americans’ access to paid sick and family medical leave by requiring public and many private employers to extend these benefits to their employees. H.R. 6201 included payroll tax credits to offset the costs associated with paid leave for private employers but excluded public employers from eligibility. Representative Schneider’s bill repeals that exclusion. Schneider’s proposal has bipartisan support and is endorsed by the U.S. Conference of Mayors, the National League of Cities and other state, county, municipal public sector stakeholders.
Attachment 2
To allow tax credits to Federal, State, and local governments for required paid sick leave and required paid family and medical leave.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2020

Mr. SCHNEIDER (for himself, Mr. KATKO, Mr. COX of California, Mr. KING of New York, Ms. DEGETTE, Mr. SCROTTI, Mr. FITZPATRICK, Mr. ROUDA, Ms. LEE of California, Mr. BLUMENAUER, Mr. PAPPAS, Ms. SÁNCHEZ, Mr. SMITH of Washington, Mrs. NAPOLITANO, Mr. HASTINGS, Ms. BROWNLEY of California, Mr. BEYER, Mr. DANNY K. DAVIS of Illinois, Ms. NORTON, Mr. KILMER, Mr. KILDEE, Mr. DEUTCH, Mr. SEAN PATRICK MALONEY of New York, Ms. DeLAURO, Mr. GRIJALVA, Ms. SCHERRER, Mr. WRIGHT, Mr. DAVID SCOTT of Georgia, Mr. DEFAZIO, Mr. POCAN, Mr. SOTO, Mr. CROW, Mr. PANETTA, Mrs. WATSON COLEMAN, Ms. DELBENE, Mr. YOHO, Ms. SLOTKIN, Mr. COSTA, Ms. SCHAKOWSKY, Mr. STIVERS, Mr. GOTTHEIM, Ms. CASTOR of Florida, Mr. NEGUSE, Mr. BEKA, Ms. KELLY of Illinois, Mr. CARBAJAL, Mr. RYAN, Ms. DEAN, Mr. LARSON of Connecticut, Mrs. MURPHY of Florida, Mr. TRONE, Mr. RASKIN, Ms. MCCOLLUM, Ms. ESCH, Mr. Swalwell of California, Ms. JUDY CHU of California, Ms. STEVENS, Mrs. LURIA, Mr. RODNEY DAVIS of Illinois, Mr. FOSTER, Mr. TED LIEU of California, Mr. KRISHINAMOORTHI, Ms. ESCOBAR, Ms. KAPTUR, Mr. VARGAS, Mr. RUSH, Mr. GONZALEZ of Texas, Mr. SIMPSON, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. MULLIN, Mr. WELCH, Ms. FRANKEL, Miss RICE of New York, Mrs. DINGELL, Ms. CRAIG, Ms. BONAMICI, Mr. PETERS, Ms. OMAR, Ms. PINGREE, Mrs. BEATTY, Ms. Speier, Mr. Sires, Mr. Perlmutter, Mrs. HAYES, Ms. SHALALA, Ms. JAYAPAL, Ms. Herrera Beutler, Mr. King of Iowa, Mr. LOEBACK, Mr. CASTEN of Illinois, Mr. HECK, Mr. DELGADO, Mr. MCEACHIN, Mr. MASHALL, Ms. DAVIDS of Kansas, Ms. MUCAUSEL-Powell, Mr. CLEAVER, Mrs. LAWRENCE, Ms. JOHNSON of Texas, Mr. HUFFMAN, Ms. SEWELL of Alabama, Mr. HIMES, Mr. LOWENTHAL, Ms. FUDGE, Mr. GARAMENDI, Mr. KHANNA, Mr. COHEN, Mr. JOHNSON of Georgia, and Mr. ALLRED) introduced the following bill, which was referred to the Committee on Ways and Means
A BILL

To allow tax credits to Federal, State, and local governments for required paid sick leave and required paid family and medical leave.

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 “Supporting State and Local Leaders Act”.

SEC. 2. FEDERAL, STATE, AND LOCAL GOVERNMENTS AL-
LOWED TAX CREDITS FOR PAID SICK AND
PAID FAMILY AND MEDICAL LEAVE.

(a) In General.—Sections 7001(e) and 7003(e) of
the Families First Coronavirus Response Act are each
amended by striking paragraph (4).

(b) Coordination With Application of Certain
Definitions.—

(1) In General.—Sections 7001(e) and
7003(e) of the Families First Coronavirus Response
Act are each amended by inserting “, determined
without regard to any paragraph of section 3121(b)
of such Code, but only with respect to services per-
formed for the Government of the United States or
any State or tribal government or political subdi-
vision thereof, or any agency or instrumentality of the
foregoing” after “as defined in section 3121(a) of the Internal Revenue Code of 1986”.

(2) CONFORMING AMENDMENTS.—Sections 7001(e)(3) and 7003(e)(3) of the Families First Coronavirus Response Act are each amended by striking “Any term” and inserting “Except as otherwise provided in this section, any term”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Families First Coronavirus Response Act to which they relate.
Item B-3
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: May 20, 2020
SUBJECT: S. 3614 – FEMA Empowering Essential Deliveries Act
ATTACHMENTS: 1. Summary Memo – S. 3614
2. Bill Text – S. 3614

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.

S. 3614 – FEMA Empowering Essential Deliveries Act (S. 3614) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s federal lobbyist, David Turch & Associates, provided a summary memo for S. 3614 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of S. 3614, the Liaisons may recommend the following actions:

1) Support S. 3614;
2) Support if amended S. 3614;
3) Oppose S. 3614;
4) Oppose unless amended S. 3614;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on S. 3614, then staff will place the item on a future City Council Agenda for concurrence.
Senators Kamala Harris (D-CA) and Tim Scott (R-SC) introduced S.3614, the FEMA Empowering Essential Deliveries (FEED) Act, on May 5, 2020. The legislation authorizes the federal government to pay 100 percent of the cost to states and localities so that they can partner with restaurants and nonprofits to prepare nutritious meals for vulnerable populations, such as seniors and underprivileged children. According to Senators Harris and Scott, the partnerships the bill encourages will support businesses and small farmers during the length of the coronavirus pandemic. Representatives Mike Thompson (D-CA) and James McGovern (D-MA) have introduced a companion bill, H.R. 6700, in the House of Representatives. The FEED Act is inspired by the humanitarian work of Chef José Andrés who has used his culinary skills to feed impoverished and hungry people around the world.

The FEED Act is authorized under the current national designated disaster declaration and for any subsequent major disaster declarations.

In addition, the bill requires the following:

- To be eligible to provide food services, State, local, or Indian tribal governments shall establish a network to coordinate food distribution and delivery that includes a detailed plan to:
  - establish contracts with small and mid-sized restaurants and nonprofits, including faith-based organizations and soup kitchens, to prepare healthy meals for people in need; and
  - partner with nonprofit organizations, including faith-based organizations and soup kitchens, to purchase directly from food producers and farmers.

- The FEED Act is authorized under the current national designated disaster declaration and for any subsequent major disaster declarations.
Attachment 2
116TH CONGRESS  
2D SESSION  

S. 3614

To authorize the Administrator of the Federal Emergency Management Agency to approve State and local plans to partner with small and mid-size restaurants and nonprofit organizations to provide nutritious meals to individuals in need, to waive certain matching fund requirements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 5, 2020

Ms. HARRIS (for herself and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To authorize the Administrator of the Federal Emergency Management Agency to approve State and local plans to partner with small and mid-size restaurants and nonprofit organizations to provide nutritious meals to individuals in need, to waive certain matching fund requirements, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “FEMA Empowering
5 Essential Deliveries Act” or the “FEED Act”.

1
SEC. 2. STATE AND LOCAL PLANS FOR MEAL DELIVERY.

(a) IN GENERAL.—During the period following the emergency declaration issued by the President on March 13, 2020, pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191(b)), and under any subsequent major disaster declaration under section 401 of such Act (42 U.S.C. 5170) that supersedes such emergency declaration, the Administrator of the Federal Emergency Management Agency may approve plans from State, local, and Indian tribal governments that meet the requirements of subsection (b).

(b) REQUIREMENTS.—To be eligible to provide food services set forth in this subsection, a State, local, or Indian tribal government shall establish a network to coordinate food distribution and delivery that includes a detailed plan to—

(1) establish contracts with small and mid-sized restaurants and nonprofits, including faith-based organizations and soup kitchens to prepare healthy meals for people in need; and

(2) partner with nonprofit organizations, including faith-based organizations and soup kitchens to purchase directly from food producers and farmers.
(c) Waiver of Matching Requirements.—During the period referred to in subsection (a), the Administrator of the Federal Emergency Management Agency shall waive the matching requirements in sections 403(b) and 503(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b(b), 5193(a)).
Item B-4
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: May 20, 2020
SUBJECT: AB 664 (Cooper and Gonzalez) Workers’ Compensation: Injury: Communicable Disease
ATTACHMENTS: 1. Summary Memo – Shaw Yoder Antwih Schmelzer & Lange
2. Bill Text – AB 664

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.

AB 664 (Cooper and Gonzalez) Workers’ Compensation: Injury: Communicable Disease (“AB 664”) 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 664 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee (“Liaisons”).

After discussion of AB 664, the Liaisons may recommend the following actions:

1) Support AB 664;
2) Support if amended AB 664;
3) Oppose AB 664;
4) Oppose unless amended AB 664;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 664, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
May 15, 2020

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


ATTACHMENTS: Exhibit A – Executive Order, May 6, 2020
Exhibit B – Bill Test AB 196
Exhibit C – Executive Order – March 19, 2020

Introduction and Background
On May 6, Governor Gavin Newsom issued an Executive Order that declares COVID-19 infections to be work related for purposes of eligibility for workers’ compensation benefits (Exhibit A). The order applies to all employees who reported to work outside of the home during the period of March 19, 2020 through July 5, 2020 (the order is active for sixty days following issuance) and would also require a positive COVID-19 test. The “rebuttable presumption” could be overcome by employers who can provide evidence that their employee contracted COVID-19 outside of the workplace. If no such evidence is available, then the infection will be covered by the employer-funded workers’ compensation system.

On April 17, Assemblymembers Jim Cooper, Lorena Gonzalez, and Rob Bonta, introduced AB 644, which would enact a conclusive presumption for front-line health workers and first responders, such as police, firefighters, and healthcare workers, if they contract COVID-19 or any other infectious disease, but only if state or local government has declared a state of emergency. The bill would also expand the benefits provided under the workers’ compensation system to include housing and living expenses, apply post-termination for up to 90 days, and preclude apportionment to pre-existing disability.

AB 664 is sponsored by the Los Angeles Police Protective League, Association for Los Angeles Deputy Sheriffs, California Professional Firefighters, and the California Nurses Association.

Shortly after AB 664 was introduced, Assemblymember Lorena Gonzalez amended AB 196 (Exhibit B), which would apply a conclusive presumption for COVID-19 specifically to all workers not covered by AB 664, but who were deemed essential in the Governor’s March 19, 2020 Executive Order to shelter-in-place (Exhibit C). AB 196, however, differs from AB 664 in that it does not apply post-termination, does not preclude apportionment, and does not expand workers’ compensation benefits to include housing and living expenses.

Status of Legislation
AB 664 is currently in the Senate Labor, Public Employment and Retirement Committee.
Support and Opposition
According to the California Nurses Association, “California is one of many states that have laws that grant some public safety employees, such as police officers and firefighters, “presumptive eligibility” for workers’ compensation. However, nurses have no such protections at all, even though, by the nature of their work, they suffer some of the highest risks of injury and illness of any profession. This bill would correct this unfair treatment.”

The California Chamber of Commerce, however, states that “AB 664 will impose a significant financial burden on employers, including those in the healthcare industry, and create a troubling precedent for the workers’ compensation system in general by creating a conclusive presumption that communicable diseases, including COVID-19, are conclusively workplace injuries for certain public employees and all hospital employees that provide direct patient care.” They have labeled AB 664 as a “Job Killer.”

Support
Los Angeles Police Protective League (Sponsor)
Association for Los Angeles Deputy Sheriffs (Sponsor)
California Professional Firefighters (Sponsor)
California Nurses Association (Sponsor)

Opposition
California Chamber of Commerce
Exhibit A
EXECUTIVE ORDER N-62-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS on March 19, 2020, I issued Executive Order N-33-20, directing all residents statewide to obey all state public health directives, including the State Public Health Officer’s order to all individuals living in the state to stay home or at their other place of residence, except as otherwise specified, including as needed to maintain continuity of operations of critical infrastructure sectors during the COVID-19 response; and

WHEREAS employees who report to their places of employment are often exposed to an increased risk of contracting COVID-19, which may require medical treatment, including hospitalization; and

WHEREAS employees who report to work while sick increase health and safety risks for themselves, their fellow employees, and others with whom they come into contact; and

WHEREAS prompt and efficient treatment will be realized by facilitating access to this state’s workers’ compensation system for medical treatment and disability benefits; and

WHEREAS the provision of workers’ compensation benefits related to COVID-19, when appropriate, will reduce the spread of COVID-19 and otherwise mitigate the effects of COVID-19 among all Californians, thereby promoting public health and safety; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1) Any COVID-19-related illness of an employee shall be presumed to arise out of and in the course of the employment for purposes of awarding workers’ compensation benefits if all of the following requirements are satisfied:
a. The employee tested positive for or was diagnosed with COVID-19 within 14 days after a day that the employee performed labor or services at the employee's place of employment at the employer's direction;

b. The day referenced in subparagraph (a) on which the employee performed labor or services at the employee's place of employment at the employer's direction was on or after March 19, 2020;

c. The employee's place of employment referenced in subparagraphs (a) and (b) was not the employee's home or residence; and

d. Where subparagraph (a) is satisfied through a diagnosis of COVID-19, the diagnosis was done by a physician who holds a physician and surgeon license issued by the California Medical Board and that diagnosis is confirmed by further testing within 30 days of the date of the diagnosis.

2) The presumption set forth in Paragraph 1 is disputable and may be controverted by other evidence, but unless so controverted, the Workers' Compensation Appeals Board is bound to find in accordance with it. This presumption shall only apply to dates of injury occurring through 60 days following the date of this Order.

3) Notwithstanding Labor Code section 5402, if liability for a claim of a COVID-19-related illness pursuant to Paragraph 1 is not rejected within 30 days after the date the claim form is filed under Labor Code section 5401, the illness shall be presumed compensable, unless rebutted by evidence only discovered subsequent to the 30-day period.

4) An accepted claim for the COVID-19-related illness referenced in Paragraph 1 shall be eligible for all benefits applicable under the workers' compensation laws of this state, including full hospital, surgical, medical treatment, disability indemnity, and death benefits, and shall be subject to those laws including Labor Code sections 4663 and 4664, except as otherwise provided in this Order.

5) Notwithstanding any applicable workers' compensation statute or regulation, where an employee has paid sick leave benefits specifically available in response to COVID-19, those benefits shall be used and exhausted before any temporary disability benefits or benefits under Labor Code section 4850 are due and payable. Where an employee does not have such sick leave benefits, the employee shall be provided temporary disability benefits or Labor Code section 4850 benefits if applicable, from the date of disability. In no event shall there be a waiting period for temporary disability benefits.

6) To qualify for temporary disability or Labor Code section 4850 benefit payments under this Order, an employee must satisfy either of the following:

a. If the employee tests positive or is diagnosed under Paragraph 1 on or after the date of this Order, the employee must be certified for temporary disability within the first 15 days after the
initial diagnosis, and must be recertified for temporary disability every 15 days thereafter, for the first 45 days following diagnosis; or

b. If the employee tested positive or was diagnosed under Paragraph 1 prior to the date of this Order, the employee must obtain a certification, within 15 days of the date of the Order, documenting the period for which the employee was temporarily disabled and unable to work, and must be recertified for temporary disability every 15 days thereafter, for the first 45 days following diagnosis.

All employees must be certified for temporary disability by a physician holding a physician and surgeon license issued by the California Medical Board. The certifying physician can be a designated workers’ compensation physician in an applicable Medical Provider Network or Health Care Organization, a predesignated workers’ compensation physician, or a physician in the employee’s group health plan. If the employee does not have a designated workers’ compensation physician or group health plan, the employee should be certified by a physician of the employee’s choosing who holds a physician and surgeon license.

7) The Administrative Director of the Division of Workers’ Compensation shall adopt, amend, or repeal any regulations that the Administrative Director deems necessary to implement this Order. Any regulations so promulgated by the Administrative Director shall be exempt from the Administrative Procedures Act (Chapter 3.5 of Part 1 of Title 2 of the Government Code), except that the Administrative Director shall submit the regulations to the Office of Administrative Law for publication in the California Regulatory Notice Register.

8) This Order shall apply to all workers’ compensation insurance carriers writing policies that provide coverage in California, self-insured employers, and any other employer carrying its own risk, including the State of California. Nothing in this Order shall be construed to limit the existing authority of insurance carriers to adjust the costs of their policies.

9) The Department of Industrial Relations shall waive collection on any death benefit payment due pursuant to Labor Code section 4706.5 arising out of claims covered by this Order.

Nothing in this Order shall be construed to modify or suspend any workers’ compensation statute or regulation not in conflict with this Order, or to reduce or eliminate any other right or benefit to which an employee is otherwise entitled under law, including the Families First Coronavirus Recovery Act, collective bargaining agreement, or Employee Benefit Plan, including group health insurance, that is in effect prior to March 19, 2020.
IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 6th day of May 2020.

[Signature]
Gavin Newsom
Governor of California

ATTEST:

[Signature]
Alex Padilla
Secretary of State
Exhibit B
AN ACT TO AMEND SECTION 3213.5 OF THE LABOR CODE
RELATING TO WORKERS’ COMPENSATION

AB 196, as amended, Gonzalez.


Existing law establishes a workers’ compensation system, administered by the Administrative Director of the Division of Worker’s Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law creates a disputable presumption that specified injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of employment.

This bill would define “injury,” for certain employees who are employed in an occupation or industry deemed essential in the Governor’s Executive Order of March 19, 2020 (Executive Order N-33-20), except as specified, or who are subsequently deemed essential, to include coronavirus disease 2019 (COVID-19) that develops or manifests itself during a period of employment of those persons in the essential occupation or industry. The bill would apply to injuries
occurring on or after March 1, 2020, would create a conclusive presumption, as specified, that the injury arose out of and in the course of the employment, and would extend that presumption following termination of service for a period of 90 days, commencing with the last date actually worked.

Existing unemployment compensation disability law requires workers to pay contribution rates based on, among other things, wages received in employment and benefit disbursement, for payment into the Unemployment Compensation Disability Fund, a special fund in the State Treasury. That fund is continuously appropriated for the purpose of providing disability benefits and making payment of expenses in administering those provisions.

Existing law establishes, within the state disability insurance program, a family temporary disability insurance program, also known as the paid family leave program, for the provision of wage replacement benefits for up to 6 weeks to workers who take time off work to care for a seriously ill family member or to bond with a minor child within one year of birth or placement, as specified. Existing law defines “weekly benefit amount” for purposes of both employee contributions and benefits under this program to mean the amount of weekly benefits available to qualifying disabled individuals pursuant to unemployment compensation disability law, calculated pursuant to specified formulas partly based on the applicable percentage of the wages paid to an individual for employment by employers during the quarter of the individual’s disability base period in which these wages were highest, but not to exceed the maximum workers’ compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations.

This bill would revise the formula for determining benefits available pursuant to the family temporary disability insurance program, for periods of disability commencing after January 1, 2020, by redefining the weekly benefit amount to be equal to 100% of the wages paid to an individual for employment by employers during the quarter of the individual’s disability base period in which these wages were highest, divided by 13, but not exceeding the maximum workers’ compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations.

By providing for the deposit of additional contributions in, and by authorizing an increase in disbursements from, the Unemployment Compensation Disability Fund, this bill would make an appropriation:
The people of the State of California do enact as follows:

SECTION 1. Section 3213.5 is added to the Labor Code, to read:

3213.5. (a) In the case of an employee, other than a person described in subdivision (b), who is employed in an occupation or industry deemed essential in the Governor’s Executive Order of March 19, 2020 (Executive Order N-33-20), or who is subsequently deemed essential, the term “injury,” as used in this section, includes coronavirus disease 2019 (COVID-19) that develops or manifests itself during a period of the person’s employment in the essential occupation or industry.

(b) This section does not apply to any of the following persons:

(1) Active firefighting members, whether volunteers, partly paid, or fully paid, of all of the following fire departments:

(A) A fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision.

(B) A fire department of the University of California and the California State University.

(C) The Department of Forestry and Fire Protection.

(D) A county forestry or firefighting department or unit.

(2) Peace officers, as defined in Section 830 of the Penal Code.

(3) Health care employees who provide direct patient care in an acute care hospital, as defined in subdivision (a) or (b) of Section 1250 of the Health and Safety Code.

(4) Fire and rescue services coordinators who work for the Office of Emergency Services.

(c) The compensation awarded for an injury described in subdivision (a) shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(d) The injury described in subdivision (a) so developing or manifesting itself shall be conclusively presumed to arise out of and in the course of employment.

(e) The presumption described in subdivision (d) shall be extended to the employee following termination of service for a period of 90 days, commencing with the last date actually worked.
(f) This section applies to an injury that occurs on or after March 1, 2020.

SECTION 1. Section 3301 of the Unemployment Insurance Code, as amended by Section 1 of Chapter 849 of the Statutes of 2018, is amended to read:

3301. (a) (1) The purpose of this chapter is to establish, within the state disability insurance program, a family temporary disability insurance program. Family temporary disability insurance shall provide up to six weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, grandparent, grandchild, sibling, or domestic partner, or to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption.

(2) Nothing in this chapter shall be construed to abridge the rights and responsibilities conveyed under the CFRA or pregnancy disability leave.

(b) (1) An individual’s “weekly benefit amount” for periods of disability commencing before January 1, 2020, shall be the amount provided in Section 2655, and for periods of disability commencing on or after January 1, 2020, shall be the amount provided in paragraph (2). An individual is eligible to receive family temporary disability insurance benefits equal to one-seventh of the individual’s weekly benefit amount for each full day during which the individual is unable to work due to caring for a seriously ill or injured family member or bonding with a minor child within one year of the birth or placement of the child in connection with foster care or adoption.

(2) For periods of disability commencing on or after January 1, 2020, the weekly benefit amount shall be equal to 100 percent of the wages paid to an individual for employment by employers during the quarter of the individual’s disability base period in which these wages were highest, divided by 13, but not exceeding the maximum workers’ compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations pursuant to Section 4453 of the Labor Code.

(e) The maximum amount payable to an individual during any disability benefit period for family temporary disability insurance shall be six times the individual’s “weekly benefit amount,” but in no case shall the total amount of benefits payable be more than the total wages paid to the individual during the individual’s
disability base period. If the benefit is not a multiple of one dollar ($1), it shall be computed to the next higher multiple of one dollar ($1).

(d) No more than six weeks of family temporary disability insurance benefits shall be paid within any 12-month period.

(e) An individual shall file a claim for family temporary disability insurance benefits not later than the 41st consecutive day following the first compensable day with respect to which the claim is made for benefits, which time shall be extended by the department upon a showing of good cause. If a first claim is not complete, the claim form shall be returned to the claimant for completion and it shall be completed and returned not later than the 10th consecutive day after the date it was mailed by the department to the claimant, except that such time shall be extended by the department upon a showing of good cause.

(f) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

SEC. 2. Section 3301 of the Unemployment Insurance Code, as added by Section 2 of Chapter 849 of the Statutes of 2018, is amended to read:

3301. (a) (1) The purpose of this chapter is to establish, within the state disability insurance program, a family temporary disability insurance program. Family temporary disability insurance shall provide up to six weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, grandparent, grandchild, sibling, or domestic partner, to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption, or to participate in a qualifying exigency related to the covered active duty or call to covered active duty of the individual’s spouse, domestic partner, child, or parent in the Armed Forces of the United States.

(2) Nothing in this chapter shall be construed to abridge the rights and responsibilities conveyed under the CFRA or pregnancy disability leave.

(b) (1) An individual’s “weekly benefit amount” shall be the amount provided in paragraph (2). An individual is eligible to receive family temporary disability insurance benefits equal to one seventh of the individual’s weekly benefit amount for each full day during which the individual is unable to work due to caring
for a seriously ill or injured family member, bonding with a minor child within one year of the birth or placement of the child in connection with foster care or adoption, or participating in a qualifying exigency related to the covered active duty or call to covered active duty of the individual’s spouse, domestic partner, child, or parent in the Armed Forces of the United States.

(2) The weekly benefit amount shall be equal to 100 percent of the wages paid to an individual for employment by employers during the quarter of the individual’s disability base period in which these wages were highest, divided by 13, but not exceeding the maximum workers’ compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations pursuant to Section 4453 of the Labor Code.

(c) The maximum amount payable to an individual during any disability benefit period for family temporary disability insurance shall be six times the individual’s “weekly benefit amount,” but in no case shall the total amount of benefits payable be more than the total wages paid to the individual during the individual’s disability base period. If the benefit is not a multiple of one dollar ($1), it shall be computed to the next higher multiple of one dollar ($1).

(d) No more than six weeks of family temporary disability insurance benefits shall be paid within any 12-month period.

(e) An individual shall file a claim for family temporary disability insurance benefits not later than the 41st consecutive day following the first compensable day with respect to which the claim is made for benefits, which time shall be extended by the department upon a showing of good cause. If a first claim is not complete, the claim form shall be returned to the claimant for completion and it shall be completed and returned not later than the 10th consecutive day after the date it was mailed by the department to the claimant, except that such time shall be extended by the department upon a showing of good cause.

(f) This section shall become operative on January 1, 2021.
Exhibit C
EXECUTIVE ORDER N-33-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

WHEREAS for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: https://covid19.ca.gov/. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19. In addition, and in consultation with the Director of the Governor’s Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or
destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.

3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.

4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of March 2020.

GAVIN NEWSOM
Governor of California

ATTEST:
ALEX PADILLA
Secretary of State
Attachment 2
Introducing the bill

An act to amend Section 4663 of, and to add Section 3212.18 to, the Labor Code, relating to workers’ compensation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST


Existing law establishes a workers’ compensation system, administered by the Administrative Director of the Division of Workers’ Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law creates a disputable presumption that specified injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of employment.
Existing law also makes an employer liable only for the percentage of permanent disability directly caused by the injury arising out of and occurring in the course of employment. Existing law requires apportionment of permanent disability to be based on causation, and requires a physician’s report addressing the issue of permanent disability to include an apportionment determination in order for the report to be considered complete on that issue. Existing law exempts certain injuries, including the above-described injuries, from the provisions requiring apportionment.

This bill would define “injury,” for certain state and local firefighting personnel, peace officers, certain hospital employees, and certain fire and rescue services coordinators who work for the Office of Emergency Services to include being exposed to or contracting, on or after January 1, 2020, a communicable disease, including coronavirus disease 2019 (COVID-19), that is the subject of a state or local declaration of a state of emergency that is issued on or after January 1, 2020. The bill would create a conclusive presumption, as specified, that the injury arose out of and in the course of the employment. The bill would apply to injuries that occurred prior to the declaration of the state of emergency. The bill would also exempt these provisions from the apportionment requirements.

This bill would declare that it is to take effect immediately as an urgency statute.

State-mandated local program: no.

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

SECTION 1. Section 3212.18 is added to the Labor Code, immediately following Section 3212.15, to read:

3212.18. (a) This section applies to all of the following:
(1) Active firefighting members, whether volunteers, partly
paid, or fully paid, of all of the following fire departments:
(A) A fire department of a city, county, city and county, district,
or other public or municipal corporation or political subdivision.
(B) A fire department of the University of California and the
California State University.
(C) The Department of Forestry and Fire Protection.
(D) A county forestry or firefighting department or unit.
(2) Peace officers, as defined in Section 830 of the Penal Code.
(3) Health care employees who provide direct patient care in an acute care hospital, as defined in subdivision (a) or (b) of Section 1250 of the Health and Safety Code.

(4) (A) Fire and rescue services coordinators who work for the Office of Emergency Services.

(B) For purposes of this paragraph, “fire and rescue services coordinators” means coordinators who are in any of the following job classifications: coordinator, senior coordinator, or chief coordinator.

(b) In the case of a person described in subdivision (a), the term “injury,” as used in this division, includes direction to enter into quarantine by a licensed health care professional, a public health officer or agency, or the employer as a result of, or exposure to or contraction of, a communicable disease, including coronavirus disease 2019 (COVID-19), that occurs on or after January 1, 2020, and that is the subject of a state or local declaration of a state of emergency that is issued on or after January 1, 2020. For purposes of this section, the injury may occur prior to the declaration of a state of emergency.

(c) For an injury described in subdivision (b), the compensation shall include all of the following:

(1) Full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(2) (A) Reasonable costs of reimbursement to the employee for all of the following:

(i) Emergency equipment or personal protective equipment (PPE) that provides, or is ancillary to other emergency equipment or PPE that provides, protection from the injury for the person.

(ii) Emergency equipment or PPE that provides, or is ancillary to other emergency equipment or PPE that provides, protection for other persons from transmission of the injury by the person.

(iii) Reasonable medical expenses relating to protection from or treatment of the injury and, in addition, reasonable living expenses, other than temporary housing costs, that exceeded the living expenses usually incurred by the person and that were incurred as a direct result of the injury.

(B) An employee is not required to have been directed to enter quarantine in order to be eligible for reimbursement of the expenses described in clause (i) or (ii) of subparagraph (A).
(3) (A) Temporary housing costs, under the circumstances described in subparagraph (B), incurred by an employee in the scope of performing duties relating to the declaration of a state of emergency, as described in subdivision (b), or for the purpose of protecting others from being exposed to or contracting the communicable disease.

(B) An employee shall be reimbursed for reasonable temporary housing costs if the employee is ordered by the employer or is advised by a licensed physician to enter into or remain in quarantine in temporary housing because the employee was exposed to or shows symptoms of the communicable disease, or because the employee would place other persons at risk of being exposed to or contracting the communicable disease if the employee remained in the employee’s principal place of residence.

(d) The injury so developing or manifesting itself in these cases shall be conclusively presumed to arise out of and in the course of the employment. This presumption shall be extended to a person described in subdivision (a) following termination of service for a period of 90 days, commencing with the last date actually worked in the specified capacity.

(e) (1) It is the intent of the Legislature in enacting this section to fully compensate the peace officers, firefighters, and health care employees whose lives are placed at risk when they are exposed to or contract COVID-19 or other communicable diseases in the course of performing their duties. To that end, the Legislature finds and declares that whenever a state or local state of emergency, as described in subdivision (b), is declared, both of the following policies and goals should be implemented:

(A) Funding necessary to implement this section should be prioritized over other funding authorized for purposes of addressing the state of emergency.

(B) An employee who is eligible for compensation pursuant to this section should be reimbursed as described in this section and should not be required to use the employee’s accrued vacation leave, personal leave, compensatory leave, sick leave, or any other leave, other than applicable benefits made available pursuant to this division, in order to be reimbursed.

(2) It is the intent of the Legislature to strongly encourage the development and implementation of the policies and goals
described in paragraph (1) in order to effectuate the intent of the Legislature in enacting this section.

SEC. 2. Section 4663 of the Labor Code is amended to read:

4663. (a) Apportionment of permanent disability shall be based on causation.

(b) A physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury shall address in that report the issue of causation of the permanent disability.

(c) In order for a physician’s report to be considered complete on the issue of permanent disability, the report must include an apportionment determination. A physician shall make an apportionment determination by finding what approximate percentage of the permanent disability was caused by the direct result of injury arising out of and occurring in the course of employment and what approximate percentage of the permanent disability was caused by other factors both before and subsequent to the industrial injury, including prior industrial injuries. If the physician is unable to include an apportionment determination in the physician’s report, the physician shall state the specific reasons why the physician could not make a determination of the effect of that prior condition on the permanent disability arising from the injury. The physician shall then consult with other physicians or refer the employee to another physician from whom the employee is authorized to seek treatment or evaluation in accordance with this division in order to make the final determination.

(d) An employee who claims an industrial injury shall, upon request, disclose all previous permanent disabilities or physical impairments.

(e) Subdivisions (a), (b), and (c) do not apply to injuries or illnesses covered under Sections 3212, 3212.1, 3212.18, 3212.2, 3212.3, 3212.4, 3212.5, 3212.6, 3212.7, 3212.8, 3212.85, 3212.9, 3212.10, 3212.11, 3212.12, 3213, and 3213.2.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In light of the Governor’s declaration on March 4, 2020, of a state of emergency due to the spread of coronavirus disease 2019 (COVID-19), and because firefighters, peace officers, health care workers, and fire and rescue services coordinators who provide
vital services during the state of emergency are at heightened risk for exposure to and death from COVID-19, in order to ensure that these persons are properly reimbursed for their out-of-pocket costs for the purchase of personal protective equipment, medical and living expenses, and temporary housing as soon as possible, it is necessary that this act take effect immediately.
Item B-5
INTRODUCTION

Assembly Bill 2256 (Garcia) – Regional Housing Needs Allocation: Adjacent Cities: Agreements would authorize two cities that meet specified requirements to enter into a memorandum of understanding to build a housing project in one jurisdiction and share the credit associated with the housing project for purposes of satisfying their regional housing needs allocation requirements. Among other things, the bill would require the memorandum of understanding to provide for the creation of housing for households of low income and very low income and provide for an explicit, mutual agreement for distribution of the credit associated with the housing project in connection with regional housing needs allocation requirements (Attachment 1).

This item requests the Legislative/Lobby Liaisons consider taking a position on Assembly Bill 2256 (“AB 2256”).

DISCUSSION

AB 2256 seeks to promote the creation of affordable housing for households of low income and very low income by allowing two adjacent cities to enter into a memorandum of understanding (“MOU”). The MOU would allow the construction to occur in one jurisdiction and share the credit associated with the housing project for purposes of satisfying their regional housing needs allocation (“RHNA”) requirement.

AB 2256 states one of the cities must face prohibitive obstacles to develop affordable housing in its own jurisdiction. This can include but is not limited to:

- High property values,
- Lack of land suitable for residential development, and
- Building restrictions that result from the presence of a high fire hazard severity zone.

Additionally, the city seeking to build affordable housing in the second jurisdiction must:

- Own land in the second city suitable for the project and
- Have fiscal resources to finance the housing project.

The MOU entered into by the two cities shall satisfy the following requirements:

- Create housing for households of low and very low income;
- Provide adequate financing for the housing project by the city in which the project will not be located; and
- Express an explicitly and mutually agreed upon distribution of the RHNA credit.
The California State Department of Housing and Community Development has the approval authority over the MOU entered into by the two cities. The MOU is not considered valid until the MOU is approved.

This bill currently has no organizations listed in support or opposition on file.

This bill may not move forward to committee this year due to the COVID-19 crisis; however, given the City’s interest in this area, staff is seeking direction on issuing a letter to the author in case it moves forward rapidly.

**FISCAL IMPACT**

It is unknown at this time what the fiscal impact of this legislation would be on the City should it pass.

**RECOMMENDATION**

After discussion of Assembly Bill 2256 (Garcia) – Regional Housing Needs Allocation: Adjacent Cities: Agreements the Liaisons may recommend the following actions:

1) Support AB 2256;
2) Support if amended AB 2256;
3) Oppose AB 2256;
4) Oppose unless amended AB 2256;
5) Remain neutral; or
6) Provide other direction to City staff such as:
   a) Adding this particular topic to the Legislative Platform for adoption by the City Council
   b) Direct staff to work with the bill’s author

Should the Liaisons recommend the City take a position on AB 2256, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
Introduced by Assembly Member Eduardo Garcia

February 13, 2020

An act to amend Section 8825 of the Health and Safety Code, relating to cemeteries. An act to add Section 65584.085 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL’S DIGEST


Existing law, the Planning and Zoning Law, which is administered by the Director of State Planning and Research, requires a local planning agency to prepare, and a local legislative body to adopt, a long-term general plan that includes prescribed elements, including a housing element. Existing law prescribes certain methods pursuant to which the Department of Housing and Community Development may determine the existing and projected need for housing by region. Existing law authorizes the County of Napa and the City of Napa to reach a mutually acceptable agreement to allow one of those jurisdictions to report on its annual housing production report to the Department of Housing and Community Development, entitlements, building permits, and certificates of occupancy issued by the other jurisdiction for the development of housing if certain conditions are met.

This bill would authorize 2 cities that meet specified requirements to enter into a memorandum of understanding to build a housing project in one jurisdiction and share the credit associated with the housing
project for purposes of satisfying their regional housing needs allocation requirements. The bill would require the cities to be adjacent and that one city face prohibitive obstacles in the development of affordable housing in its jurisdiction, own land in the 2nd city suitable for the development, and have fiscal resources to finance the housing project. Among other things, the bill would require the memorandum of understanding to provide for the creation of housing for households of low income and very low income and provide for an explicit, mutual agreement for distribution of the credit associated with the housing project in connection with regional housing needs allocation requirements. The bill would condition the validity of the memorandum of understanding upon approval by the Department of Housing and Community Development.

Existing law authorizes a private corporation authorized by its articles so to do, to establish, maintain, manage, improve, or operate a cemetery, and conduct any or all of the businesses of a cemetery, either for or without profit to its members or stockholders. Existing law authorizes a cemetery authority that maintains a cemetery to place its cemetery under endowment care and establish, maintain, and operate an endowment care fund to care for, maintain, and embellish the cemetery. Existing law also authorizes a city or county that has a nonendowment care cemetery within its boundaries that threatens or endangers the health, safety, comfort, or welfare of the public and in which not more than 10 human remains have been interred for a period of 5 years, to declare the abandonment of a cemetery as a place of future interment. Existing law requires the city or county to allow interments after the resolution in specified circumstances.

This bill would make technical, nonsubstantive changes to these provisions.


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

1. SECTION 1. Section 65584.085 is added to the Government Code, to read:

   65584.085. (a) In order to promote the creation of affordable housing for households of low income and very low income, two cities that meet the requirements of subdivision (b) may enter into a memorandum of understanding to build the housing in one
jurisdiction and share the credit associated with the housing project for purposes of satisfying their regional housing needs allocation requirements, subject to the approval of the department.

(b) In order to be eligible to enter into a memorandum of understanding for purposes of this section:

(1) The two cities shall be adjacent.

(2) One city shall:

(A) Face prohibitive obstacles in the development of affordable housing in its jurisdiction for an identifiable reason or reasons that may include, but are not limited to, high property values, lack of land suitable for residential development, or building restrictions that result from the presence of a high fire severity zone as designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

(B) Own land in the jurisdiction of the second city upon which the housing project will be partially or fully developed.

(C) Have the fiscal resources to finance the housing project in the second city.

(c) A memorandum of understanding entered into by the cities described in subdivision (b) shall satisfy the following requirements:

(1) Provide for the creation of housing for households of low income and very low income, as defined in subdivision (f) of Section 65584.

(2) Provide adequate financing for the housing project by the city in which the project will not be located.

(3) Express an explicit and mutually agreed upon distribution of the credit associated with the housing project for purposes of satisfying their regional housing needs allocation requirements.

(d) A memorandum of understanding created pursuant to the provisions of this section shall not be valid until it is approved by the department.

SECTION 1. Section 8825 of the Health and Safety Code is amended to read:

8825. A city or county that has a nonendowment care cemetery within its boundaries that threatens or endangers the health, safety, comfort, or welfare of the public may, by resolution of its governing board, if not more than 10 human remains have been interred therein for a period of five years immediately preceding
the date of the resolution, declare the abandonment of the cemetery
as a place of future interment. The city or county shall permit
interment in the abandoned cemetery of a person who owns a plot
in the cemetery on the date the resolution is adopted or who
otherwise has a right of interment in the cemetery that is vested
on the date of the resolution. The resolution may provide for the
removal of copings, improvements, and embellishments that the
governing board finds to be a threat or danger to the health, safety,
comfort, or welfare of the public:
Item B-6
INTRODUCTION

Assembly Bill 3040 (Chiu) – Planning: Regional Housing Needs Assessment would authorize a city or county to include in its inventory of land suitable for residential development specified sites that contain an existing single-family dwelling unit, that the city or county authorizes to contain four dwelling units as a use by right. The bill would require these sites be identified to satisfy either the moderate or the above-moderate income regional housing need income level. The bill would require a city or county identifying a site pursuant to these provisions to adopt a resolution or ordinance that, among other things, establishes the additional units may be developed as a use by right on the site (Attachment 1).

This item requests the Legislative/Lobby Liaisons consider taking a position on Assembly Bill 3040 (“AB 3040”).

DISCUSSION

Under state law, a city or county is required to identify sites throughout the community which can be developed for housing within the regional housing needs allocation (“RHNA”) planning period such that there are sufficient opportunities for a jurisdiction to provide for their share of the RHNA for all income levels.

AB 3040 seeks to promote the creation of affordable housing for households of moderate or the above-moderate income as required by RHNA. This bill would authorize a city or county to include in its RHNA inventory of land suitable for residential development those properties that contain an existing single-family dwelling unit, which the jurisdiction designates as being able to contain four dwelling units as a use by right. This bill would provide a credit of 0.1 units towards a city’s or county’s share of RHNA for each parcel designated as such, with the cumulative credit received by the jurisdiction not to exceed 25 percent of the total units needed to meet the assigned RHNA number.

The bill would require a city or county identifying a site pursuant to these provisions to adopt a resolution or ordinance that, among other things, establishes the additional units may be developed as a use by right on the site. The California State Department of Housing and Community Development (“Department”) would be required to review and make findings on the resolution or ordinance adopted by a city or county.
AB 3040 would also authorize the Department to provide additional credit to a city or county if it determines the city or county has plans and programs to further accelerate the production of units under these provisions or require the city or county identify other adequate sites if the city or county is making inadequate progress towards meeting its regional housing needs allocation on sites identified category.

This bill currently has no organizations listed in support or opposition on file.

**FISCAL IMPACT**

It is unknown at this time what the fiscal impact of this legislation would be on the City should it pass.

**RECOMMENDATION**

After discussion of Assembly Bill 3040 (Chiu) – Planning: Regional Housing Needs Assessment the Liaisons may recommend the following actions:

1) Support AB 3040;
2) Support if amended AB 3040;
3) Oppose AB 3040;
4) Oppose unless amended AB 3040;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 3040, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
Introduced by Assembly Member Chiu

February 21, 2020

An act to amend Section 65583.2 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

AB 3040, as amended, Chiu. Local planning: regional housing need assessment.

Existing law, the Planning and Zoning Law, requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element. Existing law requires that the housing element include, among other things, an inventory of land suitable and available for residential development.

The Planning and Zoning Law requires the Department of Housing and Community Development, in consultation with each council of governments, to determine the existing and projected need for housing in each region and further requires the appropriate council of governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county, as provided.

This bill would authorize a city or county to include in its inventory of land suitable for residential development specified sites that contain an existing single-family dwelling unit, but that the city or county
authorizes to contain up to 4 dwelling units as a use by right. The bill would require these sites to be identified to satisfy either the moderate or the above-moderate income regional housing need income level. The bill would require a city or county identifying a site pursuant to these provisions to adopt a resolution or ordinance that, among other things, establishes that the additional units may be developed as a use by right on the site. The bill would require the department to review and make findings regarding a resolution or ordinance adopted by a city or county under these provisions.

This bill would require the department to give credit, in an unspecified amount, provide a credit of 0.1 units toward the city or county’s share of the regional housing need allocation for each site identified under these provisions, if provisions, except as specified. The bill would prohibit the cumulative credit received by a city or county from under these provisions does not exceed more than from exceeding 25% of the total units needed to meet its regional housing needs allocation, except as specified. The bill would authorize the department to provide additional credit to a city or county if it determines that the city or county has plans and programs that would further accelerate the production of units under these provisions or require that the city or county identify other adequate sites if the city or county is making inadequate progress towards meeting its regional housing needs allocation on sites identified category.


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

SECTION 1. Section 65583.2 of the Government Code, as amended by Section 15.5 of Chapter 664 of the Statutes of 2019, is amended to read:

65583.2. (a) A city’s or county’s inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (9) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction’s share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, “land
suitable for residential development” includes all of the sites that meet the following standards set forth in subdivisions (c) and (g):

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density, including sites owned or leased by a city, county, or city and county.

(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by assessor parcel number.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or
otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction’s general plan, for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality’s housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:
If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency’s calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, “site” means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.
(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(4) (A) A city or county may, pursuant to subparagraph (C), include in its inventory of land suitable for residential development a site that contains an existing single-family dwelling unit, but that the city or county has permitted to contain up to four dwelling units, if the site meets all of the following:

(i) The site allows the new residential dwellings as a use by right, as defined in subdivision (i).

(ii) The site has an existing dwelling unit that received its first certificate of occupancy at least 25 years before being included in the site inventory.

(iii) The existing dwelling units on the site do not cover more than 50 percent of the lot area.

(iv) The site is identified in the inventory to satisfy either the moderate or the above-moderate income regional housing need income level, unless otherwise provided in clause (i) of subparagraph (E).

(B) Notwithstanding paragraph (1) of subdivision (g), for each site included in the inventory, the department shall provide the following credit, provide, at a minimum, a credit of 0.1 units
toward the city or county’s share of the regional housing need allocation. 

(1) If the city or county is in a high-cost county: 
   (I) Where the zoning permits two units by right, the credit shall be ____ units per site. 
   (II) Where the zoning permits three units by right, the credit shall be twice the amount identified in subclause (I). 
   (III) Where the zoning permits four units by right, the credit shall be three times the amount identified in subclause (I). 

(ii) If the city or county is not in a high-cost county: 
   (I) Where the zoning permits two units by right, the credit shall be ____ units per site. 
   (II) Where the zoning permits three units by right, the credit shall be twice the amount identified in subclause (I). 
   (III) Where the zoning permits four units by right, the credit shall be three times the amount identified in subclause (I). 

(iii) For purposes of this paragraph, “high-cost county” means a county that, as of 18 months before the deadline for certification of a housing element in that county, has a maximum conforming loan limit that exceeds the baseline limit, as determined by the Federal Housing Finance Agency. 

(C) A city or county including sites in their inventory pursuant to this paragraph shall do all of the following: 
   (i) Adopt a resolution or ordinance regarding these sites that meets all of the following requirements: 
      (I) The resolution or ordinance shall provide, at a minimum, that the units may be developed as a use by right and a description of the land use provisions that enable the identified sites to be redeveloped at a higher density, including, but not limited to, height limits, parking requirements, setback requirements, and historic resource designation. 
      (II) The resolution or ordinance includes findings that those land use provisions do not impede the redevelopment of these sites at a higher density. 
      (III) The city or county adopts the resolution or ordinance within the two-year period immediately preceding the deadline for certification of the housing element. 
   (ii) Identify the regional housing need income level of the site as either moderate or above-moderate income.
(iii) Include in their annual progress report a summary of the units developed on sites identified pursuant to this paragraph.

(D) The cumulative credit received by a city or county from the sites identified pursuant to this paragraph shall not exceed more than 25 percent of the total units needed to meet its regional housing needs allocation, unless otherwise provided in clause (i) of subparagraph (E).

(E) The department shall review and make findings, pursuant to the requirements of Section 65585, regarding any resolution or ordinance adopted by a city or county per clause (i) of subparagraph (C). The department may do either of the following in administering this paragraph:

(i) Provide additional credit if it determines, based on information provide pursuant to paragraph (1) of subdivision (g), that the city or county has plans and programs that would further accelerate the production of units under this paragraph. A determination by the department under this clause may enable cities and counties to count a share of these units toward their low-income categories.

(ii) Determine, based on the annual progress report, that the city or county is making inadequate progress toward meeting its regional housing needs allocation on sites identified under this paragraph and paragraph. If such a determination is made, the department may require that the city or county identify amend plans or programs, including, but not limited to, identifying other adequate sites in the appropriate income category.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) (1) Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction’s population is greater than 100,000, in which
case it shall be considered metropolitan. A county, not including
the City and County of San Francisco, shall be considered suburban
unless the county is in an MSA of 2,000,000 or greater in
population in which case the county shall be considered
metropolitan.
(2) (A) (i) Notwithstanding paragraph (1), if a county that is
in the San Francisco-Oakland-Fremont California MSA has a
population of less than 400,000, that county shall be considered
suburban. If this county includes an incorporated city that has a
population of less than 100,000, this city shall also be considered
suburban. This paragraph shall apply to a housing element revision
cycle, as described in subparagraph (A) of paragraph (3) of
subdivision (e) of Section 65588, that is in effect from July 1,
2014, to December 31, 2028, inclusive.
(ii) A county subject to this subparagraph shall utilize the sum
existing in the county’s housing trust fund as of June 30, 2013, for
the development and preservation of housing affordable to low- and
very low income households.
(B) A jurisdiction that is classified as suburban pursuant to this
paragraph shall report to the Assembly Committee on Housing
and Community Development, the Senate Committee on Housing,
and the Department of Housing and Community Development
regarding its progress in developing low- and very low income
housing consistent with the requirements of Section 65400. The
report shall be provided three times: once, on or before December
31, 2019, which report shall address the initial four years of the
housing element cycle, a second time, on or before December 31,
2023, which report shall address the subsequent four years of the
housing element cycle, and a third time, on or before December
31, 2027, which report shall address the subsequent four years of
the housing element cycle and the cycle as a whole. The reports
shall be provided consistent with the requirements of Section 9795.
(f) A jurisdiction shall be considered metropolitan if the
jurisdiction does not meet the requirements for “suburban area”
above and is located in an MSA of 2,000,000 or greater in
population, unless that jurisdiction’s population is less than 25,000
in which case it shall be considered suburban.
(g) (1) For sites described in paragraph (3) of subdivision (b),
the city or county shall specify the additional development potential
for each site within the planning period and shall provide an
explanation of the methodology used to determine the development
potential. The methodology shall consider factors including the
extent to which existing uses may constitute an impediment to
additional residential development, the city’s or county’s past
experience with converting existing uses to higher density
residential development, the current market demand for the existing
use, an analysis of any existing leases or other contracts that would
perpetuate the existing use or prevent redevelopment of the site
for additional residential development, development trends, market
conditions, and regulatory or other incentives or standards to
courage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when
a city or county is relying on nonvacant sites described in paragraph
(3) of subdivision (b) to accommodate 50 percent or more of its
housing need for lower income households, the methodology used
to determine additional development potential shall demonstrate
that the existing use identified pursuant to paragraph (3) of
subdivision (b) does not constitute an impediment to additional
residential development during the period covered by the housing
element. An existing use shall be presumed to impede additional
residential development, absent findings based on substantial
evidence that the use is likely to be discontinued during the
planning period.

(3) Notwithstanding any other law, and in addition to the
requirements in paragraphs (1) and (2), sites that currently have
residential uses, or within the past five years have had residential
uses that have been vacated or demolished, that are or were subject
to a recorded covenant, ordinance, or law that restricts rents to
levels affordable to persons and families of low or very low
income, subject to any other form of rent or price control through
a public entity’s valid exercise of its police power, or occupied by
low or very low income households, shall be subject to a policy
requiring the replacement of all those units affordable to the same
or lower income level as a condition of any development on the
site. Replacement requirements shall be consistent with those set
forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1)
of subdivision (c) of Section 65583 shall accommodate 100 percent
of the need for housing for very low and low-income households
allocated pursuant to Section 65584 for which site capacity has
not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c) and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) Notwithstanding any other provision of this section, within one-half mile of a Sonoma-Marin Area Rail Transit station, housing density requirements in place on June 30, 2014, shall apply.
(k) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(l) This section shall remain in effect only until December 31, 2028, and as of that date is repealed.

SEC. 2. Section 65583.2 of the Government Code, as amended by Section 16.5 of Chapter 664 of the Statutes of 2019, is amended to read:

65583.2. (a) A city’s or county’s inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (9) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction’s share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, “land suitable for residential development” includes all of the following sites that meet the standards set forth in subdivisions (c) and (g):

1. Vacant sites zoned for residential use.
2. Vacant sites zoned for nonresidential use that allows residential development.
3. Residentially zoned sites that are capable of being developed at a higher density, and sites owned or leased by a city, county, or city and county.
4. Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county.

(b) The inventory of land shall include all of the following:

1. A listing of properties by assessor parcel number.
2. The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.
3. For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.
(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction’s general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality’s housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing
element planning period unless the site is zoned at residential
densities consistent with paragraph (3) of this subdivision and the
site is subject to a program in the housing element requiring
rezoning within three years of the beginning of the planning period
to allow residential use by right for housing developments in which
at least 20 percent of the units are affordable to lower income
households. A city that is an unincorporated area in a
nonmetropolitan county pursuant to clause (ii) of subparagraph
(B) of paragraph (3) shall not be subject to the requirements of
this subdivision to allow residential use by right. The analysis shall
determine whether the inventory can provide for a variety of types
of housing, including multifamily rental housing, factory-built
housing, mobilehomes, housing for agricultural employees,
supportive housing, single-room occupancy units, emergency
shelters, and transitional housing. The city or county shall
determine the number of housing units that can be accommodated
on each site as follows:
(1) If local law or regulations require the development of a site
at a minimum density, the department shall accept the planning
agency’s calculation of the total housing unit capacity on that site
based on the established minimum density. If the city or county
does not adopt a law or regulation requiring the development of a
site at a minimum density, then it shall demonstrate how the
number of units determined for that site pursuant to this subdivision
will be accommodated.
(2) The number of units calculated pursuant to paragraph (1)
shall be adjusted as necessary, based on the land use controls and
site improvements requirement identified in paragraph (5) of
subdivision (a) of Section 65583, the realistic development capacity
for the site, typical densities of existing or approved residential
developments at a similar affordability level in that jurisdiction,
and on the current or planned availability and accessibility of
sufficient water, sewer, and dry utilities.
(A) A site smaller than half an acre shall not be deemed adequate
to accommodate lower income housing need unless the locality
can demonstrate that sites of equivalent size were successfully
developed during the prior planning period for an equivalent
number of lower income housing units as projected for the site or
unless the locality provides other evidence to the department that
the site is adequate to accommodate lower income housing.
(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, “site” means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(4) (A) A city or county may, pursuant to subparagraph (C), include in its inventory of land suitable for residential development a site that contains an existing single-family dwelling unit, but that the city or county has permitted to contain up to four dwelling units, if the site meets all of the following:
(i) The site allows the new residential dwellings as a use by right, as defined in subdivision (i).

(ii) The site has an existing dwelling unit that received its first certificate of occupancy at least 25 15 years before being included in the site inventory.

(iii) The existing dwelling units on the site do not cover more than 50 percent of the lot area.

(iv) The site is identified in the inventory to satisfy either the moderate or the above-moderate income regional housing need income level, unless otherwise provided in clause (i) of subparagraph (E).

(B) Notwithstanding paragraph (1) of subdivision (g), for each site included in the inventory, the department shall provide the following credit, provide, at a minimum, a credit of 0.1 units toward the city or county’s share of the regional housing need allocation:

(i) If the city or county is in a high-cost county:

   (I) Where the zoning permits two units by right, the credit shall be ___ units per site.

   (II) Where the zoning permits three units by right, the credit shall be twice the amount identified in subclause (I).

   (III) Where the zoning permits four units by right, the credit shall be three times the amount identified in subclause (I).

(ii) If the city or county is not in a high-cost county:

   (I) Where the zoning permits two units by right, the credit shall be ___ units per site.

   (II) Where the zoning permits three units by right, the credit shall be twice the amount identified in subclause (I).

   (III) Where the zoning permits four units by right, the credit shall be three times the amount identified in subclause (I).

(iii) For purposes of this paragraph, “high-cost county” means a county that, as of 18 months before the deadline for certification of a housing element in that county, has a maximum conforming loan limit that exceeds the baseline limit, as determined by the Federal Housing Finance Agency.

(C) A city or county including sites in their inventory pursuant to this paragraph shall do all of the following:

(i) Adopt a resolution or ordinance regarding these sites that meets all of the following requirements:
(I) The resolution or ordinance shall provide, at a minimum, that the units may be developed as a use by right and a description of the land use provisions that enable the identified sites to be redeveloped at a higher density, including, but not limited to, height limits, parking requirements, setback requirements, and historic resource designation.

(II) The resolution or ordinance includes findings that those land use provisions do not impede the redevelopment of these sites at a higher density.

(III) The city or county adopts the resolution or ordinance within the two-year period immediately preceding the deadline for certification of the housing element.

(ii) Identify the regional housing need income level of the site as either moderate or above-moderate income.

(iii) Include in their annual progress report a summary of the units developed on sites identified pursuant to this paragraph.

(D) The cumulative credit received by a city or county from the sites identified pursuant to this paragraph shall not exceed more than 25 percent of the total units needed to meet its regional housing needs allocation, unless otherwise provided in clause (i) of subparagraph (E).

(E) The department shall review and make findings, pursuant to the requirements of Section 65585, regarding any resolution or ordinance adopted by a city or county per clause (i) of subparagraph (C). The department may do either of the following in administering this paragraph:

(i) Provide additional credit if it determines, based on information provided pursuant to paragraph (1) of subdivision (g), that the city or county has plans and programs that would further accelerate the production of units under this paragraph. A determination by the department under this clause may enable cities and counties to count a share of these units toward their low-income categories.

(ii) Determine, based on the annual progress report, that the city or county is making inadequate progress toward meeting its regional housing needs allocation on sites identified under this paragraph and paragraph. If such a determination is made, the department may require that the city or county identify and amend plans or programs, including, but not limited to, identifying other adequate sites in the appropriate income category.
(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction’s population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for “suburban area” above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction’s population is less than 25,000 in which case it shall be considered suburban.

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city’s or county’s past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its
housing need for lower income households, the methodology used
to determine additional development potential shall demonstrate
that the existing use identified pursuant to paragraph (3) of
subdivision (b) does not constitute an impediment to additional
residential development during the period covered by the housing
element. An existing use shall be presumed to impede additional
residential development, absent findings based on substantial
evidence that the use is likely to be discontinued during the
planning period.

(3) Notwithstanding any other law, and in addition to the
requirements in paragraphs (1) and (2), sites that currently have
residential uses, or within the past five years have had residential
uses that have been vacated or demolished, that are or were subject
to a recorded covenant, ordinance, or law that restricts rents to
levels affordable to persons and families of low or very low
income, subject to any other form of rent or price control through
a public entity’s valid exercise of its police power, or occupied by
low or very low income households, shall be subject to a policy
requiring the replacement of all those units affordable to the same
or lower income level as a condition of any development on the
site. Replacement requirements shall be consistent with those set
forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1)
of subdivision (c) of Section 65583 shall accommodate 100 percent
of the need for housing for very low and low-income households
allocated pursuant to Section 65584 for which site capacity has
not been identified in the inventory of sites pursuant to paragraph
(3) of subdivision (a) on sites that shall be zoned to permit
owner-occupied and rental multifamily residential use by right for
developments in which at least 20 percent of the units are
affordable to lower income households during the planning period.
These sites shall be zoned with minimum density and development
standards that permit at least 16 units per site at a density of at
least 16 units per acre in jurisdictions described in clause (i) of
subparagraph (B) of paragraph (3) of subdivision (c), shall be at
least 20 units per acre in jurisdictions described in clauses (iii) and
(iv) of subparagraph (B) of paragraph (3) of subdivision (c), and
shall meet the standards set forth in subparagraph (B) of paragraph
(5) of subdivision (b). At least 50 percent of the very low and
low-income housing need shall be accommodated on sites
designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(k) This section shall become operative on December 31, 2028.
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.

AB 3269 (Chiu) State and Local Agencies: Homelessness Plan ("AB 3269") 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 3269 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee ("Liaisons").

After discussion of AB 3269, the Liaisons may recommend the following actions:

1) Support AB 3269;
2) Support if amended AB 3269;
3) Oppose AB 3269;
4) Oppose unless amended AB 3269;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 3269, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
May 15, 2020

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 3269 (Chiu) State and Local Agencies: Homelessness Plan.

Introduction and Background
AB 3269 was introduced by Assemblymember David Chiu and requires the Homeless Coordinating and Financing Council to set a benchmark goal in reducing homelessness by January 1, 2028, for each state and local agency subject to the provisions in AB 3269, based upon the needs and gaps analysis, and annual homelessness reduction benchmarks that progress toward the benchmark goal. The bill, on or before January 1, 2022, would require each state and local agency to develop an actionable plan to achieve the benchmark goal set by the coordinating council.

AB 3269 aims to address the homelessness and affordable housing crisis in California through the creation of a state mandated program that establishes the Office of the Housing and Homelessness Inspector General (“Office”) as an independent office within the Business, Consumer Services, and Housing Agency. The establishment of this Office and the appointment of the inspector general by the governor creates a level of state oversight of state and local agencies to ensure that they are working towards reducing homelessness. This oversight includes the power of the inspector general to bring an action against a state or local agency that fails to adopt a plan or fails, within a reasonable time, to make progress in accordance with their adopted plan beginning January 1, 2022.

The primary methodology for attaining the goal of reducing homelessness is through what AB 3269 refers to as a statewide needs and gaps analysis. This analysis is intended to help identify state programs that provide housing or services to persons experiencing homelessness and the funding required to move persons experiencing homelessness into permanent housing.

AB 3269 also requires each state and local agency to include a description and the amount of all funding sources they have earmarked or committed to addressing homelessness within its jurisdiction, the amount of additional funding needed, and specific actions that will be taken to reduce the number of individuals experiencing homelessness and meet the benchmark goal set by the coordinating council. The bill also requires each state and local agency to submit an annual progress report to the coordinating council that details the progress and implementation of the adopted plan and any amendments proposed to the plan.

As a final method of oversight, the bill authorizes the inspector general to impose a civil penalty on a state or local agency that is found to have deliberately and intentionally transported a
homeless individual to a different jurisdiction in order to reduce the number of homeless individuals within their jurisdiction.

**Status of Legislation**
This bill is set to be heard in the Assembly Housing and Community Development Committee on May 20.

**Support and Opposition**
There is currently no registered support or opposition for this bill.
Attachment 2
AB 3269, as amended, Chiu. Public social services: homeless individuals. State and local agencies: homelessness plan.

Existing law establishes in state government the Business, Consumer Services, and Housing Agency, comprised of the Department of Consumer Affairs, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission.

Existing law requires the Governor to create the Homeless Coordinating and Financing Council (referred to as “the coordinating council”) and to appoint up to 19 members of that council, as provided. Existing law specifies the duties of the coordinating council, including creating partnerships among state agencies and departments, local government agencies, and specified federal agencies and private entities, for the purpose of arriving at specific strategies to end homelessness.
This bill, upon appropriation by the Legislature, would require the coordinating council to conduct, or contract with an entity to conduct, a statewide needs and gaps analysis to identify, among other things, state programs that provide housing or services to persons experiencing homelessness and funding required to move persons experiencing homelessness into permanent housing. The bill would authorize local governments to collaborate with the coordinating council. The bill would also require the council to seek input from the coordinating council’s members on the direction of, design of data collection for, and items to be included in the statewide needs and gaps analysis. The bill would require the council to report on the analysis to specified committees in the Legislature by July 31, 2021.

This bill would state the intent of the Legislature that each state and local agency aim to reduce homelessness within its jurisdiction by 90% by December 31, 2028. The bill would require the coordinating council to set a benchmark goal in reducing homelessness by January 1, 2028, for each state and local agency subject to these provisions, based upon the needs and gaps analysis described above, and annual homelessness reduction benchmarks that progress toward the benchmark goal. The bill, on or before January 1, 2022, would require each state and local agency, as defined, to develop an actionable plan to achieve the benchmark goal set by the coordinating council. The bill would require the plan to include a description and the amount of all funding sources the state or local agency has earmarked or committed to addressing homelessness within its jurisdiction, the amount of additional funding needed, and specific actions that will be taken to reduce the number of individuals experiencing homelessness and meet the benchmark goal set by the coordinating council. The bill would require each state and local agency to submit an annual progress report to the coordinating council that details the progress and implementation of the adopted plan and any amendments proposed to the plan.

This bill would task the coordinating council with reviewing submitted plans and providing feedback and recommended revisions. The bill would require a state or local agency to either adopt those recommended revisions, or adopt findings as to why the recommended revisions are not needed. The bill would task the coordinating council with monitoring the implementation and progress of state and local agency plans. The bill would require the coordinating council to notify the state or local agency and the inspector general if the agency fails, within a reasonable time, to make progress in accordance with their plan.
This bill would establish the Office of the Housing and Homelessness Inspector General as an independent office within the Business, Consumer Services, and Housing Agency, under the supervision of the Housing and Homelessness Inspector General. The bill would require the Governor to appoint the Housing and Homelessness Inspector General, subject to confirmation by the Senate. The bill would, on and after January 1, 2022, authorize the inspector general to bring an action against a state or local agency that fails to adopt a plan or fails, within a reasonable time, to make progress in accordance with their adopted plan. The bill, if the court finds that the applicable state or local agency has not substantially complied, would authorize the Housing and Homelessness Inspector General to request the court to issue an order or judgment directing the state or local agency to substantially comply, as provided.

The bill would authorize the inspector general to impose a civil penalty on a state or local agency that is found to have deliberately and intentionally transported a homeless individual to a different jurisdiction in order to reduce the number of homeless individuals within their jurisdiction, as specified.

By requiring local agencies to develop and implement a homelessness plan, 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.

Existing law provides for various public social services programs, including, among others, the California Work Opportunity and Responsibility to Kids (CalWORKs) program, under which each county provides cash assistance and other benefits to qualified low-income families and individuals, CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county, and the Medi-Cal program, under which qualified low-income individuals receive health care services. Existing law also requires each county to provide aid to its indigent residents not supported by other means, which are known as general assistance programs.
AB 3269 — 4 —

This bill would require counties and Continuums of Care to review the data contained in their Homeless Management Information Systems to determine if homeless individuals in the system receive benefits under CalWORKs, CalFresh, Medi-Cal, or general assistance. By imposing additional duties on counties, 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. The Legislature finds and declares all of the following:

(a) As of January 2019, California has had an estimated 151,278 people experiencing homelessness on any given day, as reported by Continuum of Care to the United States Department of Housing and Urban Development. This is the highest number since 2007, and represents a 17-percent increase since 2018.

(b) The vast majority of homeless Californians were unsheltered, which is about 71 percent and the highest rate in the nation, meaning that they were living in streets, parks, or other locations not meant for human habitation. In 2018, among homeless veterans, California had the nation’s highest share that are unsheltered (67 percent), and among homeless youth, the share that are unsheltered (80 percent) ranked second highest.

(c) As local communities work to house the unsheltered, more people are falling into homelessness. Larger urban areas with high numbers of people experiencing homelessness have reported that more people are falling into homelessness than they are able to house.

(d) In the City of Oakland, for every one person they are able to house, two more are falling into homelessness.
(e) In the County of Los Angeles, despite housing 20,000 homeless people in 2018, for every 133 people housed, 150 fall into homelessness per day.

(f) In the City and County of San Francisco, for every one person they are able to house, three more fall into homelessness.

(g) A growing percentage of the state’s homeless population are seniors who are experiencing homelessness for the first time. Seniors who are on fixed incomes and who are severely rent burdened have no potential for additional income.

(h) Once seniors are homeless, their health quickly deteriorates and they use emergency services at a higher rate and face high mortality rates.

(i) Fifty percent of seniors who are homeless become homeless after 50 years of age.

(j) African Americans are disproportionately found on California’s streets and roughly 30 percent of the state’s unhoused population is Black.

(k) While comprehensive statewide data is lacking, local surveys indicate that people living on the streets are typically from the surrounding neighborhood. For example, 70 percent of the people experiencing homelessness in the City and County of San Francisco were housed somewhere in the city where they lost housing, while only 8 percent came from out-of-state. In addition, three-quarters of the homeless population of the County of Los Angeles lived in the region before becoming homeless.

(l) About 1,300,000 California renters are considered “extremely low income,” making less than twenty-five thousand dollars ($25,000) per year.

(m) In many parts of the state, many lower income residents are severely cost burdened, paying over 50 percent of their income toward housing costs. One small financial setback can push these individuals and families into homelessness.

(n) The Legislature has made the following investments in affordable housing and homelessness response:

(1) In 2016, the Legislature passed and the voters approved Proposition 63, known as the Mental Health Services Act, which generates two billion dollars ($2,000,000,000) per year for mental health services that can be used for people experiencing homelessness.
In 2017, Senate Bill 2 (Chapter 364 of the Statutes of 2017) established a recording fee for real estate documents that has generated three hundred fifty million dollars ($350,000,000) per year since its creation. Beginning this year, 70 percent of funds from the recording fee go directly to counties to use to address affordable housing and homelessness.

In 2017, the Legislature passed No Place Like Home to authorize the use of two billion dollars ($2,000,000,000) in Proposition 63 revenues in bonds for supportive housing for chronically homeless individuals with mental illness.

In 2018, the Legislature passed and the voters approved Proposition 1, which authorized three billion dollars ($3,000,000,000) in general fund bonds to increase the supply of affordable housing around the state.

Local governments have also passed general obligation bonds to fund affordable housing, supportive housing, and emergency shelters:

(A) In 2016, the voters of the City of Los Angeles passed Measure HHH, which authorizes 1.2 billion dollars ($1,200,000,000) to fund the construction of 10,000 supportive housing units.

(B) In 2019, the City and County of San Francisco passed Proposition A, which authorized six hundred million dollars ($600,000,000) to support the creation of affordable housing.

(C) In 2019, the City and County of San Francisco passed Proposition C, which authorizes a tax on gross receipts of business with incomes of fifty million dollars ($50,000,000) or more to fund affordable housing, supportive housing, and legal assistance programs.

The Legislature has also made policy changes to allow for siting and building emergency shelters, affordable housing, and supportive housing:

(A) In 2017, the Legislature passed Senate Bill 35 (Chapter 366 of the Statutes of 2017), which created a streamlined process for housing developments that include a percentage of affordable housing.

(B) In 2018, the Legislature passed Assembly Bill 2162 (Chapter 753 of the Statutes of 2018), which established a streamlined process for supportive housing developments.
In 2018, the Legislature authorized five hundred million dollars ($500,000,000) for the Homeless Emergency Aid Program to provide local governments with flexible block grant funds to address their immediate homelessness challenges.

In 2019, the Legislature passed Assembly Bill 101 (Chapter 159 of the Statutes of 2019), which streamlines navigation centers that provide emergency shelter and services to people experiencing homelessness.

In 2019, the Legislature authorized six hundred fifty million dollars ($650,000,000) for the Homeless Housing, Assistance, and Prevention Program one-time block grant that provides local jurisdictions with funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges.

State and local government at all levels should be held responsible for responding to homelessness and providing permanent housing for the unsheltered.

There are few other areas of important public policy where government efforts to achieve a compelling societal objective are voluntary.

The state required the state's utilities and public agencies to meet a timetable for increasing their use of renewable energy, and the state is achieving dramatic results.

Government at all levels should be obligated to spend existing resources in the most efficient and expeditious manner to reduce homelessness.

SEC. 2. Section 11552 of the Government Code is amended to read:

11552. (a) Effective January 1, 1988, an annual salary of eighty-five thousand four hundred two dollars ($85,402) shall be paid to each of the following:

1. Commissioner of Business Oversight.
2. Director of Transportation.
3. Real Estate Commissioner.
4. Director of Social Services.
5. Director of Water Resources.
6. Director of General Services.
7. Director of Motor Vehicles.
8. Executive Officer of the Franchise Tax Board.
9. Director of Employment Development.
Director of Alcoholic Beverage Control.
Director of Housing and Community Development.
Director of Alcohol and Drug Programs.
Director of Statewide Health Planning and Development.
Director of the Department of Human Resources.
Director of Health Care Services.
Director of State Hospitals.
Director of Developmental Services.
State Public Defender.
Director of the California State Lottery.
Director of Fish and Wildlife.
Director of Parks and Recreation.
Director of Rehabilitation.
Director of the Office of Administrative Law.
Director of Consumer Affairs.
Director of Forestry and Fire Protection.
The Inspector General pursuant to Section 6125 of the Penal Code.
Director of Child Support Services.
Director of Industrial Relations.
Director of Toxic Substances Control.
Director of Pesticide Regulation.
Director of Managed Health Care.
Director of Environmental Health Hazard Assessment.
Director of California Bay-Delta Authority.
Director of California Conservation Corps.
Director of Technology.
Director of Emergency Services.
Director of the Office of Energy Infrastructure Safety.
(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.
SEC. 3. Section 12804 of the Government Code is amended to read:
12804. (a) There is in the state government the Business, Consumer Services, and Housing Agency.
(b) The Business, Consumer Services, and Housing Agency shall consist of the following: the Department of Consumer Affairs, the Department of Real Estate, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission, and the Office of the Housing and Homelessness Inspector General.

(c) This section shall become operative on July 1, 2018.

SEC. 4. Section 8257.1 is added to the Welfare and Institutions Code, to read:

8257.1. (a) Upon appropriation by the Legislature, the coordinating council shall do all of the following:

(1) Conduct, or contract with an entity to conduct, a statewide needs and gaps analysis that will do all of the following:

(A) Identify programs in the state that provide housing or services to persons experiencing homelessness and describe all of the following for each program to the extent that data is available:

(i) The amount of funding the program receives each year and funding sources for the program.

(ii) The number of persons the program serves each year.

(iii) The types of housing and services provided to the persons the program serves each year.

(iv) Limitations, if any, on the length of stay for housing programs and length of services for service programs.

(v) If applicable, reasons for the unavailability of data.

(B) Identify the total number and type of permanent housing beds, units, or opportunities available to persons experiencing homelessness statewide and in geographically diverse regions across the state.

(C) Analyze the need for permanent housing opportunities, including, but not limited to, supportive housing, rapid rehousing, and affordable housing.

(D) Analyze the need for services to assist persons in exiting homelessness and remaining housed.

(E) Identify the number of and types of interim interventions available to persons experiencing homelessness in geographically diverse regions across the state. The data shall also include, but is not limited to, all of the following:
(i) The number of year-round shelter beds and the average length of stay for those beds for each region.
(ii) The average length of stay in or use of interim interventions.
(iii) The exit rate from an interim intervention to permanent housing.
(F) Analyze the need for additional interim interventions and funding needed to create these interventions, taking into consideration the ideal length of stay in or use of the intervention.
(G) Identify state-funded institutional settings that discharge persons into homelessness, and the total number of persons discharged into homelessness from each of those settings.
(H) Collect data on the numbers and demographics of persons experiencing homelessness in all of the following circumstances:
   (i) As a young adult.
   (ii) As an unaccompanied minor.
   (iii) As a single adult experiencing chronic homelessness and nonchronic homelessness.
   (iv) As an adult over 50 years of age.
   (v) As a domestic violence survivor.
   (vi) As a veteran.
   (vii) As a person on parole or probation.
   (viii) As a member of a family, where other members of the family are also experiencing homelessness.
   (ix) As a person experiencing chronic homelessness.
(I) Create a financial model that will assess needs for investment in capital and for coverage of operating, rental assistance, and services costs for purposes of moving persons experiencing homelessness into permanent housing.
(2) For purposes of collecting data pursuant to paragraph (1), and upon the appropriation pursuant to subdivision (a) that includes coverage of costs, local government may collaborate with the coordinating council to do all of the following:
(A) If available, share existing data from local gaps or needs analyses to inform statewide data.
(B) Conduct a gaps and needs analysis in a sampling of up to six geographically diverse regions to inform statewide data.
(3) (A) For purposes of collecting data pursuant to paragraph (1), evaluate all available data, including, but not limited to, data from other agencies and departments, statewide and local homeless point-in-time counts and housing inventory counts, and available
statewide information on the number or rate of persons exiting state-funded institutional settings into homelessness.

(B) To the extent specific data is unavailable for purposes of subparagraph (A), the council may calculate estimates based on national or local data. The council shall only use data that meets either of the following requirements:

(i) The data is from an evaluation or study from a third-party evaluator or researcher and is consistent with data from evaluations or studies from other third-party evaluators or researchers.

(ii) A federal agency cites and refers to the data as evidence-based.

(4) Seek input from the council’s members on the direction of, design of data collection for, and items to be included in the analysis conducted pursuant to paragraph (1).

(5) Report on the final needs and gaps analysis by July 31, 2021, to the Assembly Committee on Housing and Community Development, the Assembly Committee on Budget, Senate Committee on Housing, and Senate Committee on Budget and Fiscal Review. The report submitted pursuant to this paragraph shall comply with Section 9795 of the Government Code.

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

(1) “Chronic homelessness” has the same definition as that in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2020.

(2) “Interim interventions” include, but are not limited to, year-round shelter beds, recuperative care beds, and motel vouchers.

(3) “State-funded institutional settings” include, but are not limited to, justice, juvenile justice, child welfare, and health care settings.

(4) “Young adult” means a person 18 to 24 years of age, inclusive.

SEC. 5. Section 8257.2 is added to the Welfare and Institutions Code, to read:

8257.2. (a) Notwithstanding any other law, for purposes of designing, collecting data for, and approving the needs and gaps analysis described in Section 8257.1, a state department or agency that has a member on the coordinating council shall, within 180 days of a request for data pertaining to that state department or
agency, provide to the council, or the entity conducting the analysis, the requested data, including, but not limited to, the number or rate of persons exiting state-funded institutional settings into homelessness.

(b) The state department or agency shall remove any personally identifying data provided pursuant to subdivision (a), if any.

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

(1) "Personally identifying information" has the same meaning as that in Section 1798.79.8 of the Civil Code.

(2) "State-funded institutional settings" include, but are not limited to, justice, juvenile justice, child welfare, and health care settings.

SEC. 6. Chapter 6.6 (commencing with Section 8258) is added to Division 8 of the Welfare and Institutions Code, to read:

CHAPTER 6.6. HOUSING AND HOMELESSNESS INSPECTOR GENERAL

8258. For purposes of this chapter:

(a) "Coordinating council" means the Homeless Coordinating and Financing Council established pursuant to Section 8257.

(b) "Inspector general" means the Housing and Homelessness Inspector General.

(c) "Local agency" means a city, county, or city and county.

(d) "Office" means Office of the Housing and Homelessness Inspector General.

(e) "State department or agency" means state agency or department that administers a state program to address homelessness.

8258.1. (a) There is in state government the Office of the Housing and Homelessness Inspector General as an independent office within the Business, Consumer Services, and Housing agency. The office shall be under the supervision of the Housing and Homelessness Inspector General.

(b) The inspector general shall be appointed by, and hold office at the pleasure of, the Governor. The appointment of the inspector general is subject to confirmation by the Senate.

(c) The inspector general shall receive an annual salary as set forth in Section 11552 of the Government Code.
(d) The inspector general shall have all of the following responsibilities:

(1) Oversee the implementation of this chapter.

(2) Monitor the implementation and progress of state and local agency plans adopted pursuant to Section 8258.3.

(3) Provide technical assistance to state and local agencies in complying with this chapter.

(4) Audit state and local agencies to determine compliance with adopted plans.

(5) Bring actions against a state or local agency to compel compliance with their respective adopted plans pursuant to Section 8258.3.

(6) Investigate complaints and issue civil penalties pursuant to Section 8258.5.

8258.2. (a) It is the intent of the Legislature that each state and local agency shall aim to reduce homelessness in their jurisdiction by 90 percent by December 31, 2028, based on the 2019 homeless point-in-time count pursuant to Section 578.3 of Title 24 of the Code of Federal Regulations.

(b) It is the intent of the Legislature that a state or local agency is only accountable under this chapter for reducing homelessness to the extent that it has available resources to address homelessness, and that the state or local agency should not be required to expend additional funds not contained in its actionable plan in order to meet the benchmark goal set by the coordinating council.

8258.3. (a) (1) The coordinating council shall, based on the gap analysis conducted pursuant to Section 8257.1, set a benchmark goal to reduce homelessness for each state and local agency. The benchmark goal shall establish a minimum percentage reduction of homelessness goal within the state or local agency’s jurisdiction by December 31, 2028, based on the 2019 homeless point-in-time count pursuant to Section 578.3 of Title 24 of the Code of Federal Regulations.

(2) The coordinating council shall establish annual homelessness reduction benchmarks for each state and local agency that require progress toward the benchmark goal established pursuant to paragraph (1).
(b) (1) On or before January 1, 2022, each state and local agency shall develop an actionable plan to achieve the benchmark goal set pursuant to subdivision (a).

(2) The plan shall include all of the following:
(A) A description and the amount of all funding sources that the state or local agency has earmarked or committed to reducing and addressing homelessness within their jurisdiction.
(B) The estimated amount of additional funding needed to meet the homelessness reduction goal described in subdivision (a).
(C) Timelines for the state or local agency to utilize the funding identified in subparagraph (A).
(D) Specific actions that the state or local agency will take to meet the goal established in subdivision (c) by reducing the number of individuals who are experiencing homelessness in the relevant jurisdiction by moving individuals into permanent housing.

(3) A county or city developing a plan pursuant to this subdivision shall adopt the plan by resolution.

(4) On or before January 1, 2022, each state and local agency subject to this section shall transmit the adopted plan to the coordinating council.

(5) Each state and local agency shall submit an annual progress report to the coordinating council that details the progress and implementation of the adopted plan and any amendments proposed to the plan. Amendments to a plan shall be reviewed by the coordinating council pursuant to subdivision (c).

(c) (1) Upon receipt of a plan adopted pursuant to subdivision (b), the coordinating council shall review the plan and provide feedback and recommended revisions to the state or local agency.

(2) A state or local agency that receives recommended revisions to their plan from the coordinating council shall either adopt the recommended revisions, or adopt findings as to why the revisions are not needed.

(d) (1) The coordinating council shall monitor the progress of each state or local agency required to adopt and implement a plan pursuant to subdivision (b). If the coordinating council determines that a state or local agency has not adopted an actionable plan pursuant to subdivision (b), or has failed within a reasonable time after adoption of a plan to make progress in accordance with that plan, the coordinating council shall notify the state or local agency
and the inspector general that the state or local agency is not in substantial compliance with subdivision (b).

(2) If new resources are identified in a progress report submitted pursuant to paragraph (5) of subdivision (b), the coordinating council may revise a benchmark goal established pursuant to subdivision (a).

8258.4. (a) On or after January 1, 2022, the inspector general may bring an action against a state or local agency to compel compliance with Section 8258.3 pursuant to Section 1085 of the Code of Civil Procedure. An action against a state agency pursuant to this section shall be brought in the Superior Court of the County of Sacramento. An action against a county pursuant to this section shall be brought in the superior court for that county, and an action brought against a city pursuant to this section shall be brought in the superior court for the county in which the city is located.

(b) (1) If, in any action brought pursuant to this section, the court finds that the applicable state or local agency has not substantially complied with Section 8258.3, the inspector general may request that the court issue an order or judgment directing the state or local agency to substantially comply with this section by taking any of the following actions:

(A) In the case of a state or local agency that has failed to adopt an actionable plan within the time period specified in subdivision (b) of Section 8258.3, adopt a plan in accordance with this section.

(B) Dedicate the resources identified in the plan, consistent with applicable state or federal law, to reduce the number of individuals who are experiencing homelessness within the jurisdiction of the state or local agency.

(C) Coordinate with other state or local agencies to reduce the number of individuals who are experiencing homelessness.

(D) Pool resources identified in the plan, consistent with applicable state or federal law, with the resources of other jurisdictions in order to address regional challenges to reducing homelessness.

(E) Require local agencies to rezone sites to permit the construction of housing and emergency shelters.

(F) Order a jurisdiction to establish coordinated entry points for homeless individuals and those at imminent risk of becoming homeless.
(2) The remedies available to a court that finds that the applicable state or local agency has not substantially complied with Section 8258.3 shall be limited to those described in paragraph (1).

(3) If the court issues an order or judgment pursuant to paragraph (1), it shall retain jurisdiction for no more than 12 months to ensure that its order or judgment is carried out.

(4) An order or judgment of the court pursuant to paragraph (1) may be reviewed in the manner prescribed in Title 13, commencing with Section 901 of Part 2 of the Code of Civil Procedure. Notwithstanding any other law, an appeal pursuant to this paragraph shall be heard on an expedited basis.

8258.5. (a) A state or local agency shall not deliberately and intentionally transport a homeless individual to a different jurisdiction in order to reduce the number of homeless individuals within their jurisdiction.

(b) Any person may file a complaint with the inspector general that a state or local agency violated this subdivision.

(c) (1) The inspector general shall investigate a complaint received pursuant to subdivision (a).

(2) After investigating a complaint, the inspector general shall impose a civil penalty on any state or local jurisdiction that is found to have violated subdivision (a) in an amount not to exceed ten thousand dollars ($10,000) per individual transported outside of the jurisdiction.

SEC. 7. 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.

SECTION 1. Section 10004 is added to the Welfare and Institutions Code, to read:

10004. Counties and Continuums of Care shall review the data contained in their Homeless Management Information Systems to determine if homeless individuals in the system receive benefits under CalWORKs, CalFresh, Medi-Cal, or general assistance.

SEC. 2. 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-8
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cindy Owens, Policy & Management Analyst
DATE: May 20, 2020
SUBJECT: State and Federal Legislative Updates
ATTACHMENTS: None

A verbal update on federal legislative issues will be given by Jamie Jones of David Turch & Associates.

A verbal update on state legislative issues will be given by Andrew Antwih with Shaw/Yoder/Antwih, Inc.