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

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

TELEPHONIC VIDEO CONFERENCE MEETING

Beverly Hills Liaison Committee Meeting
https://beverlyhills-org.zoom.us/my/bhliaison
Meeting ID: 312 522 4481
Passcode: 90210

You can also dial in by phone:
+1 669 900 9128 US
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+18887880099,,3125224461#,,*90210# Toll-Free

Wednesday April 28, 2021
3:00 PM

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

AGENDA

A. Oral Communications

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

B. Direction

1. H.R. 8: Bipartisan Background Checks Act of 2021

   Comment: This item seeks direction on H.R. 8, which would utilize the current background
   checks process in the United States to ensure individuals prohibited from gun purchase or
   possession are not able to obtain firearms.

2. H.R.1280 - George Floyd Justice in Policing Act of 2021

   Comment: This item seeks direction on H.R. 1280, which increases accountability for law
   enforcement misconduct; restricts the use of certain policing practices; enhances transparency
   and data collection; and establishes best practices and training requirements.
3. H.R.1446 - Enhanced Background Checks Act of 2021

Comment: This item seeks direction H.R. 1446, which revises background check requirements applicable to proposed firearm transfers from a federal firearms licensee (e.g., a licensed gun dealer) to an unlicensed person. Specifically, it increases the amount of time, from three business days to a minimum of ten business days that a federal firearms licensee must wait to receive a completed background check prior to transferring a firearm to an unlicensed person.

4. Assembly Bill 71 (Rivas) - Homelessness funding: Bring California Home Act

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 71. This bill would conform state law to the federal Global Intangible Low-Taxed Income (GILTI) provisions and taxes repatriated income to finance the Bring California Home Fund.

5. Assembly Bill 339 (Lee) - Local government: open and public meetings

Comment: This item seeks direction on AB 339. This bill would require all public meetings subject to the Ralph M. Brown Act to include an opportunity for members of the public to attend via a telephonic option and an internet-based service option. The bill would require all meetings to include an in-person public comment opportunity, except in specified circumstances during a declared state or local emergency. The bill would also require the legislative bodies of the local agency to provide interpretation services as requested, and have a system to process requests for interpretation services and publicize that system online.

6. Assembly Bill 854 (Lee) - Residential real property: withdrawal of accommodations

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 854. This bill would prohibit property owners who have owned rental accommodations for less than five years from using or threatening to use the Ellis Act to withdraw rental accommodations and places other limits on the use of the Ellis Act.

7. Assembly Bill 1053 (Gabriel) - City selection committees: County of Los Angeles: quorum: teleconferencing

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 1053. This bill, for the city selection Committee in Los Angeles County, would reduce the quorum requirement to 1/3 of all member cities within the county for a meeting that was postponed to a subsequent time and place because a quorum was not present, as long as the agenda is limited to items that appeared on the immediately preceding agenda where a quorum was not established. Additionally, it will authorize the Committee to conduct meetings by teleconferencing and electronic means.

8. Assembly Bill 1199 (Gipson) - Homes for Families and Corporate Monopoly Transparency Excise Tax: qualified property: reporting requirements

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 1199. This bill would require a qualified entity, that owns qualified property to report annually to the Secretary of State specified information regarding the qualified property owned by the qualified entity. The bill would require the Secretary of State to create a searchable database, updated annually, on the Secretary of State’s internet website, with the information provided by the qualified entity.
9. Assembly Bill 1258 (Nguyen R) - Housing element: regional housing need plan: judicial review

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 1258. This bill would subject the Department of Housing and Community Development's final written determination of a region's housing needs to judicial review in an action brought by the council of governments. The bill would also subject the final regional housing need plan adopted by the council of governments or the department, as the case may be, to judicial review.

10. Senate Bill 5 (Atkins) - Affordable Housing Bond Act of 2022

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on SB 5. This bill would enact the Affordable Housing Bond Act of 2022, which, if adopted, would authorize the issuance of bonds in the amount of $6,500,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds would be used to fund affordable rental housing and homeownership programs. The bill would state the intent of the Legislature to determine the allocation of those funds to specific programs. This bill would provide for submission of the bond act to the voters at the November 8, 2022, statewide general election in accordance with specified law.

11. Senate Bill 344 (Hertzberg) - California Emergency Solutions and Housing Program: grants: homeless shelters: pets and veterinary services

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on SB 344. This bill would require the Department of Housing and Community Development to develop and administer a program to award grants to qualified homeless shelters, as described, for the provision of shelter, food, and basic veterinary services for pets owned by people experiencing homelessness. The bill would authorize the department to use up to 5 percent of the funds appropriated in the annual Budget Act for those purposes for its costs in administering the program.

12. Senate Bill 477 (Wiener) - General plan: annual report

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on SB 477. This bill would require cities and counties to submit additional detailed information on housing development projects in annual progress reports (APRs) submitted to the Department of Housing and Community Development (HCD), as specified. The bill would also authorize HCD to assess the accuracy of information submitted as part of the APR and require local planning agencies to correct any inaccurate information.

13. Senate Bill 556 (Dodd) - Street light poles, traffic signal poles: small wireless facilities attachments

Comment: This item seeks direction on SB 556, which would prohibit a local government or local publicly owned electric utility from unreasonably denying the leasing or licensing of its street light poles or traffic signal poles to communications service providers for the purpose of placing small wireless facilities on those poles. The bill would require that street light poles and traffic signal poles be made available for the placement of small wireless facilities under fair, reasonable, and nondiscriminatory fees, subject to specified requirements, consistent with a specified decision of the Federal Communications Commission.
14. State and Federal Legislative Updates

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

C. Adjournment

[Signature]
Huma Ahmed
City Clerk

Posted: April 23, 2021

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

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

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: April 28, 2021

SUBJECT: H.R. 8: Bipartisan Background Checks Act of 2021

ATTACHMENTS: 1. Summary Memo – H.R. 8
2. Bill Text – H.R. 8

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

H.R. 8: Bipartisan Background Checks Act of 2021 (H.R. 8) 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. 8 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of H.R. 8, the Liaisons may recommend the following actions:

1) Support H.R. 8;
2) Support if amended H.R. 8;
3) Oppose H.R. 8;
4) Oppose unless amended H.R. 8;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on H.R. 8, 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@davidturch.com  
202-543-3744

DATE: April 22, 2021

RE: H.R. 8 – The Bipartisan Background Checks Act of 2021

The Bipartisan Background Checks Act of 2021, sponsored by Representative Mike Thompson (D-CA), passed the House by a vote of 227-203 on March 11. Eight House Republicans voted for the bill while only one Democrat opposed it. H.R. 8 would tighten regulations on commercial gun sales by expanding background checks. The legislation would close the Gun Show Loophole by expanding background checks in such forums. The bill basically makes it illegal for anyone who is not a manufacturer, dealer, or licensed firearms importer to trade or sell guns. Under H.R. 8, non-licensed individuals can still sell or trade guns but they would have to do so through a licensed dealer who would run background checks for them. In an effort to gain greater political support, the bill allows for temporary trading and sharing of firearms at shooting ranges, on hunting trips or wherever it is necessary to prevent “imminent death or great bodily harm.”

The challenge for advocates of the bill, of course, is securing 60 votes in an evenly divided Senate. In the current supercharged partisan environment that is today’s Senate, obtaining a supermajority vote for any bill, let alone a gun control bill, is a high bar to pass. Nevertheless, President Joe Biden has made enacting “reasonable” gun control legislation a priority and Senate Majority Leader Chuck Schumer is committed to the effort.
Attachment 2
AN ACT

To require a background check for every firearm sale.

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 “Bipartisan Background Checks Act of 2021”.

SEC. 2. PURPOSE.

The purpose of this Act is to utilize the current background checks process in the United States to ensure individuals prohibited from gun purchase or possession are not able to obtain firearms.

SEC. 3. FIREARMS TRANSFERS.

(a) In General.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

“(aa)(1)(A) It shall be unlawful for any person who is not a licensed importer, licensed manufacturer, or licensed dealer to transfer a firearm to any other person who is not so licensed, unless a licensed importer, licensed manufacturer, or licensed dealer has first taken possession of the firearm for the purpose of complying with subsection (t).

“(B) Upon taking possession of a firearm under subparagraph (A), a licensee shall comply with all requirements of this chapter as if the licensee were transferring the firearm from the inventory of the licensee to the unlicensed transferee.

“(C) If a transfer of a firearm described in subparagraph (A) will not be completed for any reason after a
licensee takes possession of the firearm (including because
the transfer of the firearm to, or receipt of the firearm
by, the transferee would violate this chapter), the return
of the firearm to the transferor by the licensee shall not
constitute the transfer of a firearm for purposes of this
chapter.

“(2) Paragraph (1) shall not apply to—

“(A) a law enforcement agency or any law en-
forcement officer, armed private security profes-
sional, or member of the armed forces, to the extent
the officer, professional, or member is acting within
the course and scope of employment and official du-
ties;

“(B) a transfer or exchange (which, for pur-
poses of this subsection, means an in-kind transfer
of a firearm of the same type or value) that is a loan
or bona fide gift between spouses, between domestic
partners, between parents and their children, includ-
ing step-parents and their step-children, between sib-
lings, between aunts or uncles and their nieces or
nephews, or between grandparents and their grand-
children, if the transferor has no reason to believe
that the transferee will use or intends to use the
firearm in a crime or is prohibited from possessing
firearms under State or Federal law;
“(C) a transfer to an executor, administrator, trustee, or personal representative of an estate or a trust that occurs by operation of law upon the death of another person;

“(D) a temporary transfer that is necessary to prevent imminent death or great bodily harm, including harm to self, family, household members, or others, if the possession by the transferee lasts only as long as immediately necessary to prevent the imminent death or great bodily harm, including harm to self, and the harm of domestic violence, dating partner violence, sexual assault, stalking, and domestic abuse;

“(E) a transfer that is approved by the Attorney General under section 5812 of the Internal Revenue Code of 1986; or

“(F) a temporary transfer if the transferor has no reason to believe that the transferee will use or intends to use the firearm in a crime or is prohibited from possessing firearms under State or Federal law, and the transfer takes place and the transferee’s possession of the firearm is exclusively—

“(i) at a shooting range or in a shooting gallery or other area designated for the purpose of target shooting;
“(ii) while reasonably necessary for the purposes of hunting, trapping, pest control on a farm or ranch, or fishing, if the transferor—

“(I) has no reason to believe that the transferee intends to use the firearm in a place where it is illegal; and

“(II) has reason to believe that the transferee will comply with all licensing and permit requirements for such hunting, trapping, pest control on a farm or ranch, or fishing; or

“(iii) while in the presence of the transferor.

“(3) It shall be unlawful for a licensed importer, licensed manufacturer, or licensed dealer to transfer possession of, or title to, a firearm to another person who is not so licensed unless the importer, manufacturer, or dealer has provided such other person with a notice of the prohibition under paragraph (1), and such other person has certified that such other person has been provided with this notice on a form prescribed by the Attorney General.

“(4) The Attorney General shall make available to any person licensed under this chapter both Spanish and English versions of the form required for the conduct of
a background check under subsection (t) and this subsection, and the notice and form required under paragraph (3) of this subsection.”.

(b) Amendment to Section 924(a).—Section 924(a)(5) of title 18, United States Code, is amended by striking “(s) or (t)” and inserting “(s), (t), or (aa)”.

(c) Rules of Interpretation.—Nothing in this Act, or any amendment made by this Act, shall be construed to—

(1) authorize the establishment, directly or indirectly, of a national firearms registry; or

(2) interfere with the authority of a State, under section 927 of title 18, United States Code, to enact a law on the same subject matter as this Act.

(d) Effective Date.—The amendment made by subsections (a) and (b) shall take effect 180 days after the date of enactment of this Act.

Passed the House of Representatives March 11, 2021.

Attest:

Clerk.
To require a background check for every firearm

AN ACT

117TH CONGRESS

H. R. 8

1ST SESSION
Item B-2
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.1280 - George Floyd Justice in Policing Act of 2021 (H.R.1280) 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. 1280 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of H.R. 1280, the Liaisons may recommend the following actions:

1) Support H.R. 1280;
2) Support if amended H.R. 1280;
3) Oppose H.R. 1280;
4) Oppose unless amended H.R. 1280;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on H.R. 1280, 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@davidturch.com
202-543-3744

DATE: April 22, 2021

RE: H.R. 1280 – the George Floyd Justice in Policing Act of 2021

On March 3, 2021, the House of Representatives adopted H.R. 1280, the George Floyd Justice in Policing Act of 2021, by a party-line vote of 220-212. The George Floyd Justice in Policing Act would crack down on excessive police force, ban chokeholds, enforce national transparency standards, demilitarizes the police and pushes accountability for officer misconduct with a national database to track offenses. In addition, the bill ends racial and religious profiling and eliminates no-knock warrants in drug cases.

The legislation, moreover, lowers the criminal intent standard—from willful to knowing or reckless—to convict a law enforcement officer for misconduct in a federal prosecution; it limits qualified immunity as a defense to liability in a private civil action against a police officer or state correctional officer, and authorizes the Department of Justice to issue subpoenas in investigations of police departments for a pattern or practice of discrimination.

The House bill, sponsored by the Congressional Black Caucus, garnered an array of endorsements from national advocacy groups including the NAACP, the AFL-CIO and the American College of Physicians. The bill passed the House last year but then Senate Majority Leader Mitch McConnell refused to schedule the measure for floor consideration. In this Congress, the House-passed bill faces an uphill fight in the evenly divided Senate where legislation must secure 60 votes to pass.

In light of the recent conviction of former Minneapolis Police Officer Derek Chauvin in the killing of George Floyd, congressional Democratic leaders plan to use the momentum of the trial to secure a Senate vote on the bill.

Below please find a more detailed summary of the George Floyd Justice in Policing Act of 2021:

- Prohibits federal, state, and local law enforcement from racial, religious and discriminatory profiling, and mandates training on racial, religious, and discriminatory profiling for all law enforcement.
- Bans chokeholds, carotid holds and no-knock warrants at the federal level and limits the transfer of military-grade equipment to state and local law enforcement.
- Mandates the use of dashboard cameras and body cameras for federal offices and requires state and local law enforcement to use existing federal funds to ensure the use of police body cameras.
- Establishes a National Police Misconduct Registry to prevent problematic officers who are fired or leave on agency from moving to another jurisdiction without any accountability.
- Amends federal criminal statute from “willfulness” to a “recklessness” standard to successfully identify and prosecute police misconduct.
• Reforms qualified immunity so that individuals are not barred from recovering damages when police violate their constitutional rights.
• Establishes public safety innovation grants for community-based organizations to create local commissions and task forces to help communities to re-imagine and develop concrete, just and equitable public safety approaches.
• Creates law enforcement development and training programs to develop best practices and requires the creation of law enforcement accreditation standard recommendations based on President Obama’s Taskforce on 21st Century policing.
• Requires state and local law enforcement agencies to report use of force data, disaggregated by race, sex, disability, religion, age.
• Improves the use of pattern and practice investigations at the federal level by granting the Department of Justice Civil Rights Division subpoena power and creates a grant program for state attorneys general to develop authority to conduct independent investigations into problematic police departments.
• Establishes a Department of Justice task force to coordinate the investigation, prosecution and enforcement efforts of federal, state and local governments in cases related to law enforcement misconduct.
Attachment 2
AN ACT

To hold law enforcement accountable for misconduct in court, improve transparency through data collection, and reform police training and policies.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “George Floyd Justice in Policing Act of 2021”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—POLICE ACCOUNTABILITY

Subtitle A—Holding Police Accountable in the Courts

Sec. 101. Deprivation of rights under color of law.
Sec. 102. Qualified immunity reform.
Sec. 103. Pattern and practice investigations.
Sec. 104. Independent investigations.

Subtitle B—Law Enforcement Trust and Integrity Act

Sec. 111. Short title.
Sec. 112. Definitions.
Sec. 113. Accreditation of law enforcement agencies.
Sec. 114. Law enforcement grants.
Sec. 115. Attorney General to conduct study.
Sec. 117. National task force on law enforcement oversight.
Sec. 118. Federal data collection on law enforcement practices.

TITLE II—POLICING TRANSPARENCY THROUGH DATA

Subtitle A—National Police Misconduct Registry

Sec. 201. Establishment of National Police Misconduct Registry.
Sec. 202. Certification requirements for hiring of law enforcement officers.

Subtitle B—PRIDE Act

Sec. 221. Short title.
Sec. 222. Definitions.
Sec. 223. Use of force reporting.
Sec. 224. Use of force data reporting.
Sec. 225. Compliance with reporting requirements.
Sec. 226. Federal law enforcement reporting.
Sec. 227. Authorization of appropriations.

TITLE III—IMPROVING POLICE TRAINING AND POLICIES

Subtitle A—End Racial and Religious Profiling Act

Sec. 301. Short title.
Sec. 302. Definitions.

PART I—PROHIBITION OF RACIAL PROFILING

•HR 1280 EH
Sec. 311. Prohibition.
Sec. 312. Enforcement.

PART II—PROGRAMS TO ELIMINATE RACIAL PROFILING BY FEDERAL LAW ENFORCEMENT AGENCIES

Sec. 321. Policies to eliminate racial profiling.

PART III—PROGRAMS TO ELIMINATE RACIAL PROFILING BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES

Sec. 331. Policies required for grants.
Sec. 332. Involvement of Attorney General.
Sec. 333. Data collection demonstration project.
Sec. 334. Development of best practices.
Sec. 335. Authorization of appropriations.

PART IV—DATA COLLECTION

Sec. 341. Attorney General to issue regulations.
Sec. 342. Publication of data.
Sec. 343. Limitations on publication of data.

PART V—DEPARTMENT OF JUSTICE REGULATIONS AND REPORTS ON RACIAL PROFILING IN THE UNITED STATES

Sec. 351. Attorney General to issue regulations and reports.

Subtitle B—Additional Reforms

Sec. 361. Training on racial bias and duty to intervene.
Sec. 362. Ban on no-knock warrants in drug cases.
Sec. 363. Incentivizing banning of chokeholds and carotid holds.
Sec. 364. PEACE Act.
Sec. 365. Stop Militarizing Law Enforcement Act.
Sec. 366. Public safety innovation grants.

Subtitle C—Law Enforcement Body Cameras

PART 1—FEDERAL POLICE CAMERA AND ACCOUNTABILITY ACT

Sec. 371. Short title.
Sec. 372. Requirements for Federal law enforcement officers regarding the use of body cameras.
Sec. 373. Patrol vehicles with in-car video recording cameras.
Sec. 374. Facial recognition technology.
Sec. 375. GAO study.
Sec. 376. Regulations.
Sec. 377. Rule of construction.

PART 2—POLICE CAMERA ACT

Sec. 381. Short title.
Sec. 382. Law enforcement body-worn camera requirements.

TITLE IV—CLOSING THE LAW ENFORCEMENT CONSENT LOOPHOLE

Sec. 401. Short title.
Sec. 402. Prohibition on engaging in sexual acts while acting under color of law.
Sec. 403. Enactment of laws penalizing engaging in sexual acts while acting under color of law.
Sec. 404. Reports to Congress.
Sec. 405. Definition.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Severability.
Sec. 502. Savings clause.

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) **BYRNE GRANT PROGRAM.**—The term “Byrne grant program” means any grant program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.), without regard to whether the funds are characterized as being made available under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Local Government Law Enforcement Block Grants Program, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

4 (2) **COPS GRANT PROGRAM.**—The term “COPS grant program” means the grant program authorized under section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10381).

5 (3) **FEDERAL LAW ENFORCEMENT AGENCY.**—The term “Federal law enforcement agency” means
any agency of the United States authorized to en-
gege in or supervise the prevention, detection, inves-
tigation, or prosecution of any violation of Federal
criminal law.

(4) FEDERAL LAW ENFORCEMENT OFFICER.—
The term “Federal law enforcement officer” has the
meaning given the term in section 115 of title 18,
United States Code.

(5) INDIAN TRIBE.—The term “Indian Tribe”
has the meaning given the term “Indian tribe” in
section 901 of title I of the Omnibus Crime Control

(6) LOCAL LAW ENFORCEMENT OFFICER.—The
term “local law enforcement officer” means any offi-
cer, agent, or employee of a State or unit of local
government authorized by law or by a government
agency to engage in or supervise the prevention, de-
tection, or investigation of any violation of criminal
law.

(7) STATE.—The term “State” has the mean-
ing given the term in section 901 of title I of the
Omnibus Crime Control and Safe Streets Act of

(8) TRIBAL LAW ENFORCEMENT OFFICER.—
The term “tribal law enforcement officer” means
any officer, agent, or employee of an Indian tribe, or the Bureau of Indian Affairs, authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law.

(9) Unit of local government.—The term “unit of local government” has the meaning given the term in section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10251).

(10) Deadly force.—The term “deadly force” means that force which a reasonable person would consider likely to cause death or serious bodily harm, including—

(A) the discharge of a firearm;

(B) a maneuver that restricts blood or oxygen flow to the brain, including chokeholds, strangleholds, neck restraints, neckholds, and carotid artery restraints; and

(C) multiple discharges of an electronic control weapon.

(11) Use of force.—The term “use of force” includes—

(A) the use of a firearm, electronic control weapon, explosive device, chemical agent (such
as pepper spray), baton, impact projectile, blunt
instrument, hand, fist, foot, canine, or vehicle
against an individual;

(B) the use of a weapon, including a per-
sonal body weapon, chemical agent, impact
weapon, extended range impact weapon, sonic
weapon, sensory weapon, conducted energy de-
vice, or firearm, against an individual; or

(C) any intentional pointing of a firearm
at an individual.

(12) LESS LETHAL FORCE.—The term “less le-
thal force” means any degree of force that is not
likely to cause death or serious bodily injury.

(13) FACIAL RECOGNITION.—The term “facial
recognition” means an automated or semiautomated
process that analyzes biometric data of an individual
from video footage to identify or assist in identifying
an individual.

TITLE I—POLICE
ACCOUNTABILITY
Subtitle A—Holding Police
Accountable in the Courts

SEC. 101. DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.
Section 242 of title 18, United States Code, is
amended—
(1) by striking “willfully” and inserting “knowingly or recklessly”;
(2) by striking “, or may be sentenced to death”; and
(3) by adding at the end the following: “For purposes of this section, an act shall be considered to have resulted in death if the act was a substantial factor contributing to the death of the person.”.

SEC. 102. QUALIFIED IMMUNITY REFORM.

Section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) is amended by adding at the end the following: “It shall not be a defense or immunity in any action brought under this section against a local law enforcement officer (as such term is defined in section 2 of the George Floyd Justice in Policing Act of 2021), or in any action under any source of law against a Federal investigative or law enforcement officer (as such term is defined in section 2680(h) of title 28, United States Code), that—

“(1) the defendant was acting in good faith, or that the defendant believed, reasonably or otherwise, that his or her conduct was lawful at the time when the conduct was committed; or
“(2) the rights, privileges, or immunities secured by the Constitution and laws were not clearly
established at the time of their deprivation by the
defendant, or that at such time, the state of the law
was otherwise such that the defendant could not rea-
sonably have been expected to know whether his or
her conduct was lawful.”

SEC. 103. PATTERN AND PRACTICE INVESTIGATIONS.

(a) SUBPOENA AUTHORITY.—Section 210401 of the
Violent Crime Control and Law Enforcement Act of 1994
(34 U.S.C. 12601) is amended—

(1) in subsection (a), by inserting “, by pros-
ecutors,” after “conduct by law enforcement offi-
cers”;

(2) in subsection (b), by striking “paragraph
(1)” and inserting “subsection (a)” ; and

(3) by adding at the end the following:

“(c) SUBPOENA AUTHORITY.—In carrying out the
authority in subsection (b), the Attorney General may re-
quire by subpoena the production of all information, docu-
ments, reports, answers, records, accounts, papers, and
other data in any medium (including electronically stored
information), as well as any tangible thing and documen-
tary evidence, and the attendance and testimony of wit-
nesses necessary in the performance of the Attorney Gen-
eral under subsection (b). Such a subpoena, in the case
of contumacy or refusal to obey, shall be enforceable by
order of any appropriate district court of the United States.

"(d) CIVIL ACTION BY STATE ATTORNEYS GENERAL.—Whenever it shall appear to the attorney general of any State, or such other official as a State may designate, that a violation of subsection (a) has occurred within their State, the State attorney general or official, in the name of the State, may bring a civil action in the appropriate district court of the United States to obtain appropriate equitable and declaratory relief to eliminate the pattern or practice. In carrying out the authority in this subsection, the State attorney general or official shall have the same subpoena authority as is available to the Attorney General under subsection (c).

"(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit the authority of the Attorney General under subsection (b) in any case in which a State attorney general has brought a civil action under subsection (d).

"(f) REPORTING REQUIREMENTS.—On the date that is one year after the enactment of the George Floyd Justice in Policing Act of 2021, and annually thereafter, the Civil Rights Division of the Department of Justice shall make publicly available on an internet website a report on, during the previous year—
“(1) the number of preliminary investigations of violations of subsection (a) that were commenced;
“(2) the number of preliminary investigations of violations of subsection (a) that were resolved; and
“(3) the status of any pending investigations of violations of subsection (a).”.

(b) GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Attorney General may award a grant to a State to assist the State in conducting pattern and practice investigations under section 210401(d) of the Violent Crime Control and Law Enforcement Act of 1994 (34 U.S.C. 12601).

(2) APPLICATION.—A State seeking a grant under paragraph (1) shall submit an application in such form, at such time, and containing such information as the Attorney General may require.

(3) FUNDING.—There are authorized to be appropriated $100,000,000 to the Attorney General for each of fiscal years 2022 through 2024 to carry out this subsection.

(e) DATA ON EXCESSIVE USE OF FORCE.—Section 210402 of the Violent Crime Control and Law Enforcement Act of 1994 (34 U.S.C. 12602) is amended—
(1) in subsection (a)—

(A) by striking "The Attorney General"
and inserting the following:

“(1) FEDERAL COLLECTION OF DATA.—The
Attorney General”; and

(B) by adding at the end the following:

“(2) STATE COLLECTION OF DATA.—The attor-
ney general of a State may, through appropriate
means, acquire data about the use of excessive force
by law enforcement officers and such data may be
used by the attorney general in conducting investiga-
tions under section 210401. This data may not con-
tain any information that may reveal the identity of
the victim or any law enforcement officer.”; and

(2) by amending subsection (b) to read as fol-
lows:

“(b) LIMITATION ON USE OF DATA ACQUIRED BY
THE ATTORNEY GENERAL.—Data acquired under sub-
section (a)(1) shall be used only for research or statistical
purposes and may not contain any information that may
reveal the identity of the victim or any law enforcement
officer.”.

(d) ENFORCEMENT OF PATTERN OR PRACTICE RE-
LIEF.—Beginning in the first fiscal year that begins after
the date that is one year after the date of enactment of
this Act, a State or unit of local government that receives funds under the Byrne grant program or the COPS grant program during a fiscal year may not make available any amount of such funds to a local law enforcement agency if that local law enforcement agency enters into or renews any contractual arrangement, including a collective bargaining agreement with a labor organization, that—

(1) would prevent the Attorney General from seeking or enforcing equitable or declaratory relief against a law enforcement agency engaging in a pattern or practice of unconstitutional misconduct; or

(2) conflicts with any terms or conditions contained in a consent decree.

SEC. 104. INDEPENDENT INVESTIGATIONS.

(a) IN GENERAL.—

(1) DEFINITIONS.—In this subsection:

(A) INDEPENDENT INVESTIGATION.—The term "independent investigation" means a criminal investigation or prosecution of a law enforcement officer’s use of deadly force, including one or more of the following:

(i) Using an agency or civilian review board that investigates and independently reviews all allegations of use of deadly
force made against law enforcement officers in the jurisdiction.

(ii) Assigning of the attorney general of the State in which the alleged use of deadly force was committed to conduct the criminal investigation and prosecution.

(iii) Adopting a procedure under which an independent prosecutor is assigned to investigate and prosecute the case, including a procedure under which an automatic referral is made to an independent prosecutor appointed and overseen by the attorney general of the State in which the alleged use of deadly force was committed.

(iv) Adopting a procedure under which an independent prosecutor is assigned to investigate and prosecute the case.

(v) Having law enforcement agencies agree to and implement memoranda of understanding with other law enforcement agencies under which the other law enforcement agencies—
(I) shall conduct the criminal investigation into the alleged use of deadly force; and

(II) upon conclusion of the criminal investigation, shall file a report with the attorney general of the State containing a determination regarding whether—

(aa) the use of deadly force was appropriate; and

(bb) any action should be taken by the attorney general of the State.

(vi) Any substantially similar procedure to ensure impartiality in the investigation or prosecution.

(B) INDEPENDENT INVESTIGATION OF LAW ENFORCEMENT STATUTE.—The term “independent investigation of law enforcement statute” means a statute requiring an independent investigation in a criminal matter in which—

(i) one or more of the possible defendants is a law enforcement officer;
(ii) one or more of the alleged offenses involves the law enforcement officer’s use of deadly force in the course of carrying out that officer’s duty; and

(iii) the non-Federal law enforcement officer’s use of deadly force resulted in a death or injury.

(C) Independent Prosecutor.—The term “independent prosecutor” means, with respect to a criminal investigation or prosecution of a law enforcement officer’s use of deadly force, a prosecutor who—

(i) does not oversee or regularly rely on the law enforcement agency by which the law enforcement officer under investigation is employed; and

(ii) would not be involved in the prosecution in the ordinary course of that prosecutor’s duties.

(2) Grant Program.—The Attorney General may award grants to eligible States and Indian Tribes to assist in implementing an independent investigation of law enforcement statute.

(3) Eligibility.—To be eligible for a grant under this subsection, a State or Indian Tribe shall
have in effect an independent investigation of law
enforcement statute.

(4) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated to the At-
torney General $750,000,000 for fiscal years 2022
through 2024 to carry out this subsection.

(b) COPS GRANT PROGRAM USED FOR CIVILIAN RE-
VIEW BOARDS.—Part Q of title I of the of the Omnibus
10381 et seq.) is amended—

(1) in section 1701(b) (34 U.S.C. 10381(b))—

(A) by redesignating paragraphs (22) and
(23) as paragraphs (23) and (24), respectively;
(B) in paragraph (23), as so redesignated,
by striking “(21)” and inserting “(22)”;
and
(C) by inserting after paragraph (21) the
following:
“(22) to develop best practices for and to create
civilian review boards;”; and

(2) in section 1709 (34 U.S.C. 10389), by add-
ing at the end the following:
“(8) ‘civilian review board’ means an adminis-
trative entity that investigates civilian complaints
against law enforcement officers and—
“(A) is independent and adequately fund-
ed;

“(B) has investigatory authority and sub-
poena power;

“(C) has representative community divers-
ity;

“(D) has policy making authority;

“(E) provides advocates for civilian com-
plainants;

“(F) may conduct hearings; and

“(G) conducts statistical studies on pre-
vailing complaint trends.”.

Subtitle B—Law Enforcement
Trust and Integrity Act

SEC. 111. SHORT TITLE.

This subtitle may be cited as the “Law Enforcement
Trust and Integrity Act of 2021”.

SEC. 112. DEFINITIONS.

In this subtitle:

(1) COMMUNITY-BASED ORGANIZATION.—The
term “community-based organization” means a
grassroots organization that monitors the issue of
police misconduct and that has a local or national
presence and membership, such as the National As-

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(NAACP), the American Civil Liberties Union (ACLU), UnidosUS, the National Urban League, the National Congress of American Indians, or the National Asian Pacific American Legal Consortium (NAPALC).

(2) LAW ENFORCEMENT ACCREDITATION ORGANIZATION.—The term “law enforcement accreditation organization” means a professional law enforcement organization involved in the development of standards of accreditation for law enforcement agencies at the national, State, regional, or Tribal level, such as the Commission on Accreditation for Law Enforcement Agencies (CALEA).

(3) LAW ENFORCEMENT AGENCY.—The term “law enforcement agency” means a State, local, Indian tribal, or campus public agency engaged in the prevention, detection, investigation, prosecution, or adjudication of violations of criminal laws.

(4) PROFESSIONAL LAW ENFORCEMENT ASSOCIATION.—The term “professional law enforcement association” means a law enforcement membership association that works for the needs of Federal, State, local, or Indian tribal law enforcement agencies and with the civilian community on matters of common interest, such as the Hispanic American
Police Command Officers Association (PACPMA),
the National Asian Pacific Officers Association
(NAPOA), the National Black Police Association
(NBPA), the National Latino Peace Officers Associa-
tion (NLPOA), the National Organization of
Black Law Enforcement Executives (NOBLE),
Women in Law Enforcement, the Native American
Law Enforcement Association (NALEA), the Inter-
national Association of Chiefs of Police (IACP), the
National Sheriffs’ Association (NSA), the Fraternal
Order of Police (FOP), or the National Association
of School Resource Officers.

(5) PROFESSIONAL CIVILIAN OVERSIGHT ORGA-
NIZATION.—The term “professional civilian oversight
organization” means a membership organization
formed to address and advance civilian oversight of
law enforcement and whose members are from Fed-
eral, State, regional, local, or Tribal organizations
that review issues or complaints against law enforce-
ment agencies or officers, such as the National Asso-
ciation for Civilian Oversight of Law Enforcement
(NACOLE).

SEC. 113. ACCREDITATION OF LAW ENFORCEMENT AGEN-
CIES.

(a) STANDARDS.—
(1) INITIAL ANALYSIS.—The Attorney General shall perform an initial analysis of existing accreditation standards and methodology developed by law enforcement accreditation organizations nationwide, including national, State, regional, and Tribal accreditation organizations. Such an analysis shall include a review of the recommendations of the Final Report of the President’s Taskforce on 21st Century Policing, issued by the Department of Justice, in May 2015.

(2) DEVELOPMENT OF UNIFORM STANDARDS.—

After completion of the initial review and analysis under paragraph (1), the Attorney General shall—

(A) recommend, in consultation with law enforcement accreditation organizations and community-based organizations, the adoption of additional standards that will result in greater community accountability of law enforcement agencies and an increased focus on policing with a guardian mentality, including standards relating to—

(i) early warning systems and related intervention programs;

(ii) use of force procedures;

(iii) civilian review procedures;
(iv) traffic and pedestrian stop and search procedures;

(v) data collection and transparency;

(vi) administrative due process requirements;

(vii) video monitoring technology;

(viii) youth justice and school safety;

and

(ix) recruitment, hiring, and training;

and

(B) recommend additional areas for the development of national standards for the accreditation of law enforcement agencies in consultation with existing law enforcement accreditation organizations, professional law enforcement associations, labor organizations, community-based organizations, and professional civilian oversight organizations.

(3) CONTINUING ACCREDITATION PROCESS.—The Attorney General shall adopt policies and procedures to partner with law enforcement accreditation organizations, professional law enforcement associations, labor organizations, community-based organizations, and professional civilian oversight organizations to—
(A) continue the development of further accreditation standards consistent with paragraph (2); and

(B) encourage the pursuit of accreditation of Federal, State, local, and Tribal law enforcement agencies by certified law enforcement accreditation organizations.

(b) USE OF FUNDS REQUIREMENTS.—Section 502(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10153(a)) is amended by adding at the end the following:

"(7) An assurance that, for each fiscal year covered by an application, the applicant will use not less than 5 percent of the total amount of the grant award for the fiscal year to assist law enforcement agencies of the applicant, including campus public safety departments, gain or maintain accreditation from certified law enforcement accreditation organizations in accordance with section 113 of the Law Enforcement Trust and Integrity Act of 2021.")

(c) ELIGIBILITY FOR CERTAIN GRANT FUNDS.—The Attorney General shall, as appropriate and consistent with applicable law, allocate Department of Justice discretionary grant funding only to States or units of local government that require law enforcement agencies of that
State or unit of local government to gain and maintain accreditation from certified law enforcement accreditation organizations in accordance with this section.

SEC. 114. LAW ENFORCEMENT GRANTS.

(a) USE OF FUNDS REQUIREMENT.—Section 502(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10153(a)), as amended by section 113, is amended by adding at the end the following:

“(8) An assurance that, for each fiscal year covered by an application, the applicant will use not less than 5 percent of the total amount of the grant award for the fiscal year to study and implement effective management, training, recruiting, hiring, and oversight standards and programs to promote effective community and problem solving strategies for law enforcement agencies in accordance with section 114 of the Law Enforcement Trust and Integrity Act of 2021.”.

(b) GRANT PROGRAM FOR COMMUNITY ORGANIZATIONS.—The Attorney General may make grants to community-based organizations to study and implement—

(1) effective management, training, recruiting, hiring, and oversight standards and programs to promote effective community and problem solving strategies for law enforcement agencies; or
(2) effective strategies and solutions to public
safety, including strategies that do not rely on Fed-
eral and local law enforcement agency responses.

(c) USE OF FUNDS.—Grant amounts described in
paragraph (8) of section 502(a) of title I of the Omnibus
10153(a)), as added by subsection (a) of this section, and
grant amounts awarded under subsection (b) shall be used
to—

(1) study management and operations stand-
ards for law enforcement agencies, including stand-
ards relating to administrative due process, resi-
dency requirements, compensation and benefits, use
of force, racial profiling, early warning and interven-
tion systems, youth justice, school safety, civilian re-
view boards or analogous procedures, or research
into the effectiveness of existing programs, projects,
or other activities designed to address misconduct;
and

(2) develop pilot programs and implement effec-
tive standards and programs in the areas of train-
ing, hiring and recruitment, and oversight that are
designed to improve management and address mis-
conduct by law enforcement officers.
(d) COMPONENTS OF PILOT PROGRAM.—A pilot program developed under subsection (c)(2) shall include implementation of the following:

(1) TRAINING.—The implementation of policies, practices, and procedures addressing training and instruction to comply with accreditation standards in the areas of—

(A) the use of deadly force, less lethal force, and de-escalation tactics and techniques;

(B) investigation of officer misconduct and practices and procedures for referring to prosecuting authorities allegations of officer use of excessive force or racial profiling;

(C) disproportionate contact by law enforcement with minority communities;

(D) tactical and defensive strategy;

(E) arrests, searches, and restraint;

(F) professional verbal communications with civilians;

(G) interactions with—

(i) youth;

(ii) individuals with disabilities;

(iii) individuals with limited English proficiency; and

(iv) multi-cultural communities;
(II) proper traffic, pedestrian, and other
enforcement stops; and

(I) community relations and bias aware-
ness.

(2) Recruitment, hiring, retention, and
promotion of diverse law enforcement offi-
cers.—Policies, procedures, and practices for—

(A) the hiring and recruitment of diverse
law enforcement officers who are representative
of the communities they serve;

(B) the development of selection, pro-
motion, educational, background, and psycho-
logical standards that comport with title VII of
the Civil Rights Act of 1964 (42 U.S.C. 2000e
et seq.); and

(C) initiatives to encourage residency in
the jurisdiction served by the law enforcement
agency and continuing education.

(3) Oversight.—Complaint procedures, in-
cluding the establishment of civilian review boards or
analogous procedures for jurisdictions across a range
of sizes and agency configurations, complaint proce-
dures by community-based organizations, early
warning systems and related intervention programs,
video monitoring technology, data collection and
transparency, and administrative due process re-
requirements inherent to complaint procedures for
members of the public and law enforcement.

(4) YOUTH JUSTICE AND SCHOOL SAFETY.—
Uniform standards on youth justice and school saf-
ey that include best practices for law enforcement
interaction and communication with children and
youth, taking into consideration adolescent develop-
ment and any disability, including—

(A) the right to effective and timely notifi-
cation of a parent or legal guardian of any law
enforcement interaction, regardless of the immi-
gration status of the individuals involved; and

(B) the creation of positive school climates
by improving school conditions for learning
by—

(i) eliminating school-based arrests
and referrals to law enforcement;

(ii) using evidence-based preventative
measures and alternatives to school-based
arrests and referrals to law enforcement,
such as restorative justice and healing
practices; and

(iii) using school-wide positive behav-
ioral interventions and supports.
(5) VICTIM SERVICES.—Counseling services, including psychological counseling, for individuals and communities impacted by law enforcement misconduct.

(e) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Attorney General may provide technical assistance to States and community-based organizations in furtherance of the purposes of this section.

(2) MODELS FOR REDUCTION OF LAW ENFORCEMENT MISCONDUCT.—The technical assistance provided by the Attorney General may include the development of models for States and community-based organizations to reduce law enforcement officer misconduct. Any development of such models shall be in consultation with community-based organizations.

(f) USE OF COMPONENTS.—The Attorney General may use any component or components of the Department of Justice in carrying out this section.

(g) APPLICATIONS.—An application for a grant under subsection (b) shall be submitted in such form, and contain such information, as the Attorney General may prescribe by rule.

(h) PERFORMANCE EVALUATION.—
(1) Monitoring Components.—

(A) In general.—Each program, project, or activity funded under this section shall contain a monitoring component, which shall be developed pursuant to rules made by the Attorney General.

(B) Requirement.—Each monitoring component required under subparagraph (A) shall include systematic identification and collection of data about activities, accomplishments, and programs throughout the duration of the program, project, or activity and presentation of such data in a usable form.

(2) Evaluation Components.—

(A) In general.—Selected grant recipients shall be evaluated on the local level or as part of a national evaluation, pursuant to rules made by the Attorney General.

(B) Requirements.—An evaluation conducted under subparagraph (A) may include independent audits of police behavior and other assessments of individual program implementations. For community-based organizations in selected jurisdictions that are able to support outcome evaluations, the effectiveness of funded
programs, projects, and activities may be re-
quired.

(3) PERIODIC REVIEW AND REPORTS.—The At-
torney General may require a grant recipient to sub-
mit biannually to the Attorney General the results of
the monitoring and evaluations required under para-
graphs (1) and (2) and such other data and infor-
mation as the Attorney General determines to be
necessary.

(i) REVOCATION OR SUSPENSION OF FUNDING.—If
the Attorney General determines, as a result of monitoring
under subsection (h) or otherwise, that a grant recipient
under the Byrne grant program or under subsection (b)
is not in substantial compliance with the requirements of
this section, the Attorney General may revoke or suspend
funding of that grant, in whole or in part.

(j) CIVILIAN REVIEW BOARD DEFINED.—In this sec-
tion, the term “civilian review board” means an adminis-
trative entity that investigates civilian complaints against
law enforcement officers and—

(1) is independent and adequately funded;
(2) has investigatory authority and subpoena
power;
(3) has representative community diversity;
(4) has policy making authority;
(5) provides advocates for civilian complainants;
(6) may conduct hearings; and
(7) conducts statistical studies on prevailing complaint trends.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $25,000,000 for fiscal year 2022 to carry out the grant program authorized under subsection (b).

SEC. 115. ATTORNEY GENERAL TO CONDUCT STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Attorney General shall conduct a nationwide study of the prevalence and effect of any law, rule, or procedure that allows a law enforcement officer to delay the response to questions posed by a local internal affairs officer, or review board on the investigative integrity and prosecution of law enforcement misconduct, including pre-interview warnings and termination policies.

(2) INITIAL ANALYSIS.—The Attorney General shall perform an initial analysis of existing State laws, rules, and procedures to determine whether, at a threshold level, the effect of the type of law, rule, or procedure that raises material investigatory issues that could impair or hinder a prompt and thorough
investigation of possible misconduct, including crimi-
nal conduct.

(3) DATA COLLECTION.—After completion of
the initial analysis under paragraph (2), and consid-
ering material investigatory issues, the Attorney
General shall gather additional data nationwide on
similar laws, rules, and procedures from a repre-
sentative and statistically significant sample of jurisdici-
tions, to determine whether such laws, rules, and
procedures raise such material investigatory issues.

(b) REPORTING.—

(1) INITIAL ANALYSIS.—Not later than 120
days after the date of the enactment of this Act, the
Attorney General shall—

(A) submit to Congress a report containing
the results of the initial analysis conducted
under subsection (a)(2);

(B) make the report submitted under sub-
paragraph (A) available to the public; and

(C) identify the jurisdictions for which the
study described in subsection (a)(3) is to be
conducted.

(2) DATA COLLECTED.—Not later than 2 years
after the date of the enactment of this Act, the At-
torney General shall submit to Congress a report
containing the results of the data collected under this section and publish the report in the Federal Register.

SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 2022, in addition to any other sums authorized to be appropriated—

(1) $25,000,000 for additional expenses relating to the enforcement of section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (34 U.S.C. 12601), criminal enforcement under sections 241 and 242 of title 18, United States Code, and administrative enforcement by the Department of Justice of such sections, including compliance with consent decrees or judgments entered into under such section 210401; and

(2) $3,300,000 for additional expenses related to conflict resolution by the Department of Justice’s Community Relations Service.

SEC. 117. NATIONAL TASK FORCE ON LAW ENFORCEMENT OVERSIGHT.

(a) ESTABLISHMENT.—There is established within the Department of Justice a task force to be known as the Task Force on Law Enforcement Oversight (hereinafter in this section referred to as the “Task Force”).
(b) COMPOSITION.—The Task Force shall be composed of individuals appointed by the Attorney General, who shall appoint not less than 1 individual from each of the following:

(1) The Special Litigation Section of the Civil Rights Division.

(2) The Criminal Section of the Civil Rights Division.

(3) The Federal Coordination and Compliance Section of the Civil Rights Division.

(4) The Employment Litigation Section of the Civil Rights Division.

(5) The Disability Rights Section of the Civil Rights Division.

(6) The Office of Justice Programs.

(7) The Office of Community Oriented Policing Services (COPS).

(8) The Corruption/Civil Rights Section of the Federal Bureau of Investigation.

(9) The Community Relations Service.

(10) The Office of Tribal Justice.

(11) The unit within the Department of Justice assigned as a liaison for civilian review boards.

(c) POWERS AND DUTIES.—The Task Force shall consult with professional law enforcement associations,
labor organizations, and community-based organizations
to coordinate the process of the detection and referral of
complaints regarding incidents of alleged law enforcement
misconduct.

(d) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated $5,000,000 for each fis-
cal year to carry out this section.

SEC. 118. FEDERAL DATA COLLECTION ON LAW ENFORCE-
MENT PRACTICES.

(a) AGENCIES TO REPORT.—Each Federal, State,
Tribal, and local law enforcement agency shall report data
of the practices enumerated in subsection (c) of that agen-
cy to the Attorney General.

(b) BREAKDOWN OF INFORMATION BY RACE, ETH-
NICITY, AND GENDER.—For each practice enumerated in
subsection (c), the reporting law enforcement agency shall
provide a breakdown of the numbers of incidents of that
practice by race, ethnicity, age, and gender of the officers
of the agency and of members of the public involved in
the practice.

(c) PRACTICES TO BE REPORTED ON.—The prac-
tices to be reported on are the following:

(1) Traffic violation stops.
(2) Pedestrian stops.
(3) Frisk and body searches.
(4) Instances where law enforcement officers used deadly force, including—

(A) a description of when and where deadly force was used, and whether it resulted in death;

(B) a description of deadly force directed against an officer and whether it resulted in injury or death; and

(C) the law enforcement agency’s justification for use of deadly force, if the agency determines it was justified.

(d) RETENTION OF DATA.—Each law enforcement agency required to report data under this section shall maintain records relating to any matter reported for not less than 4 years after those records are created.

(e) PENALTY FOR STATES FAILING TO REPORT AS REQUIRED.—

(1) IN GENERAL.—For any fiscal year, a State shall not receive any amount that would otherwise be allocated to that State under section 505(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10156(a)), or any amount from any other law enforcement assistance program of the Department of Justice, unless the State has ensured, to the satisfaction of the Attor-
ney General, that the State and each local law en-
forcement agency of the State is in substantial com-
pliance with the requirements of this section.

(2) REALLOCATION.—Amounts not allocated by
reason of this subsection shall be reallocated to
States not disqualified by failure to comply with this
section.

(f) REGULATIONS.—The Attorney General shall pre-
scribe regulations to carry out this section.

TITLE II—POLICING TRANSPARENCY THROUGH DATA
Subtitle A—National Police
Misconduct Registry

SEC. 201. ESTABLISHMENT OF NATIONAL POLICE MIS-
CONDUCT REGISTRY.

(a) IN GENERAL.—Not later than 180 days after the
date of enactment of this Act, the Attorney General shall
establish a National Police Misconduct Registry to be com-
piled and maintained by the Department of Justice.

(b) CONTENTS OF REGISTRY.—The Registry re-
quired to be established under subsection (a) shall contain
the following data with respect to all Federal and local
law enforcement officers:

(1) Each complaint filed against a law enforce-
ment officer, aggregated by—
(A) complaints that were found to be credible or that resulted in disciplinary action against the law enforcement officer, disaggregated by whether the complaint involved a use of force or racial profiling (as such term is defined in section 302);

(B) complaints that are pending review, disaggregated by whether the complaint involved a use of force or racial profiling; and

(C) complaints for which the law enforcement officer was exonerated or that were determined to be unfounded or not sustained, disaggregated by whether the complaint involved a use of force or racial profiling.

(2) Discipline records, disaggregated by whether the complaint involved a use of force or racial profiling.

(3) Termination records, the reason for each termination, disaggregated by whether the complaint involved a use of force or racial profiling.

(4) Records of certification in accordance with section 202.

(5) Records of lawsuits against law enforcement officers and settlements of such lawsuits.
(6) Instances where a law enforcement officer resigns or retires while under active investigation related to the use of force.

(c) FEDERAL AGENCY REPORTING REQUIREMENTS.—Not later than 1 year after the date of enactment of this Act, and every 6 months thereafter, the head of each Federal law enforcement agency shall submit to the Attorney General the information described in subsection (b).

(d) STATE AND LOCAL LAW ENFORCEMENT AGENCY REPORTING REQUIREMENTS.—Beginning in the first fiscal year that begins after the date that is one year after the date of enactment of this Act and each fiscal year thereafter in which a State receives funds under the Byrne grant program, the State shall, once every 180 days, submit to the Attorney General the information described in subsection (b) for the State and each local law enforcement agency within the State.

(e) PUBLIC AVAILABILITY OF REGISTRY.—

(1) IN GENERAL.—In establishing the Registry required under subsection (a), the Attorney General shall make the Registry available to the public on an internet website of the Attorney General in a manner that allows members of the public to search for an individual law enforcement officer's records of
misconduct, as described in subsection (b), involving
a use of force or racial profiling.

(2) PRIVACY PROTECTIONS.—Nothing in this
subsection shall be construed to supersede the re-
quirements or limitations under section 552a of title
5, United States Code (commonly known as the
“Privacy Act of 1974”).

SEC. 202. CERTIFICATION REQUIREMENTS FOR HIRING OF
LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—Beginning in the first fiscal year
that begins after the date that is one year after the date
of the enactment of this Act, a State or unit of local gov-
ernment, other than an Indian Tribe, may not receive
funds under the Byrne grant program for that fiscal year
if, on the day before the first day of the fiscal year, the
State or unit of local government has not—

(1) submitted to the Attorney General evidence
that the State or unit of local government has a cer-
tification and decertification program for purposes
of employment as a law enforcement officer in that
State or unit of local government that is consistent
with the rules made under subsection (c); and

(2) submitted to the National Police Mis-
conduct Registry established under section 201
records demonstrating that all law enforcement offi-
cers of the State or unit of local government have completed all State certification requirements during the 1-year period preceding the fiscal year.

(b) Availability of Information.—The Attorney General shall make available to law enforcement agencies all information in the registry under section 201 for purposes of compliance with the certification and decertification programs described in subsection (a)(1) and considering applications for employment.

(c) Rules.—The Attorney General shall make rules to carry out this section and section 201, including uniform reporting standards.

Subtitle B—PRIDE Act

Sec. 221. Short Title.

This subtitle may be cited as the “Police Reporting Information, Data, and Evidence Act of 2021” or the “PRIDE Act of 2021”.

Sec. 222. Definitions.

In this subtitle:

(1) Local Educational Agency.—The term “local educational agency” has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) Local Law Enforcement Officer.—The term “local law enforcement officer” has the mean-
ing given the term in section 2, and includes a school resource officer.

(3) SCHOOL.—The term "school" means an elementary school or secondary school (as those terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)).

(4) SCHOOL RESOURCE OFFICER.—The term "school resource officer" means a sworn law enforcement officer who is—

(A) assigned by the employing law enforcement agency to a local educational agency or school;

(B) contracting with a local educational agency or school; or

(C) employed by a local educational agency or school.

SEC. 223. USE OF FORCE REPORTING.

(a) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Beginning in the first fiscal year that begins after the date that is one year after the date of enactment of this Act and each fiscal year thereafter in which a State or Indian Tribe receives funds under a Byrne grant program, the State or Indian Tribe shall—
(A) report to the Attorney General, on a quarterly basis and pursuant to guidelines established by the Attorney General, information regarding—

(i) any incident involving the use of deadly force against a civilian by—

(I) a local law enforcement officer who is employed by the State or by a unit of local government in the State; or

(II) a tribal law enforcement officer who is employed by the Indian Tribe;

(ii) any incident involving the shooting of a local law enforcement officer or tribal law enforcement officer described in clause (i) by a civilian;

(iii) any incident involving the death or arrest of a local law enforcement officer or tribal law enforcement officer;

(iv) any incident during which use of force by or against a local law enforcement officer or tribal law enforcement officer described in clause (i) occurs, which is not reported under clause (i), (ii), or (iii);
(v) deaths in custody; and

(vi) uses of force in arrests and booking;

(B) establish a system and a set of policies to ensure that all use of force incidents are reported by local law enforcement officers or tribal law enforcement officers; and

(C) submit to the Attorney General a plan for the collection of data required to be reported under this section, including any modifications to a previously submitted data collection plan.

(2) REPORT INFORMATION REQUIRED.—

(A) IN GENERAL.—The report required under paragraph (1)(A) shall contain information that includes, at a minimum—

(i) the national origin, sex, race, ethnicity, age, disability, English language proficiency, and housing status of each civilian against whom a local law enforcement officer or tribal law enforcement officer used force;

(ii) the date, time, and location, including whether it was on school grounds, and the zip code, of the incident and
whether the jurisdiction in which the incident occurred allows for the open-carry or concealed-carry of a firearm;

(iii) whether the civilian was armed, and, if so, the type of weapon the civilian had;

(iv) the type of force used against the officer, the civilian, or both, including the types of weapons used;

(v) the reason force was used;

(vi) a description of any injuries sustained as a result of the incident;

(vii) the number of officers involved in the incident;

(viii) the number of civilians involved in the incident; and

(ix) a brief description regarding the circumstances surrounding the incident, which shall include information on—

(I) the type of force used by all involved persons;

(II) the legitimate police objective necessitating the use of force;

(III) the resistance encountered by each local law enforcement officer
or tribal law enforcement officer involved in the incident;

(IV) the efforts by local law enforcement officers or tribal law enforcement officers to—

(aa) de-escalate the situation in order to avoid the use of force;

or

(bb) minimize the level of force used; and

(V) if applicable, the reason why efforts described in subclause (IV) were not attempted.

(B) INCIDENTS REPORTED UNDER DEATH IN CUSTODY REPORTING ACT.—A State or Indian Tribe is not required to include in a report under subsection (a)(1) an incident reported by the State or Indian Tribe in accordance with section 20104(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (34 U.S.C. 12104(a)(2)).

(C) RETENTION OF DATA.—Each law enforcement agency required to report data under this section shall maintain records relating to
any matter so reportable for not less than 4
years after those records are created.

(3) AUDIT OF USE-OF-FORCE REPORTING.—Not
later than 1 year after the date of enactment of this
Act, and each year thereafter, each State or Indian
Tribe described in paragraph (1) shall—

(A) conduct an audit of the use of force in-
cident reporting system required to be estab-
lished under paragraph (1)(B); and

(B) submit a report to the Attorney Gen-
eral on the audit conducted under subpara-
graph (A).

(4) COMPLIANCE PROCEDURE.—Prior to sub-
mitting a report under paragraph (1)(A), the State
or Indian Tribe submitting such report shall com-
pare the information compiled to be reported pursu-
ant to clause (i) of paragraph (1)(A) to publicly
available sources, and shall revise such report to in-
clude any incident determined to be missing from
the report based on such comparison. Failure to
comply with the procedures described in the previous
sentence shall be considered a failure to comply with
the requirements of this section.

(b) INELIGIBILITY FOR FUNDS.—
(1) IN GENERAL.—For any fiscal year in which a State or Indian Tribe fails to comply with this section, the State or Indian Tribe, at the discretion of the Attorney General, shall be subject to not more than a 10-percent reduction of the funds that would otherwise be allocated for that fiscal year to the State or Indian Tribe under a Byrne grant program.

(2) REALLOCATION.—Amounts not allocated under a Byrne grant program in accordance with paragraph (1) to a State for failure to comply with this section shall be reallocated under the Byrne grant program to States that have not failed to comply with this section.

(3) INFORMATION REGARDING SCHOOL RESOURCE OFFICERS.—The State or Indian Tribe shall ensure that all schools and local educational agencies within the jurisdiction of the State or Indian Tribe provide the State or Indian Tribe with the information needed regarding school resource officers to comply with this section.

(c) PUBLIC AVAILABILITY OF DATA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Attorney General shall publish, and make available to the public, a report containing the
data reported to the Attorney General under this section.

(2) PRIVACY PROTECTIONS.—Nothing in this subsection shall be construed to supersede the requirements or limitations under section 552a of title 5, United States Code (commonly known as the “Privacy Act of 1974”).

(d) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in coordination with the Director of the Federal Bureau of Investigation, shall issue guidance on best practices relating to establishing standard data collection systems that capture the information required to be reported under subsection (a)(2), which shall include standard and consistent definitions for terms.

SEC. 224. USE OF FORCE DATA REPORTING.

(a) TECHNICAL ASSISTANCE GRANTS AUTHORIZED.—The Attorney General may make grants to eligible law enforcement agencies to be used for the activities described in subsection (e).

(b) ELIGIBILITY.—In order to be eligible to receive a grant under this section a law enforcement agency shall—
(1) be a tribal law enforcement agency or be located in a State that receives funds under a Byrne grant program;

(2) employ not more that 100 local or tribal law enforcement officers;

(3) demonstrate that the use of force policy for local law enforcement officers or tribal law enforcement officers employed by the law enforcement agency is publicly available; and

(4) establish and maintain a complaint system that—

(A) may be used by members of the public to report incidents of use of force to the law enforcement agency;

(B) makes all information collected publicly searchable and available; and

(C) provides information on the status of an investigation related to a use of force complaint.

(c) Activities Described.—A grant made under this section may be used by a law enforcement agency for—

(1) the cost of assisting the State or Indian Tribe in which the law enforcement agency is located
in complying with the reporting requirements described in section 223;

(2) the cost of establishing necessary systems required to investigate and report incidents as required under subsection (b)(4);

(3) public awareness campaigns designed to gain information from the public on use of force by or against local and tribal law enforcement officers, including shootings, which may include tip lines, hot-lines, and public service announcements; and

(4) use of force training for law enforcement agencies and personnel, including training on de-escalation, implicit bias, crisis intervention techniques, and adolescent development.

**SEC. 225. COMPLIANCE WITH REPORTING REQUIREMENTS.**

(a) In General.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Attorney General shall conduct an audit and review of the information provided under this subtitle to determine whether each State or Indian Tribe described in section 223(a)(1) is in compliance with the requirements of this subtitle.

(b) Consistency in Data Reporting.—

(1) In General.—Any data reported under this subtitle shall be collected and reported—

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(A) in a manner consistent with existing programs of the Department of Justice that collect data on local law enforcement officer encounters with civilians; and

(B) in a manner consistent with civil rights laws for distribution of information to the public.

(2) GUIDELINES.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall—

(A) issue guidelines on the reporting requirement under section 223; and

(B) seek public comment before finalizing the guidelines required under subparagraph (A).

SEC. 226. FEDERAL LAW ENFORCEMENT REPORTING.

The head of each Federal law enforcement agency shall submit to the Attorney General, on a quarterly basis and pursuant to guidelines established by the Attorney General, the information required to be reported by a State or Indian Tribe under section 223.

SEC. 227. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Attorney General such sums as are necessary to carry out this subtitle.
TITLE III—IMPROVING POLICE
TRAINING AND POLICIES
Subtitle A—End Racial and
Religious Profiling Act

SEC. 301. SHORT TITLE.

This subtitle may be cited as the “End Racial and
Religious Profiling Act of 2021” or “ERRPA”.

SEC. 302. DEFINITIONS.

In this subtitle:

(1) COVERED PROGRAM.—The term “covered
program” means any program or activity funded in
whole or in part with funds made available under—

(A) a Byrne grant program; and

(B) the COPS grant program, except that

no program, project, or other activity specified
in section 1701(b)(13) of part Q of title I of the
Omnibus Crime Control and Safe Streets Act of
1968 (34 U.S.C. 10381 et seq.) shall be a cov-
ered program under this paragraph.

(2) GOVERNMENTAL BODY.—The term “govern-
mental body” means any department, agency, special
purpose district, or other instrumentality of Federal,
State, local, or Indian Tribal government.

(3) HIT RATE.—The term “hit rate” means the
percentage of stops and searches in which a law en-
enforcement agent finds drugs, a gun, or something else that leads to an arrest. The hit rate is calculated by dividing the total number of searches by the number of searches that yield contraband. The hit rate is complementary to the rate of false stops.

(4) LAW ENFORCEMENT AGENCY.—The term "law enforcement agency" means any Federal, State, or local public agency engaged in the prevention, detection, or investigation of violations of criminal, immigration, or customs laws.

(5) LAW ENFORCEMENT AGENT.—The term "law enforcement agent" means any Federal, State, or local official responsible for enforcing criminal, immigration, or customs laws, including police officers and other agents of a law enforcement agency.

(6) RACIAL PROFILING.—

(A) IN GENERAL.—The term "racial profiling" means the practice of a law enforcement agent or agency relying, to any degree, on actual or perceived race, ethnicity, national origin, religion, gender, gender identity, or sexual orientation in selecting which individual to subject to routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the
initial investigatory procedure, except when
there is trustworthy information, relevant to the
locality and timeframe, that links a person with
a particular characteristic described in this
paragraph to an identified criminal incident or
scheme.

(B) EXCEPTION.—For purposes of sub-
paragraph (A), a tribal law enforcement officer
exercising law enforcement authority within In-
dian country, as that term is defined in section
1151 of title 18, United States Code, is not
considered to be racial profiling with respect to
making key jurisdictional determinations that
are necessarily tied to reliance on actual or per-
ceived race, ethnicity, or tribal affiliation.

(7) ROUTINE OR SPONTANEOUS INVESTIGATORY
ACTIVITIES.—The term “routine or spontaneous in-
vestigatory activities” means the following activities
by a law enforcement agent:

(A) Interviews.

(B) Traffic stops.

(C) Pedestrian stops.

(D) Frisks and other types of body
searches.
(E) Consensual or nonconsensual searches of the persons, property, or possessions (including vehicles) of individuals using any form of public or private transportation, including motorists and pedestrians.

(F) Data collection and analysis, assessments, and predicated investigations.

(G) Inspections and interviews of entrants into the United States that are more extensive than those customarily carried out.

(H) Immigration-related workplace investigations.

(I) Such other types of law enforcement encounters compiled for or by the Federal Bureau of Investigation or the Department of Justice Bureau of Justice Statistics.

(8) REASONABLE REQUEST.—The term “reasonable request” means all requests for information, except for those that—

(A) are immaterial to the investigation;

(B) would result in the unnecessary disclosure of personal information; or

(C) would place a severe burden on the resources of the law enforcement agency given its size.
PART I—PROHIBITION OF RACIAL PROFILING

SEC. 311. PROHIBITION.

No law enforcement agent or law enforcement agency shall engage in racial profiling.

SEC. 312. ENFORCEMENT.

(a) REMEDY.—The United States, or an individual injured by racial profiling, may enforce this part in a civil action for declaratory or injunctive relief, filed either in a State court of general jurisdiction or in a district court of the United States.

(b) PARTIES.—In any action brought under this part, relief may be obtained against—

(1) any governmental body that employed any law enforcement agent who engaged in racial profiling;

(2) any agent of such body who engaged in racial profiling; and

(3) any person with supervisory authority over such agent.

(c) NATURE OF PROOF.—Proof that the routine or spontaneous investigatory activities of law enforcement agents in a jurisdiction have had a disparate impact on individuals with a particular characteristic described in section 302(6) shall constitute prima facie evidence of a violation of this part.
(d) Attorney’s Fees.—In any action or proceeding to enforce this part against any governmental body, the court may allow a prevailing plaintiff, other than the United States, reasonable attorney’s fees as part of the costs, and may include expert fees as part of the attorney’s fee. The term “prevailing plaintiff” means a plaintiff that substantially prevails pursuant to a judicial or administrative judgment or order, or an enforceable written agreement.

PART II—PROGRAMS TO ELIMINATE RACIAL PROFILING BY FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 321. POLICIES TO ELIMINATE RACIAL PROFILING.

(a) In General.—Federal law enforcement agencies shall—

(1) maintain adequate policies and procedures designed to eliminate racial profiling; and

(2) cease existing practices that permit racial profiling.

(b) Policies.—The policies and procedures described in subsection (a)(1) shall include—

(1) a prohibition on racial profiling;

(2) training on racial profiling issues as part of Federal law enforcement training;
(3) the collection of data in accordance with the
regulations issued by the Attorney General under
section 341;

(4) procedures for receiving, investigating, and
responding meaningfully to complaints alleging ra-
cial profiling by law enforcement agents; and

(5) any other policies and procedures the Attor-
ney General determines to be necessary to eliminate
racial profiling by Federal law enforcement agencies.

PART III—PROGRAMS TO ELIMINATE RACIAL
PROFILING BY STATE AND LOCAL LAW EN-
FORCEMENT AGENCIES

SEC. 331. POLICIES REQUIRED FOR GRANTS.

(a) IN GENERAL.—An application by a State or a
unit of local government for funding under a covered pro-
gram shall include a certification that such State, unit of
local government, and any law enforcement agency to
which it will distribute funds—

(1) maintains adequate policies and procedures
designed to eliminate racial profiling; and

(2) has eliminated any existing practices that
permit or encourage racial profiling.

(b) POLICIES.—The policies and procedures de-
scribed in subsection (a)(1) shall include—

(1) a prohibition on racial profiling;
(2) training on racial profiling issues as part of law enforcement training;

(3) the collection of data in accordance with the regulations issued by the Attorney General under section 341; and

(4) participation in an administrative complaint procedure or independent audit program that meets the requirements of section 332.

(c) EFFECTIVE DATE.—This section shall take effect 12 months after the date of enactment of this Act.

SEC. 332. INVOLVEMENT OF ATTORNEY GENERAL.

(a) REGULATIONS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act and in consultation with stakeholders, including Federal, State, and local law enforcement agencies and community, professional, research, and civil rights organizations, the Attorney General shall issue regulations for the operation of administrative complaint procedures and independent audit programs to ensure that such procedures and programs provide an appropriate response to allegations of racial profiling by law enforcement agents or agencies.

(2) GUIDELINES.—The regulations issued under paragraph (1) shall contain guidelines that
ensure the fairness, effectiveness, and independence
of the administrative complaint procedures and inde-
pendent auditor programs.

(b) NONCOMPLIANCE.—If the Attorney General de-
determines that the recipient of a grant from any covered
program is not in compliance with the requirements of sec-
tion 331 or the regulations issued under subsection (a),
the Attorney General shall withhold, in whole or in part
(at the discretion of the Attorney General), funds for one
or more grants to the recipient under the covered pro-
gram, until the recipient establishes compliance.

(c) PRIVATE PARTIES.—The Attorney General shall
provide notice and an opportunity for private parties to
present evidence to the Attorney General that a recipient
of a grant from any covered program is not in compliance
with the requirements of this part.

SEC. 333. DATA COLLECTION DEMONSTRATION PROJECT.

(a) TECHNICAL ASSISTANCE GRANTS FOR DATA
COLLECTION.—

(1) IN GENERAL.—The Attorney General may,
through competitive grants or contracts, carry out a
2-year demonstration project for the purpose of de-
veloping and implementing data collection programs
on the hit rates for stops and searches by law en-
forcement agencies. The data collected shall be
disaggregated by race, ethnicity, national origin, gender, and religion.

(2) NUMBER OF GRANTS.—The Attorney General shall provide not more than 5 grants or contracts under this section.

(3) ELIGIBLE GRANTEES.—Grants or contracts under this section shall be awarded to law enforcement agencies that serve communities where there is a significant concentration of racial or ethnic minorities and that are not already collecting data voluntarily.

(b) REQUIRED ACTIVITIES.—Activities carried out with a grant under this section shall include—

(1) developing a data collection tool and reporting the compiled data to the Attorney General; and

(2) training of law enforcement personnel on data collection, particularly for data collection on hit rates for stops and searches.

(c) EVALUATION.—Not later than 3 years after the date of enactment of this Act, the Attorney General shall enter into a contract with an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) to analyze the data collected by each of the grantees funded under this section.
(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out activities under this section—

(1) $5,000,000, over a 2-year period, to carry out the demonstration program under subsection (a); and

(2) $500,000 to carry out the evaluation under subsection (c).

SEC. 334. DEVELOPMENT OF BEST PRACTICES.

(a) Use of Funds Requirement.—Section 502(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10153(a)), as amended by sections 113 and 114, is amended by adding at the end the following:

“(9) An assurance that, for each fiscal year covered by an application, the applicant will use not less than 10 percent of the total amount of the grant award for the fiscal year to develop and implement best practice devices and systems to eliminate racial profiling in accordance with section 334 of the End Racial and Religious Profiling Act of 2021.”.

(b) Development of Best Practices.—Grant amounts described in paragraph (9) of section 502(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10153(a)), as added by subsection (a)
of this section, shall be for programs that include the fol-
lowing:

(1) The development and implementation of training to prevent racial profiling and to encourage more respectful interaction with the public.

(2) The acquisition and use of technology to fa-
cilitate the accurate collection and analysis of data.

(3) The development and acquisition of feed-
back systems and technologies that identify law en-
forcement agents or units of agents engaged in, or at risk of engaging in, racial profiling or other mis-
conduct.

(4) The establishment and maintenance of an administrative complaint procedure or independent auditor program.

SEC. 335. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Attor-
ney General such sums as are necessary to carry out this part.

PART IV—DATA COLLECTION

SEC. 341. ATTORNEY GENERAL TO ISSUE REGULATIONS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with stakeholders, including Federal, State, and local law enforcement agencies and community,
professional, research, and civil rights organizations, shall
issue regulations for the collection and compilation of data
under sections 321 and 331.

(b) REQUIREMENTS.—The regulations issued under
subsection (a) shall—

(1) provide for the collection of data on all rou-
tine and spontaneous investigatory activities;

(2) provide that the data collected shall—

(A) be disaggregated by race, ethnicity, na-
tional origin, gender, disability, and religion;

(B) include the date, time, and location of
such investigatory activities;

(C) include detail sufficient to permit an
analysis of whether a law enforcement agency is
engaging in racial profiling; and

(D) not include personally identifiable in-
formation;

(3) provide that a standardized form shall be
made available to law enforcement agencies for the
submission of collected data to the Department of
Justice;

(4) provide that law enforcement agencies shall
compile data on the standardized form made avail-
able under paragraph (3), and submit the form to
the Civil Rights Division and the Department of
Justice Bureau of Justice Statistics;

(5) provide that law enforcement agencies shall
maintain all data collected under this subtitle for not
less than 4 years;

(6) include guidelines for setting comparative
benchmarks, consistent with best practices, against
which collected data shall be measured;

(7) provide that the Department of Justice Bu-
reau of Justice Statistics shall—

(A) analyze the data for any statistically
significant disparities, including—

(i) disparities in the percentage of
drivers or pedestrians stopped relative to
the proportion of the population passing
through the neighborhood;

(ii) disparities in the hit rate; and

(iii) disparities in the frequency of
searches performed on racial or ethnic mi-
nority drivers and the frequency of
searches performed on nonminority drivers;

and

(B) not later than 3 years after the date
of enactment of this Act, and annually there-
after—
(i) prepare a report regarding the findings of the analysis conducted under subparagraph (A);

(ii) provide such report to Congress; and

(iii) make such report available to the public, including on a website of the Department of Justice, and in accordance with accessibility standards under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(8) protect the privacy of individuals whose data is collected by—

(A) limiting the use of the data collected under this subtitle to the purposes set forth in this subtitle;

(B) except as otherwise provided in this subtitle, limiting access to the data collected under this subtitle to those Federal, State, or local employees or agents who require such access in order to fulfill the purposes for the data set forth in this subtitle;

(C) requiring contractors or other non-governmental agents who are permitted access to the data collected under this subtitle to sign
use agreements incorporating the use and disclosure restrictions set forth in subparagraph (A); and
(D) requiring the maintenance of adequate security measures to prevent unauthorized access to the data collected under this subtitle.

SEC. 342. PUBLICATION OF DATA.

The Director of the Bureau of Justice Statistics of the Department of Justice shall provide to Congress and make available to the public, together with each annual report described in section 341, the data collected pursuant to this subtitle, excluding any personally identifiable information described in section 343.

SEC. 343. LIMITATIONS ON PUBLICATION OF DATA.

The name or identifying information of a law enforcement agent, complainant, or any other individual involved in any activity for which data is collected and compiled under this subtitle shall not be—

(1) released to the public;
(2) disclosed to any person, except for—
(A) such disclosures as are necessary to comply with this subtitle;
(B) disclosures of information regarding a particular person to that person; or
(C) disclosures pursuant to litigation; or
(3) subject to disclosure under section 552 of title 5, United States Code (commonly known as the Freedom of Information Act), except for disclosures of information regarding a particular person to that person.

PART V—DEPARTMENT OF JUSTICE REGULATIONS AND REPORTS ON RACIAL PROFILING IN THE UNITED STATES

SEC. 351. ATTORNEY GENERAL TO ISSUE REGULATIONS AND REPORTS.

(a) Regulations.—In addition to the regulations required under sections 333 and 341, the Attorney General shall issue such other regulations as the Attorney General determines are necessary to implement this subtitle.

(b) Reports.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Attorney General shall submit to Congress a report on racial profiling by law enforcement agencies.

(2) Scope.—Each report submitted under paragraph (1) shall include—

(A) a summary of data collected under sections 321(b)(3) and 331(b)(3) and from any
other reliable source of information regarding racial profiling in the United States;

(B) a discussion of the findings in the most recent report prepared by the Department of Justice Bureau of Justice Statistics under section 341(b)(7);

(C) the status of the adoption and implementation of policies and procedures by Federal law enforcement agencies under section 321 and by the State and local law enforcement agencies under sections 331 and 332; and

(D) a description of any other policies and procedures that the Attorney General believes would facilitate the elimination of racial profiling.

Subtitle B—Additional Reforms

SEC. 361. TRAINING ON RACIAL BIAS AND DUTY TO INTERVENE.

(a) IN GENERAL.—The Attorney General shall establish—

(1) a training program for law enforcement officers to cover racial profiling, implicit bias, and procedural justice; and

(2) a clear duty for Federal law enforcement officers to intervene in cases where another law en-
enforcement officer is using excessive force against a
civilian, and establish a training program that covers
the duty to intervene.

(b) Mandatory Training for Federal Law En-
forcement Officers.—The head of each Federal law
enforcement agency shall require each Federal law en-
forcement officer employed by the agency to complete the
training programs established under subsection (a).

(c) Limitation on Eligibility for Funds.—Be-
ginning in the first fiscal year that begins after the date
that is one year after the date of enactment of this Act,
a State or unit of local government may not receive funds
under the Byrne grant program for a fiscal year if, on
the day before the first day of the fiscal year, the State
or unit of local government does not require each law en-
forcement officer in the State or unit of local government
to complete the training programs established under sub-
section (a).

(d) Grants to Train Law Enforcement Offi-
cers on Use of Force.—Section 501(a)(1) of title I of
the Omnibus Crime Control and Safe Streets Act of 1968
(34 U.S.C. 10152(a)(1)) is amended by adding at the end
the following:
“(I) Training programs for law enforce-
ment officers, including training programs on
use of force and a duty to intervene.”.

SEC. 362. BAN ON NO-KNOCK WARRANTS IN DRUG CASES.

(a) Ban on Federal Warrants in Drug Cases.—
Section 509 of the Controlled Substances Act (21 U.S.C.
879) is amended by adding at the end the following: “A
search warrant authorized under this section shall require
that a law enforcement officer execute the search warrant
only after providing notice of his or her authority and pur-
pose.”.

(b) Limitation on Eligibility for Funds.—Be-
ginning in the first fiscal year that begins after the date
that is one year after the date of enactment of this Act,
a State or unit of local government may not receive funds
under the COPS grant program for a fiscal year if, on
the day before the first day of the fiscal year, the State
or unit of local government does not have in effect a law
that prohibits the issuance of a no-knock warrant in a
drug case.

(c) Definition.—In this section, the term “no-
knock warrant” means a warrant that allows a law en-
forcement officer to enter a property without requiring the
law enforcement officer to announce the presence of the
law enforcement officer or the intention of the law enforce-
ment officer to enter the property.

SEC. 363. INCENTIVIZING BANNING OF CHOKEHOLDS AND
CAROTID HOLDS.

(a) Definition.—In this section, the term “chokehold or carotid hold” means the application of any
pressure to the throat or windpipe, the use of maneuvers
that restrict blood or oxygen flow to the brain, or carotid
artery restraints that prevent or hinder breathing or re-
duce intake of air of an individual.

(b) Limitation on Eligibility for Funds.—Be-
ginning in the first fiscal year that begins after the date
that is one year after the date of enactment of this Act,
a State or unit of local government may not receive funds
under the Byrne grant program or the COPS grant pro-
gram for a fiscal year if, on the day before the first day
of the fiscal year, the State or unit of local government
does not have in effect a law that prohibits law enforce-
ment officers in the State or unit of local government from
using a chokehold or carotid hold.

(c) Chokeholds as Civil Rights Violations.—

(1) Short title.—This subsection may be
cited as the “Eric Garner Excessive Use of Force
Prevention Act”.

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(2) Chokeholds as Civil Rights Violations.—Section 242 of title 18, United States Code, as amended by section 101, is amended by adding at the end the following: "For the purposes of this section, the application of any pressure to the throat or windpipe, use of maneuvers that restrict blood or oxygen flow to the brain, or carotid artery restraints which prevent or hinder breathing or reduce intake of air is a punishment, pain, or penalty."

SEC. 364. PEACE ACT.

(a) Short Title.—This section may be cited as the "Police Exercising Absolute Care With Everyone Act of 2021" or the "PEACE Act of 2021".

(b) Use of Force by Federal Law Enforcement Officers.—

(1) Definitions.—In this subsection:

(A) Deescalation Tactics and Techniques.—The term "deescalation tactics and techniques" means proactive actions and approaches used by a Federal law enforcement officer to stabilize the situation so that more time, options, and resources are available to gain a person's voluntary compliance and reduce or eliminate the need to use force, including verbal persuasion, warnings, tactical tech-
niques, slowing down the pace of an incident, waiting out a subject, creating distance between the officer and the threat, and requesting additional resources to resolve the incident.

(B) NECESSARY.—The term "necessary" means that another reasonable Federal law enforcement officer would objectively conclude, under the totality of the circumstances, that there was no reasonable alternative to the use of force.

(C) REASONABLE ALTERNATIVES.—

(i) IN GENERAL.—The term "reasonable alternatives" means tactics and methods used by a Federal law enforcement officer to effectuate an arrest that do not unreasonably increase the risk posed to the law enforcement officer or another person, including verbal communication, distance, warnings, deescalation tactics and techniques, tactical repositioning, and other tactics and techniques intended to stabilize the situation and reduce the immediacy of the risk so that more time, options, and resources can be called upon to resolve the situation without the use of force.
(ii) **DEADLY FORCE.**—With respect to
the use of deadly force, the term “reasonable alternatives” includes the use of less lethal force.

(D) **TOTALITY OF THE CIRCUMSTANCES.**—
The term “totality of the circumstances” means all credible facts known to the Federal law enforcement officer leading up to and at the time of the use of force, including the actions of the person against whom the Federal law enforcement officer uses such force and the actions of the Federal law enforcement officer.

(2) **PROHIBITION ON LESS LETHAL FORCE.**—A Federal law enforcement officer may not use any less lethal force unless—

(A) the form of less lethal force used is necessary and proportional in order to effectuate an arrest of a person who the officer has probable cause to believe has committed a criminal offense; and

(B) reasonable alternatives to the use of the form of less lethal force have been exhausted.
(3) PROHIBITION ON DEADLY USE OF FORCE.—

A Federal law enforcement officer may not use deadly force against a person unless—

(A) the form of deadly force used is necessary, as a last resort, to prevent imminent and serious bodily injury or death to the officer or another person;

(B) the use of the form of deadly force creates no substantial risk of injury to a third person; and

(C) reasonable alternatives to the use of the form of deadly force have been exhausted.

(4) REQUIREMENT TO GIVE VERBAL WARNING.—When feasible, prior to using force against a person, a Federal law enforcement officer shall identify himself or herself as a Federal law enforcement officer, and issue a verbal warning to the person that the Federal law enforcement officer seeks to apprehend, which shall—

(A) include a request that the person surrender to the law enforcement officer; and

(B) notify the person that the law enforcement officer will use force against the person if the person resists arrest or flees.
(5) GUIDANCE ON USE OF FORCE.—Not later than 120 days after the date of enactment of this Act, the Attorney General, in consultation with impacted persons, communities, and organizations, including representatives of civil and human rights organizations, victims of police use of force, and representatives of law enforcement associations, shall provide guidance to Federal law enforcement agencies on—

(A) the types of less lethal force and deadly force that are prohibited under paragraphs (2) and (3); and

(B) how a Federal law enforcement officer can—

(i) assess whether the use of force is appropriate and necessary; and

(ii) use the least amount of force when interacting with—

(I) pregnant individuals;

(II) children and youth under 21 years of age;

(III) elderly persons;

(IV) persons with mental, behavioral, or physical disabilities or impairments;
(V) persons experiencing percep-
tual or cognitive impairments due to
use of alcohol, narcotics,
hallucinogens, or other drugs;

(VI) persons suffering from a se-
rious medical condition; and

(VII) persons with limited
English proficiency.

(6) TRAINING.—The Attorney General shall
provide training to Federal law enforcement officers
on interacting people described in subclauses (I)
through (VII) of paragraph (5)(B)(ii).

(7) LIMITATION ON JUSTIFICATION DE-
FENSE.—

(A) IN GENERAL.—Chapter 51 of title 18,
United States Code, is amended by adding at
the end the following:

“§1123. Limitation on justification defense for Fed-
eral law enforcement officers

“(a) IN GENERAL.—It is not a defense to an offense
under section 1111 or 1112 that the use of less lethal
force or deadly force by a Federal law enforcement officer
was justified if—
“(1) that officer’s use of use of such force was inconsistent with section 364(b) of the George Floyd Justice in Policing Act of 2021; or

“(2) that officer’s gross negligence, leading up to and at the time of the use of force, contributed to the necessity of the use of such force.

“(b) DEFINITIONS.—In this section—

“(1) the terms ‘deadly force’ and ‘less lethal force’ have the meanings given such terms in section 2 and section 364 of the George Floyd Justice in Policing Act of 2021; and

“(2) the term ‘Federal law enforcement officer’ has the meaning given such term in section 115.”.

(B) CLERICAL AMENDMENT.—The table of sections for chapter 51 of title 18, United States Code, is amended by inserting after the item relating to section 1122 the following:

“1123. Limitation on justification defense for Federal law enforcement officers.”.

(c) LIMITATION ON THE RECEIPT OF FUNDS UNDER THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM.—

(1) LIMITATION.—A State or unit of local government, other than an Indian Tribe, may not receive funds that the State or unit of local government would otherwise receive under a Byrne grant.
program for a fiscal year if, on the day before the first day of the fiscal year, the State or unit of local government does not have in effect a law that is consistent with subsection (b) of this section and section 1123 of title 18, United States Code, as determined by the Attorney General.

(2) SUBSEQUENT ENACTMENT.—

(A) IN GENERAL.—If funds described in paragraph (1) are withheld from a State or unit of local government pursuant to paragraph (1) for 1 or more fiscal years, and the State or unit of local government enacts or puts in place a law described in paragraph (1), and demonstrates substantial efforts to enforce such law, subject to subparagraph (B), the State or unit of local government shall be eligible, in the fiscal year after the fiscal year during which the State or unit of local government demonstrates such substantial efforts, to receive the total amount that the State or unit of local government would have received during each fiscal year for which funds were withheld.

(B) LIMIT ON AMOUNT OF PRIOR YEAR FUNDS.—A State or unit of local government may not receive funds under subparagraph (A)
in an amount that is more than the amount
withheld from the State or unit of local govern-
ment during the 5-fiscal-year period before the
fiscal year during which funds are received
under subparagraph (A).

(3) GUIDANCE.—Not later than 120 days after
the date of enactment of this Act, the Attorney Gen-
eral, in consultation with impacted persons, commu-
nities, and organizations, including representatives
of civil and human rights organizations, individuals
against whom a law enforcement officer used force,
and representatives of law enforcement associations,
shall make guidance available to States and units of
local government on the criteria that the Attorney
General will use in determining whether the State or
unit of local government has in place a law described
in paragraph (1).

(4) APPLICATION.—This subsection shall apply
to the first fiscal year that begins after the date that
is 1 year after the date of the enactment of this Act,
and each fiscal year thereafter.

SEC. 365. STOP MILITARIZING LAW ENFORCEMENT ACT.

(a) FINDINGS.—Congress makes the following find-
ings:
(1) Under section 2576a of title 10, United States Code, the Department of Defense is authorized to provide excess property to local law enforcement agencies. The Defense Logistics Agency, administers such section by operating the Law Enforcement Support Office program.

(2) New and used material, including mine-resistant ambush-protected vehicles and weapons determined by the Department of Defense to be “military grade” are transferred to Federal, Tribal, State, and local law enforcement agencies through the program.

(3) As a result local law enforcement agencies, including police and sheriff’s departments, are acquiring this material for use in their normal operations.

(4) As a result of the wars in Iraq and Afghanistan, military equipment purchased for, and used in, those wars has become excess property and has been made available for transfer to local and Federal law enforcement agencies.

(5) In Fiscal Year 2017, $504,000,000 worth of property was transferred to law enforcement agencies.
(6) More than $6,800,000,000 worth of weapons and equipment have been transferred to police organizations in all 50 States and four territories through the program.

(7) In May 2012, the Defense Logistics Agency instituted a moratorium on weapons transfers through the program after reports of missing equipment and inappropriate weapons transfers.

(8) Though the moratorium was widely publicized, it was lifted in October 2013 without adequate safeguards.

(9) On January 16, 2015, President Barack Obama issued Executive Order No. 13688 to better coordinate and regulate the federal transfer of military weapons and equipment to State, local, and Tribal law enforcement agencies.

(10) In July, 2017, the Government Accountability Office reported that the program’s internal controls were inadequate to prevent fraudulent applicants’ access to the program.

(12) As a result, Federal, State, and local law enforcement departments across the country are eligible again to acquire free "military-grade" weapons and equipment that could be used inappropriately during policing efforts in which people and taxpayers could be harmed.

(13) The Department of Defense categorizes equipment eligible for transfer under the 1033 program as "controlled” and “un-controlled” equipment. “Controlled equipment” includes weapons, explosives such as flash-bang grenades, mine-resistant ambush-protected vehicles, long-range acoustic devices, aircraft capable of being modified to carry armament that are combat coded, and silencers, among other military grade items.

(b) LIMITATION ON DEPARTMENT OF DEFENSE TRANSFER OF PERSONAL PROPERTY TO LOCAL LAW ENFORCEMENT AGENCIES.—

(1) IN GENERAL.—Section 2576a of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A), by striking "counterdrug, counterterrorism, and border security activities” and inserting "counterterrorism”; and
(ii) in paragraph (2), by striking “,
the Director of National Drug Control Pol-
icy,”;
(B) in subsection (b)—
(i) in paragraph (5), by striking
“and” at the end;
(ii) in paragraph (6), by striking the
period and inserting a semicolon; and
(iii) by adding at the end the fol-
lowing new paragraphs:
“(7) the recipient submits to the Department of
Defense a description of how the recipient expects to
use the property;
“(8) the recipient certifies to the Department of
Defense that if the recipient determines that the
property is surplus to the needs of the recipient, the
recipient will return the property to the Department
of Defense;
“(9) with respect to a recipient that is not a
Federal agency, the recipient certifies to the Depart-
ment of Defense that the recipient notified the local
community of the request for personal property
under this section by—
“(A) publishing a notice of such request on
a publicly accessible Internet website;
“(B) posting such notice at several prominent locations in the jurisdiction of the recipient; and

“(C) ensuring that such notices were available to the local community for a period of not less than 30 days; and

“(10) the recipient has received the approval of the city council or other local governing body to acquire the personal property sought under this section.”;

(C) by striking subsection (d);

(D) by redesignating subsections (e) and (f) as subsections (o) and (p), respectively; and

(E) by inserting after subsection (c) the following new subsections:

“(d) **ANNUAL CERTIFICATION ACCOUNTING FOR TRANSFERRED PROPERTY.**—(1) For each fiscal year, the Secretary shall submit to Congress certification in writing that each Federal or State agency to which the Secretary has transferred property under this section—

“(A) has provided to the Secretary documentation accounting for all controlled property, including arms and ammunition, that the Secretary has transferred to the agency, including any item described in subsection (f) so transferred before the date of the
enactment of the George Floyd Justice in Policing Act of 2021; and

“(B) with respect to a non-Federal agency, car-
ried out each of paragraphs (5) through (8) of sub-
section (b).

“(2) If the Secretary does not provide a certification
under paragraph (1) for a Federal or State agency, the
Secretary may not transfer additional property to that
agency under this section.

“(e) ANNUAL REPORT ON EXCESS PROPERTY.—Be-
fore making any property available for transfer under this
section, the Secretary shall annually submit to Congress
a description of the property to be transferred together
with a certification that the transfer of the property would
not violate this section or any other provision of law.

“(f) LIMITATIONS ON TRANSFERS.—(1) The Sec-
retary may not transfer to Federal, Tribal, State, or local
law enforcement agencies the following under this section:

“(A) Firearms, ammunition, bayonets, grenade
launchers, grenades (including stun and flash-bang),
and explosives.

“(B) Vehicles, except for passenger automobiles
(as such term is defined in section 32901(a)(18) of
title 49, United States Code) and bucket trucks.

“(C) Drones.
“(D) Controlled aircraft that—
   “(i) are combat configured or combat
coded; or
   “(ii) have no established commercial flight
application.
   “(E) Silencers.
   “(F) Long-range acoustic devices.
   “(G) Items in the Federal Supply Class of
banned items.

“(2) The Secretary may not require, as a condition
of a transfer under this section, that a Federal or State
agency demonstrate the use of any small arms or ammuni-
tion.

“(3) The limitations under this subsection shall also
apply with respect to the transfer of previously transferred
property of the Department of Defense from one Federal
or State agency to another such agency.

“(4)(A) The Secretary may waive the applicability of
paragraph (1) to a vehicle described in subparagraph (B)
of such paragraph (other than a mine-resistant ambush-
protected vehicle), if the Secretary determines that such
waiver is necessary for disaster or rescue purposes or
for another purpose where life and public safety are at
risk, as demonstrated by the proposed recipient of the ve-
hicle.
“(B) If the Secretary issues a waiver under subparagraph (A), the Secretary shall—

“(i) submit to Congress notice of the waiver, and post such notice on a public Internet website of the Department, by not later than 30 days after the date on which the waiver is issued; and

“(ii) require, as a condition of the waiver, that the recipient of the vehicle for which the waiver is issued provides public notice of the waiver and the transfer, including the type of vehicle and the purpose for which it is transferred, in the jurisdiction where the recipient is located by not later than 30 days after the date on which the waiver is issued.

“(5) The Secretary may provide for an exemption to the limitation under subparagraph (D) of paragraph (1) in the case of parts for aircraft described in such subparagraph that are transferred as part of regular maintenance of aircraft in an existing fleet.

“(6) The Secretary shall require, as a condition of any transfer of property under this section, that the Federal or State agency that receives the property shall return the property to the Secretary if the agency—

“(A) is investigated by the Department of Justice for any violation of civil liberties; or
“(B) is otherwise found to have engaged in widespread abuses of civil liberties.

“(g) CONDITIONS FOR EXTENSION OF PROGRAM.—
Notwithstanding any other provision of law, amounts authorized to be appropriated or otherwise made available for any fiscal year may not be obligated or expended to carry out this section unless the Secretary submits to Congress certification that for the preceding fiscal year that—

“(1) each Federal or State agency that has received controlled property transferred under this section has—

“(A) demonstrated 100 percent accountability for all such property, in accordance with paragraph (2) or (3), as applicable; or

“(B) been suspended from the program pursuant to paragraph (4);

“(2) with respect to each non-Federal agency that has received controlled property under this section, the State coordinator responsible for each such agency has verified that the coordinator or an agent of the coordinator has conducted an in-person inventory of the property transferred to the agency and that 100 percent of such property was accounted for during the inventory or that the agency has been
suspended from the program pursuant to paragraph (4);

“(3) with respect to each Federal agency that has received controlled property under this section, the Secretary of Defense or an agent of the Secretary has conducted an in-person inventory of the property transferred to the agency and that 100 percent of such property was accounted for during the inventory or that the agency has been suspended from the program pursuant to paragraph (4);

“(4) the eligibility of any agency that has received controlled property under this section for which 100 percent of the property was not accounted for during an inventory described in paragraph (1) or (2), as applicable, to receive any property transferred under this section has been suspended; and

“(5) each State coordinator has certified, for each non-Federal agency located in the State for which the State coordinator is responsible that—

“(A) the agency has complied with all requirements under this section; or

“(B) the eligibility of the agency to receive property transferred under this section has been suspended; and
“(6) the Secretary of Defense has certified, for each Federal agency that has received property under this section that—

“(A) the agency has complied with all requirements under this section; or

“(B) the eligibility of the agency to receive property transferred under this section has been suspended.

“(h) **Prohibition on Ownership of Controlled Property.**—A Federal or State agency that receives controlled property under this section may not take ownership of the property.

“(i) **Notice to Congress of Property Downgrades.**—Not later than 30 days before downgrading the classification of any item of personal property from controlled or Federal Supply Class, the Secretary shall submit to Congress notice of the proposed downgrade.

“(j) **Notice to Congress of Property Cannibalization.**—Before the Defense Logistics Agency authorizes the recipient of property transferred under this section to cannibalize the property, the Secretary shall submit to Congress notice of such authorization, including the name of the recipient requesting the authorization, the purpose of the proposed cannibalization, and the type of property proposed to be cannibalized.
“(k) QUARTERLY REPORTS ON USE OF CONTROLLED
EQUIPMENT.—Not later than 30 days after the last day
of a fiscal quarter, the Secretary shall submit to Congress
a report on any uses of controlled property transferred
under this section during that fiscal quarter.

“(l) REPORTS TO CONGRESS.—Not later than 30
days after the last day of a fiscal year, the Secretary shall
submit to Congress a report on the following for the pre-
ceding fiscal year:

“(1) The percentage of equipment lost by re-
cipients of property transferred under this section,
including specific information about the type of
property lost, the monetary value of such property,
and the recipient that lost the property.

“(2) The transfer of any new (condition code
A) property transferred under this section, including
specific information about the type of property, the
recipient of the property, the monetary value of each
item of the property, and the total monetary value
of all such property transferred during the fiscal
year.”.

(2) EFFECTIVE DATE.—The amendments made
by paragraph (1) shall apply with respect to any
transfer of property made after the date of the en-
actment of this Act.
SEC. 366. PUBLIC SAFETY INNOVATION GRANTS.

(a) BYRNE GRANTS USED FOR LOCAL TASK FORCES ON PUBLIC SAFETY INNOVATION.—Section 501(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151(a)), as amended by this Act, is further amended by adding at the end the following:

“(3) LOCAL TASK FORCES ON PUBLIC SAFETY INNOVATION.—

“(A) IN GENERAL.—A law enforcement program under paragraph (1)(A) may include the development of best practices for and the creation of local task forces on public safety innovation, charged with exploring and developing new strategies for public safety, including non-law enforcement strategies.

“(B) DEFINITION.—The term ‘local task force on public safety innovation’ means an administrative entity, created from partnerships between community-based organizations and other local stakeholders, that may develop innovative law enforcement and non-law enforcement strategies to enhance just and equitable public safety, repair breaches of trust between law enforcement agencies and the community they pledge to serve, and enhance accountability of law enforcement officers.”
(b) CRISIS INTERVENTION TEAMS.—Section 501(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10152(c)) is amended by adding at the end the following:

“(3) In the case of crisis intervention teams funded under subsection (a)(1)(H), a program assessment under this subsection shall contain a report on best practices for crisis intervention.”.

(c) USE OF COPS GRANT PROGRAM TO HIRE LAW ENFORCEMENT OFFICERS WHO ARE RESIDENTS OF THE COMMUNITIES THEY SERVE.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10381(b)), as amended by this Act, is further amended—

(1) by redesignating paragraphs (23) and (24) as paragraphs (26) and (27), respectively;

(2) in paragraph (26), as so redesignated, by striking “(22)” and inserting “(25)”; and

(3) by inserting after paragraph (22) the following:

“(23) to recruit, hire, incentivize, retain, develop, and train new, additional career law enforcement officers or current law enforcement officers who are willing to relocate to communities—
“(A) where there are poor or fragmented relationships between police and residents of the community, or where there are high incidents of crime; and

“(B) that are the communities that the law enforcement officers serve, or that are in close proximity to the communities that the law enforcement officers serve;

“(24) to collect data on the number of law enforcement officers who are willing to relocate to the communities where they serve, and whether such law enforcement officer relocations have impacted crime in such communities;

“(25) to develop and publicly report strategies and timelines to recruit, hire, promote, retain, develop, and train a diverse and inclusive law enforcement workforce, consistent with merit system principles and applicable law;”.

Subtitle C—Law Enforcement Body Cameras

PART 1—FEDERAL POLICE CAMERA AND ACCOUNTABILITY ACT

SEC. 371. SHORT TITLE.

This part may be cited as the “Federal Police Camera and Accountability Act”.

•HR 1280 EH
SEC. 372. REQUIREMENTS FOR FEDERAL LAW ENFORCEMENT OFFICERS REGARDING THE USE OF BODY CAMERAS.

(a) DEFINITIONS.—In this section:

(1) MINOR.—The term "minor" means any individual under 18 years of age.

(2) SUBJECT OF THE VIDEO FOOTAGE.—The term "subject of the video footage"—

(A) means any identifiable Federal law enforcement officer or any identifiable suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body camera recording; and

(B) does not include people who only incidentally appear on the recording.

(3) VIDEO FOOTAGE.—The term "video footage" means any images or audio recorded by a body camera.

(b) REQUIREMENT TO WEAR BODY CAMERA.—

(1) IN GENERAL.—Federal law enforcement officers shall wear a body camera.

(2) REQUIREMENT FOR BODY CAMERA.—A body camera required under paragraph (1) shall—

(A) have a field of view at least as broad as the officer’s vision; and
(B) be worn in a manner that maximizes
the camera’s ability to capture video footage of
the officer’s activities.

(c) Requirement To Activate.—

(1) In General.—Both the video and audio re-
cording functions of the body camera shall be acti-
vated whenever a Federal law enforcement officer is
responding to a call for service or at the initiation
of any other law enforcement or investigative stop
(as such term is defined in section 373) between a
Federal law enforcement officer and a member of
the public, except that when an immediate threat to
the officer’s life or safety makes activating the cam-
era impossible or dangerous, the officer shall acti-
vate the camera at the first reasonable opportunity
to do so.

(2) Allowable Deactivation.—The body
camera shall not be deactivated until the stop has
fully concluded and the Federal law enforcement of-
ficer leaves the scene.

(d) Notification Of Subject Of Recording.—A
Federal law enforcement officer who is wearing a body
camera shall notify any subject of the recording that he
or she is being recorded by a body camera as close to the
inception of the stop as is reasonably possible.
(e) REQUIREMENTS.—Notwithstanding subsection (c), the following shall apply to the use of a body camera:

(1) Prior to entering a private residence without a warrant or in non-exigent circumstances, a Federal law enforcement officer shall ask the occupant if the occupant wants the officer to discontinue use of the officer's body camera. If the occupant responds affirmatively, the Federal law enforcement officer shall immediately discontinue use of the body camera.

(2) When interacting with an apparent crime victim, a Federal law enforcement officer shall, as soon as practicable, ask the apparent crime victim if the apparent crime victim wants the officer to discontinue use of the officer’s body camera. If the apparent crime victim responds affirmatively, the Federal law enforcement officer shall immediately discontinue use of the body camera.

(3) When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, a Federal law enforcement officer shall, as soon as practicable, ask the person seeking to remain anonymous, if the person seeking to remain anonymous wants the officer to discontinue use of the officer’s body camera. If
the person seeking to remain anonymous responds affirmatively, the Federal law enforcement officer shall immediately discontinue use of the body camera.

(f) **Recording of Offers To Discontinue Use of Body Camera.**—Each offer of a Federal law enforcement officer to discontinue the use of a body camera made pursuant to subsection (e), and the responses thereto, shall be recorded by the body camera prior to discontinuing use of the body camera.

(g) **Limitations on Use of Body Camera.**—Body cameras shall not be used to gather intelligence information based on First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative stop between a law enforcement officer and a member of the public, and shall not be equipped with or employ any facial recognition technologies.

(h) **Exceptions.**—Federal law enforcement officers—

(1) shall not be required to use body cameras during investigative or enforcement stops with the public in the case that—
(A) recording would risk the safety of a confidential informant, citizen informant, or undercover officer;

(B) recording would pose a serious risk to national security; or

(C) the officer is a military police officer, a member of the United States Army Criminal Investigation Command, or a protective detail assigned to a Federal or foreign official while performing his or her duties; and

(2) shall not activate a body camera while on the grounds of any public, private or parochial elementary or secondary school, except when responding to an imminent threat to life or health.

(i) RETENTION OF FOOTAGE.—

(1) IN GENERAL.—Body camera video footage shall be retained by the law enforcement agency that employs the officer whose camera captured the footage, or an authorized agent thereof, for 6 months after the date it was recorded, after which time such footage shall be permanently deleted.

(2) RIGHT TO INSPECT.—During the 6-month retention period described in paragraph (1), the following persons shall have the right to inspect the body camera footage:
(A) Any person who is a subject of body camera video footage, and their designated legal counsel.

(B) A parent or legal guardian of a minor subject of body camera video footage, and their designated legal counsel.

(C) The spouse, next of kin, or legally authorized designee of a deceased subject of body camera video footage, and their designated legal counsel.

(D) A Federal law enforcement officer whose body camera recorded the video footage, and their designated legal counsel, subject to the limitations and restrictions in this part.

(E) The superior officer of a Federal law enforcement officer whose body camera recorded the video footage, subject to the limitations and restrictions in this part.

(F) Any defense counsel who claims, pursuant to a written affidavit, to have a reasonable basis for believing a video may contain evidence that exculpates a client.

(3) LIMITATION.—The right to inspect subject to subsection (j)(1) shall not include the right to possess a copy of the body camera video footage, un-
less the release of the body camera footage is other-
wise authorized by this part or by another applicable
law. When a body camera fails to capture some or
all of the audio or video of an incident due to mal-
function, displacement of camera, or any other
cause, any audio or video footage that is captured
shall be treated the same as any other body camera
audio or video footage under this part.

(j) ADDITIONAL RETENTION REQUIREMENTS.—Not-
withstanding the retention and deletion requirements in
subsection (i), the following shall apply to body camera
video footage under this part:

(1) Body camera video footage shall be auto-
matically retained for not less than 3 years if the
video footage captures an interaction or event involv-
ing—

(A) any use of force; or

(B) an stop about which a complaint has
been registered by a subject of the video foot-
age.

(2) Body camera video footage shall be retained
for not less than 3 years if a longer retention period
is voluntarily requested by—

(A) the Federal law enforcement officer
whose body camera recorded the video footage,
if that officer reasonably asserts the video footage has evidentiary or exculpatory value in an ongoing investigation;

(B) any Federal law enforcement officer who is a subject of the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value;

(C) any superior officer of a Federal law enforcement officer whose body camera recorded the video footage or who is a subject of the video footage, if that superior officer reasonably asserts the video footage has evidentiary or exculpatory value;

(D) any Federal law enforcement officer, if the video footage is being retained solely and exclusively for police training purposes;

(E) any member of the public who is a subject of the video footage;

(F) any parent or legal guardian of a minor who is a subject of the video footage; or

(G) a deceased subject’s spouse, next of kin, or legally authorized designee.

(k) **Public Review.**—For purposes of subparagraphs (E), (F), and (G) of subsection (j)(2), any member of the public who is a subject of video footage, the parent
or legal guardian of a minor who is a subject of the video
footage, or a deceased subject’s next of kin or legally au-
thorized designee, shall be permitted to review the specific
video footage in question in order to make a determination
as to whether they will voluntarily request it be subjected
to a minimum 3-year retention period.

(1) Disclosure.—

(1) In general.—Except as provided in para-
graph (2), all video footage of an interaction or
event captured by a body camera, if that interaction
or event is identified with reasonable specificity and
requested by a member of the public, shall be pro-
vided to the person or entity making the request in
accordance with the procedures for requesting and
providing government records set forth in the section
552a of title 5, United States Code.

(2) Exceptions.—The following categories of
video footage shall not be released to the public in
the absence of express written permission from the
non-law enforcement subjects of the video footage:

(A) Video footage not subject to a min-
imum 3-year retention period pursuant to sub-
section (j).

(B) Video footage that is subject to a min-
imum 3-year retention period solely and exclu-
sively pursuant to paragraph (1)(B) or (2) of subsection (j).

(3) PRIORITY OF REQUESTS.—Notwithstanding any time periods established for acknowledging and responding to records requests in section 552a of title 5, United States Code, responses to requests for video footage that is subject to a minimum 3-year retention period pursuant to subsection (j)(1)(A), where a subject of the video footage is recorded being killed, shot by a firearm, or grievously injured, shall be prioritized and, if approved, the requested video footage shall be provided as expeditiously as possible, but in no circumstances later than 5 days following receipt of the request.

(4) USE OF REDACTION TECHNOLOGY.—

(A) IN GENERAL.—Whenever doing so is necessary to protect personal privacy, the right to a fair trial, the identity of a confidential source or crime victim, or the life or physical safety of any person appearing in video footage, redaction technology may be used to obscure the face and other personally identifying characteristics of that person, including the tone of the person’s voice, provided the redaction does not interfere with a viewer’s ability to fully,
completely, and accurately comprehend the events captured on the video footage.

(B) REQUIREMENTS.—The following requirements shall apply to redactions under sub-
paragraph (A):

(i) When redaction is performed on video footage pursuant to this paragraph, an unedited, original version of the video footage shall be retained pursuant to the requirements of subsections (i) and (j).

(ii) Except pursuant to the rules for the redaction of video footage set forth in this subsection or where it is otherwise expressly authorized by this Act, no other editing or alteration of video footage, including a reduction of the video footage’s resolution, shall be permitted.

(m) PROHIBITED WITHHOLDING OF FOOTAGE.—Body camera video footage may not be withheld from the public on the basis that it is an investigatory record or was compiled for law enforcement purposes where any person under investigation or whose conduct is under review is a police officer or other law enforcement employee and the video footage relates to that person’s conduct in their official capacity.
(n) **ADMISSIBILITY.**—Any video footage retained beyond 6 months solely and exclusively pursuant to subsection (j)(2)(D) shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.

(o) **CONFIDENTIALITY.**—No government agency or official, or law enforcement agency, officer, or official may publicly disclose, release, or share body camera video footage unless—

1. doing so is expressly authorized pursuant to this part or another applicable law; or

2. the video footage is subject to public release pursuant to subsection (l), and not exempted from public release pursuant to subsection (l)(1).

(p) **LIMITATION ON FEDERAL LAW ENFORCEMENT OFFICER VIEWING OF BODY CAMERA FOOTAGE.**—No Federal law enforcement officer shall review or receive an accounting of any body camera video footage that is subject to a minimum 3-year retention period pursuant to subsection (j)(1) prior to completing any required initial reports, statements, and interviews regarding the recorded event, unless doing so is necessary, while in the field, to address an immediate threat to life or safety.

(q) **ADDITIONAL LIMITATIONS.**—Video footage may not be—
(1) in the case of footage that is not subject to a minimum 3-year retention period, viewed by any superior officer of a Federal law enforcement officer whose body camera recorded the footage absent a specific allegation of misconduct; or

(2) divulged or used by any law enforcement agency for any commercial or other non-law enforcement purpose.

(r) THIRD PARTY MAINTENANCE OF FOOTAGE.—

Where a law enforcement agency authorizes a third party to act as its agent in maintaining body camera footage, the agent shall not be permitted to independently access, view, or alter any video footage, except to delete videos as required by law or agency retention policies.

(s) ENFORCEMENT.—

(1) IN GENERAL.—If any Federal law enforcement officer, or any employee or agent of a Federal law enforcement agency fails to adhere to the recording or retention requirements contained in this part, intentionally interferes with a body camera’s ability to accurately capture video footage, or otherwise manipulates the video footage captured by a body camera during or after its operation—
(A) appropriate disciplinary action shall be
taken against the individual officer, employee,
or agent;

(B) a rebuttable evidentiary presumption
shall be adopted in favor of a criminal defend-
ant who reasonably asserts that exculpatory evi-
dence was destroyed or not captured; and

(C) a rebuttable evidentiary presumption
shall be adopted on behalf of a civil plaintiff
suing the Government, a Federal law enforce-
ment agency, or a Federal law enforcement offi-
cer for damages based on misconduct who rea-
sonably asserts that evidence supporting their
claim was destroyed or not captured.

(2) Proof compliance was impossible.—
The disciplinary action requirement and rebuttable
presumptions described in paragraph (1) may be
overcome by contrary evidence or proof of exigent
circumstances that made compliance impossible.

(t) Use of Force Investigations.—In the case
that a Federal law enforcement officer equipped with a
body camera is involved in, a witness to, or within viewable
sight range of either the use of force by another law en-
forcement officer that results in a death, the use of force
by another law enforcement officer, during which the dis-
charge of a firearm results in an injury, or the conduct
of another law enforcement officer that becomes the sub-
ject of a criminal investigation—

(1) the law enforcement agency that employs
the law enforcement officer, or the agency or depart-
ment conducting the related criminal investigation,
as appropriate, shall promptly take possession of the
body camera, and shall maintain such camera, and
any data on such camera, in accordance with the ap-
PLICABLE rules governing the preservation of evidence;

(2) a copy of the data on such body camera
shall be made in accordance with prevailing forensic
standards for data collection and reproduction; and

(3) such copied data shall be made available to
the public in accordance with subsection (l).

(u) LIMITATION ON USE OF FOOTAGE AS EVID-
ENCE.—Any body camera video footage recorded by a
Federal law enforcement officer that violates this part or
any other applicable law may not be offered as evidence
by any government entity, agency, department, prosecu-
torial office, or any other subdivision thereof in any crimi-
nal or civil action or proceeding against any member of
the public.

(v) PUBLICATION OF AGENCY POLICIES.—Any Fed-
eral law enforcement agency policy or other guidance re-
garding body cameras, their use, or the video footage therefrom that is adopted by a Federal agency or department, shall be made publicly available on that agency's website.

(w) **Rule of Construction.**—Nothing in this part shall be construed to preempt any laws governing the maintenance, production, and destruction of evidence in criminal investigations and prosecutions.

**SEC. 373. PATROL VEHICLES WITH IN-CAR VIDEO RECORDING CAMERAS.**

(a) **Definitions.**—In this section:

(1) **Audio Recording.**—The term "audio recording" means the recorded conversation between a Federal law enforcement officer and a second party.

(2) **Emergency Lights.**—The term "emergency lights" means oscillating, rotating, or flashing lights on patrol vehicles.

(3) **Enforcement or Investigative Stop.**—The term "enforcement or investigative stop" means an action by a Federal law enforcement officer in relation to enforcement and investigation duties, including traffic stops, pedestrian stops, abandoned vehicle contacts, motorist assists, commercial motor vehicle stops, roadside safety checks, requests for
identification, or responses to requests for emergency assistance.

(4) IN-CAR VIDEO CAMERA.—The term “in-car video camera” means a video camera located in a patrol vehicle.

(5) IN-CAR VIDEO CAMERA RECORDING EQUIPMENT.—The term “in-car video camera recording equipment” means a video camera recording system located in a patrol vehicle consisting of a camera assembly, recording mechanism, and an in-car video recording medium.

(6) RECORDING.—The term “recording” means the process of capturing data or information stored on a recording medium as required under this section.

(7) RECORDING MEDIUM.—The term “recording medium” means any recording medium for the retention and playback of recorded audio and video including VHS, DVD, hard drive, solid state, digital, or flash memory technology.

(8) WIRELESS MICROPHONE.—The term “wireless microphone” means a device worn by a Federal law enforcement officer or any other equipment used to record conversations between the officer and a
second party and transmitted to the recording equip-
ment.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Each Federal law enforce-
ment agency shall install in-car video camera record-
ing equipment in all patrol vehicles with a recording
medium capable of recording for a period of 10
hours or more and capable of making audio record-
ings with the assistance of a wireless microphone.

(2) RECORDING EQUIPMENT REQUIREMENTS.—
In-car video camera recording equipment with a re-
cording medium capable of recording for a period of
10 hours or more shall record activities—

(A) whenever a patrol vehicle is assigned
to patrol duty;

(B) outside a patrol vehicle whenever—

(i) a Federal law enforcement officer
assigned that patrol vehicle is conducting
an enforcement or investigative stop;

(ii) patrol vehicle emergency lights are
activated or would otherwise be activated if
not for the need to conceal the presence of
law enforcement; or

(iii) an officer reasonably believes re-
cording may assist with prosecution, en-
hance safety, or for any other lawful pur-
pose; and

(C) inside the vehicle when transporting an
arrestee or when an officer reasonably believes
recording may assist with prosecution, enhance
safety, or for any other lawful purpose.

(3) REQUIREMENTS FOR RECORDING.—

(A) IN GENERAL.—A Federal law enforce-
ment officer shall begin recording for an en-
forcement or investigative stop when the officer
determines an enforcement stop is necessary
and shall continue until the enforcement action
has been completed and the subject of the en-
forcement or investigative stop or the officer
has left the scene.

(B) ACTIVATION WITH LIGHTS.—A Fed-
eral law enforcement officer shall begin record-
ing when patrol vehicle emergency lights are ac-
tivated or when they would otherwise be acti-
vated if not for the need to conceal the presence
of law enforcement, and shall continue until the
reason for the activation ceases to exist, regard-
less of whether the emergency lights are no
longer activated.
(C) Permissible recording.—A Federal law enforcement officer may begin recording if the officer reasonably believes recording may assist with prosecution, enhance safety, or for any other lawful purpose; and shall continue until the reason for recording ceases to exist.

(4) Enforcement or Investigative Stops.—A Federal law enforcement officer shall record any enforcement or investigative stop. Audio recording shall terminate upon release of the violator and prior to initiating a separate criminal investigation.

(c) Retention of Recordings.—Recordings made on in-car video camera recording medium shall be retained for a storage period of at least 90 days. Under no circumstances shall any recording made on in-car video camera recording medium be altered or erased prior to the expiration of the designated storage period. Upon completion of the storage period, the recording medium may be erased and reissued for operational use unless otherwise ordered or if designated for evidentiary or training purposes.

(d) Accessibility of Recordings.—Audio or video recordings made pursuant to this section shall be available under the applicable provisions of section 552a of title 5,
United States Code. Only recorded portions of the audio recording or video recording medium applicable to the request will be available for inspection or copying.

(e) MAINTENANCE REQUIRED.—The agency shall ensure proper care and maintenance of in-car video camera recording equipment and recording medium. An officer operating a patrol vehicle must immediately document and notify the appropriate person of any technical difficulties, failures, or problems with the in-car video camera recording equipment or recording medium. Upon receiving notice, every reasonable effort shall be made to correct and repair any of the in-car video camera recording equipment or recording medium and determine if it is in the public interest to permit the use of the patrol vehicle.

SEC. 374. FACIAL RECOGNITION TECHNOLOGY.

No camera or recording device authorized or required to be used under this part may be equipped with or employ facial recognition technology, and footage from such a camera or recording device may not be subjected to facial recognition technology.

SEC. 375. GAO STUDY.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study on Federal law enforcement officer
training, vehicle pursuits, use of force, and interaction
with citizens, and submit a report on such study to—

(1) the Committees on the Judiciary of the
House of Representatives and of the Senate;

(2) the Committee on Oversight and Reform of
the House of Representatives; and

(3) the Committee on Homeland Security and
Governmental Affairs of the Senate.

SEC. 376. REGULATIONS.

Not later than 6 months after the date of the enact-
ment of this Act, the Attorney General shall issue such
final regulations as are necessary to carry out this part.

SEC. 377. RULE OF CONSTRUCTION.

Nothing in this part shall be construed to impose any
requirement on a Federal law enforcement officer outside
of the course of carrying out that officer’s duty.

PART 2—POLICE CAMERA ACT

SEC. 381. SHORT TITLE.

This part may be cited as the “Police Creating Ac-
countability by Making Effective Recording Available Act
of 2021” or the “Police CAMERA Act of 2021”.

SEC. 382. LAW ENFORCEMENT BODY-WORN CAMERA RE-
QUIREMENTS.

(a) USE OF FUNDS REQUIREMENT.—Section 502(a)
of title I of the Omnibus Crime Control and Safe Streets
Act of 1968 (34 U.S.C. 10153(a)), as amended by section 334, is amended by adding at the end the following:

“(10) An assurance that, for each fiscal year covered by an application, the applicant will use not less than 5 percent of the total amount of the grant award for the fiscal year to develop policies and protocols in compliance with part OO.”.

(b) REQUIREMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10101 et seq.) is amended by adding at the end the following:

“PART OO—LAW ENFORCEMENT BODY-WORN CAMERAS AND RECORDED DATA

“SEC. 3051. USE OF GRANT FUNDS.

“(a) IN GENERAL.—Grant amounts described in paragraph (10) of section 502(a) of this title—

“(1) shall be used—

“(A) to purchase or lease body-worn cameras for use by State, local, and tribal law enforcement officers (as defined in section 2503);

“(B) for expenses related to the implementation of a body-worn camera program in order to deter excessive force, improve accountability and transparency of use of force by law enforcement officers, assist in responding to com-

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plaints against law enforcement officers, and improve evidence collection; and

“(C) to implement policies or procedures to comply with the requirements described in subsection (b); and

“(2) may not be used for expenses related to facial recognition technology.

“(b) REQUIREMENTS.—A recipient of a grant under subpart 1 of part E of this title shall—

“(1) establish policies and procedures in accordance with the requirements described in subsection (c) before law enforcement officers use of body-worn cameras;

“(2) adopt recorded data collection and retention protocols as described in subsection (d) before law enforcement officers use of body-worn cameras;

“(3) make the policies and protocols described in paragraphs (1) and (2) available to the public; and

“(4) comply with the requirements for use of recorded data under subsection (f).

“(c) REQUIRED POLICIES AND PROCEDURES.—A recipient of a grant under subpart 1 of part E of this title shall—
“(1) develop with community input and publish
for public view policies and protocols for—

“(A) the safe and effective use of body-

worn cameras;

“(B) the secure storage, handling, and de-
struction of recorded data collected by body-

worn cameras;

“(C) protecting the privacy rights of any
individual who may be recorded by a body-worn

camera;

“(D) the release of any recorded data col-
lected by a body-worn camera in accordance

with the open records laws, if any, of the State;

and

“(E) making recorded data available to
prosecutors, defense attorneys, and other offi-
cers of the court in accordance with subpara-

graph (E); and

“(2) conduct periodic evaluations of the security

of the storage and handling of the body-worn camera
data.

“(d) Recorded Data Collection and Reten-
tion Protocol.—The recorded data collection and reten-
tion protocol described in this paragraph is a protocol
that—
“(1) requires—

“(A) a law enforcement officer who is wearing a body-worn camera to provide an explanation if an activity that is required to be recorded by the body-worn camera is not recorded;

“(B) a law enforcement officer who is wearing a body-worn camera to obtain consent to be recorded from a crime victim or witness before interviewing the victim or witness;

“(C) the collection of recorded data unrelated to a legitimate law enforcement purpose be minimized to the greatest extent practicable;

“(D) the system used to store recorded data collected by body-worn cameras to log all viewing, modification, or deletion of stored recorded data and to prevent, to the greatest extent practicable, the unauthorized access or disclosure of stored recorded data;

“(E) any law enforcement officer be prohibited from accessing the stored data without an authorized purpose; and

“(F) the law enforcement agency to collect and report statistical data on—
“(i) incidences of use of force, 
disaggregated by race, ethnicity, gender, 
and age of the victim;
“(ii) the number of complaints filed 
against law enforcement officers;
“(iii) the disposition of complaints 
filed against law enforcement officers;
“(iv) the number of times camera 
footage is used for evidence collection in 
investigations of crimes; and
“(v) any other additional statistical 
data that the Director determines should 
be collected and reported;
“(2) allows an individual to file a complaint 
with a law enforcement agency relating to the im-
proper use of body-worn cameras; and
“(3) complies with any other requirements es-
tablished by the Director.
“(e) REPORTING.—Statistical data required to be col-
lected under subsection (d)(1)(D) shall be reported to the 
Director, who shall—
“(1) establish a standardized reporting system 
for statistical data collected under this program; and
“(2) establish a national database of statistical 
data recorded under this program.
“(f) Use or Transfer of Recorded Data.—

“(1) In General.—Recorded data collected by an entity receiving a grant under a grant under subpart 1 of part E of this title from a body-worn camera shall be used only in internal and external investigations of misconduct by a law enforcement agency or officer, if there is reasonable suspicion that a recording contains evidence of a crime, or for limited training purposes. The Director shall establish rules to ensure that the recorded data is used only for the purposes described in this paragraph.

“(2) Prohibition on Transfer.—Except as provided in paragraph (3), an entity receiving a grant under subpart 1 of part E of this title may not transfer any recorded data collected by the entity from a body-worn camera to another law enforcement or intelligence agency.

“(3) Exceptions.—

“(A) Criminal Investigation.—An entity receiving a grant under subpart 1 of part E of this title may transfer recorded data collected by the entity from a body-worn camera to another law enforcement agency or intelligence agency for use in a criminal investigation if the requesting law enforcement or intelligence agen-
cy has reasonable suspicion that the requested
data contains evidence relating to the crime
being investigated.

“(B) CIVIL RIGHTS CLAIMS.—An entity re-
ceiving a grant under subpart 1 of part E of
this title may transfer recorded data collected
by the law enforcement agency from a body-
worn camera to another law enforcement agen-
cy for use in an investigation of the violation of
any right, privilege, or immunity secured or
protected by the Constitution or laws of the
United States.

“(g) AUDIT AND ASSESSMENT.—

“(1) IN GENERAL.—Not later than 2 years
after the date of enactment of this part, the Director
of the Office of Audit, Assessment, and Management
shall perform an assessment of the use of funds
under this section and the policies and protocols of
the grantees.

“(2) REPORTS.—Not later than September 1 of
each year, beginning 2 years after the date of enact-
ment of this part, each recipient of a grant under
subpart 1 of part E of this title shall submit to the
Director of the Office of Audit, Assessment, and
Management a report that—
“(A) describes the progress of the body-

worn camera program; and

“(B) contains recommendations on ways in

which the Federal Government, States, and

units of local government can further support

the implementation of the program.

“(3) REVIEW.—The Director of the Office of

Audit, Assessment, and Management shall evaluate

the policies and protocols of the grantees and take

such steps as the Director of the Office of Audit, As-

sessment, and Management determines necessary to

ensure compliance with the program.

“SEC. 3052. BODY-WORN CAMERA TRAINING TOOLKIT.

“(a) IN GENERAL.—The Director shall establish and

maintain a body-worn camera training toolkit for law en-

forcement agencies, academia, and other relevant entities

to provide training and technical assistance, including best

practices for implementation, model policies and proce-
dures, and research materials.

“(b) MECHANISM.—In establishing the toolkit re-
quired to under subsection (a), the Director may consoli-
date research, practices, templates, and tools that been de-
veloped by expert and law enforcement agencies across the
 country.
“SEC. 3053. STUDY.

“(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Police CAMERA Act of 2021, the Director shall conduct a study on—

“(1) the efficacy of body-worn cameras in deterring excessive force by law enforcement officers;

“(2) the impact of body-worn cameras on the accountability and transparency of the use of force by law enforcement officers;

“(3) the impact of body-worn cameras on responses to and adjudications of complaints of excessive force;

“(4) the effect of the use of body-worn cameras on the safety of law enforcement officers on patrol;

“(5) the effect of the use of body-worn cameras on public safety;

“(6) the impact of body-worn cameras on evidence collection for criminal investigations;

“(7) issues relating to the secure storage and handling of recorded data from the body-worn cameras;

“(8) issues relating to the privacy of individuals and officers recorded on body-worn cameras;

“(9) issues relating to the constitutional rights of individuals on whom facial recognition technology is used;
“(10) issues relating to limitations on the use of facial recognition technology;

“(11) issues relating to the public’s access to body-worn camera footage;

“(12) the need for proper training of law enforcement officers that use body-worn cameras;

“(13) best practices in the development of protocols for the safe and effective use of body-worn cameras;

“(14) a review of law enforcement agencies that found body-worn cameras to be unhelpful in the operations of the agencies; and

“(15) any other factors that the Director determines are relevant in evaluating the efficacy of body-worn cameras.

“(b) REPORT.—Not later than 180 days after the date on which the study required under subsection (a) is completed, the Director shall submit to Congress a report on the study, which shall include any policy recommendations that the Director considers appropriate.”.
TITLE IV—CLOSING THE LAW ENFORCEMENT CONSENT LOOPHOLE

SEC. 401. SHORT TITLE.

This title may be cited as the “Closing the Law Enforcement Consent Loophole Act of 2021”.

SEC. 402. PROHIBITION ON ENGAGING IN SEXUAL ACTS WHILE ACTING UNDER COLOR OF LAW.

(a) In General.—Section 2243 of title 18, United States Code, is amended—

(1) in the section heading, by adding at the end the following: “or by any person acting under color of law”;

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting after subsection (b) the following:

“(c) Of an Individual by Any Person Acting Under Color of Law.—

“(1) In General.—Whoever, acting under color of law, knowingly engages in a sexual act with an individual, including an individual who is under arrest, in detention, or otherwise in the actual custody of any Federal law enforcement officer, shall be
fined under this title, imprisoned not more than 15
years, or both.

“(2) DEFINITION.—In this subsection, the term
’sexual act’ has the meaning given the term in sec-
tion 2246.”; and

(4) in subsection (d), as so redesignated, by
adding at the end the following:

“(3) In a prosecution under subsection (c), it is not
a defense that the other individual consented to the sexual
act.”.

(b) DEFINITION.—Section 2246 of title 18, United
States Code, is amended—

(1) in paragraph (5), by striking “and” at the
end;

(2) in paragraph (6), by striking the period at
the end and inserting “; and”; and

(3) by inserting after paragraph (6) the fol-
lowing:

“(7) the term ‘Federal law enforcement officer’
has the meaning given the term in section 115.”.

(c) CLERICAL AMENDMENT.—The table of sections
for chapter 109A of title 18, United States Code, is
amended by amending the item related to section 2243
to read as follows:

“2243. Sexual abuse of a minor or ward or by any person acting under color
of law.”.

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SEC. 403. ENACTMENT OF LAWS PENALIZING ENGAGING IN
SEXUAL ACTS WHILE ACTING UNDER COLOR
OF LAW.

(a) IN GENERAL.—Beginning in the first fiscal year
that begins after the date that is one year after the date
of enactment of this Act, in the case of a State or unit
of local government that does not have in effect a law de-
scribed in subsection (b), if that State or unit of local gov-
ernment that would otherwise receive funds under the
COPS grant program, that State or unit of local govern-
ment shall not be eligible to receive such funds. In the
case of a multi-jurisdictional or regional consortium, if any
member of that consortium is a State or unit of local gov-
ernment that does not have in effect a law described in
subsection (b), if that consortium would otherwise receive
funds under the COPS grant program, that consortium
shall not be eligible to receive such funds.

(b) DESCRIPTION OF LAW.—A law described in this
subsection is a law that—

(1) makes it a criminal offense for any person
acting under color of law of the State or unit of local
government to engage in a sexual act with an indi-
vidual, including an individual who is under arrest,
in detention, or otherwise in the actual custody of
any law enforcement officer; and
(2) prohibits a person charged with an offense
described in paragraph (1) from asserting the con-
sent of the other individual as a defense.

(c) REPORTING REQUIREMENT.—A State or unit of
local government that receives a grant under the COPS
grant program shall submit to the Attorney General, on
an annual basis, information on—

(1) the number of reports made to law enforce-
ment agencies in that State or unit of local govern-
ment regarding persons engaging in a sexual act
while acting under color of law during the previous
year; and

(2) the disposition of each case in which sexual
misconduct by a person acting under color of law
was reported during the previous year.

SEC. 404. REPORTS TO CONGRESS.

(a) REPORT BY ATTORNEY GENERAL.—Not later
than 1 year after the date of enactment of this Act, and
each year thereafter, the Attorney General shall submit
to Congress a report containing—

(1) the information required to be reported to
the Attorney General under section 403(b); and

(2) information on—

(A) the number of reports made, during
the previous year, to Federal law enforcement

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agencies regarding persons engaging in a sexual
act while acting under color of law; and

(B) the disposition of each case in which
sexual misconduct by a person acting under
color of law was reported.

(b) REPORT BY GAO.—Not later than 1 year after
the date of enactment of this Act, and each year there-
after, the Comptroller General of the United States shall
submit to Congress a report on any violations of section
2243(c) of title 18, United States Code, as amended by
section 402, committed during the 1-year period covered
by the report.

SEC. 405. DEFINITION.

In this title, the term "sexual act" has the meaning
given the term in section 2246 of title 18, United States
Code.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SEVERABILITY.

If any provision of this Act, or the application of such
a provision to any person or circumstance, is held to be
unconstitutional, the remainder of this Act and the appli-
cation of the remaining provisions of this Act to any per-
son or circumstance shall not be affected thereby.
SEC. 502. SAVINGS CLAUSE.

Nothing in this Act shall be construed—


(2) to affect any Federal, State, or Tribal law that applies to an Indian Tribe because of the political status of the Tribe; or

(3) to waive the sovereign immunity of an Indian Tribe without the consent of the Tribe.


Attest:

Clerk.
AN ACT

H.R. 1280

[Missing text]
Item B-3
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: April 28, 2021
SUBJECT: H.R.1446 - Enhanced Background Checks Act of 2021
ATTACHMENTS: 1. Summary Memo – H.R. 1446
2. Bill Text – H.R. 1446

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.1446 - Enhanced Background Checks Act of 2021 (H.R. 1446) 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. 1446 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of H.R. 1446, the Liaisons may recommend the following actions:

1) Support H.R. 1446;
2) Support if amended H.R. 1446;
3) Oppose H.R. 1446;
4) Oppose unless amended H.R. 1446;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on H.R. 1446, 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@davidturch.com
202-543-3744

DATE: April 22, 2021
RE: H.R. 1446– The Enhanced Background Checks Act of 2021

On March 11, 2021, the House passed H.R. 1446, the Enhanced Background Checks Act, by a vote of 219 – 210. House Majority Whip James Clyburn of South Carolina, the sponsor of H.R. 1446, said the bill closes the “Charleston loophole” and makes “gun ownership safer.” The Enhanced Background Checks Act provides the background check system with additional time to make a final determination on the potential firearms purchaser before a licensed dealer can transfer a gun. H.R. 1446 extends the initial background check review period from three business days to 10 business days.

To avoid indefinite delays in processing background checks, if a background check has not been completed in 10 business days, the bill grants a purchaser the right to request an expedited review from the Federal Bureau of Investigations (FBI). In such a case, a purchaser may petition online or by mail, and must certify that they are not prohibited from purchasing or possessing a firearm. The FBI would have 10 additional business days from the date the petition was submitted to complete the background check before the sale may proceed. Under current law, a licensed dealer may proceed with a gun sale, even though the National Instant Criminal Background Check System (NICS) hasn’t been completed, after three business days. This is the loophole used by the shooter in the 2015 mass shooting at the Emanuel African Methodist Episcopal (A.M.E.) Church in Charleston, South Carolina in which nine worshippers were killed. The shooter was ineligible to buy a gun. Enactment of H.R. 1446, it is argued, will help keep guns from the hands of convicted felons, domestic abusers, fugitives from justice and other prohibited persons. Without a buy-in from Senate Republicans, it is difficult to see how this bill, which is caught in a partisan vice, passes the Senate.

According to Brady United, a leading pro-gun control group:

- The vast majority of background checks initiated to the National Instant Criminal Background Check System (NICS) result in an almost instant verdict.
- While 96 percent of background checks are processed within 3 business days, hundreds of thousands will enter default proceed status every year.
- That means hundreds of thousands of guns can be sold without completed background checks.
• Over 35,000 guns were transferred to prohibited purchasers between 2008 and 2017 because of the 3-day rule.
• Default proceed sales are eight times more likely to involve a prohibited purchaser than other background checks.
• According to a 2000 GAO report, an average of 25 business days elapse between an initial NICS inquiry and the date the system determined that the purchase should have been denied, and while a 2016 GAO report confirms that technological and reporting enhancements have improved system efficiency over the years, thousands of prohibited purchasers are still not determined until after the 3-day period.
Attachment 2
AN ACT

To amend chapter 44 of title 18, United States Code, to strengthen the background check procedures to be followed before a Federal firearms licensee may transfer a firearm to a person who is not such a licensee.

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

This Act may be cited as the “Enhanced Background
Checks Act of 2021”.

SEC. 2. STRENGTHENING OF BACKGROUND CHECK PROCEDURES TO BE FOLLOWED BEFORE A FEDERAL FIREARMS LICENSEE MAY TRANSFER A FIREARM TO A PERSON WHO IS NOT SUCH A LICENSEE.

Section 922(t) of title 18, United States Code is amended—

(1) in paragraph (1)(B), by striking clause (ii) and inserting the following:

“(ii) in the event the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section—

“(I) not fewer than 10 business days (meaning a day on which State offices are open) has elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section, and the other person has submitted, electronically through a website established by the Attorney General or by first-class mail, a petition for review which—
“(aa) certifies that such other person
has no reason to believe that such other
person is prohibited by Federal, State, or
local law from purchasing or possessing a
firearm; and

“(bb) requests that the system re-
respond to the contact referred to in sub-
paragraph (A) within 10 business days
after the date the petition was submitted
(or, if the petition is submitted by first-
class mail, the date the letter containing
the petition is postmarked); and

“(II) 10 business days have elapsed since
the other person so submitted the petition, and
the system has not notified the licensee that the
receipt of a firearm by such other person would
violate subsection (g) or (n) of this section;
and”; and

(2) by adding at the end the following:

“(7) The Attorney General shall—

“(A) prescribe the form on which a petition
shall be submitted pursuant to paragraph (1)(B)(ii);

“(B) make the form available electronically, and
provide a copy of the form to all licensees referred
to in paragraph (1);
“(C) provide the petitioner and the licensee involved written notice of receipt of the petition, either electronically or by first-class mail; and

“(D) respond on an expedited basis to any such petition received by the Attorney General.

“(8)(A) If, after 3 business days have elapsed since the licensee initially contacted the system about a firearm transaction, the system notifies the licensee that the receipt of a firearm by such other person would not violate subsection (g) or (n), the licensee may continue to rely on that notification for the longer of—

“(i) an additional 25 calendar days after the licensee receives the notification; or

“(ii) 30 calendar days after the date of the initial contact.

“(B) If such other person has met the requirements of paragraph (1)(B)(ii) before the system destroys the records related to the firearm transaction, the licensee may continue to rely on such other person having met the requirements for an additional 25 calendar days after the date such other person first met the requirements.”.

SEC. 3. GAO REPORTS.

Within 90 days after the end of each of the 1-year, 3-year, and 5-year periods that begin with the effective date of this Act, the Comptroller General of the United
1 States shall prepare and submit to the Committee on the 
2 Judiciary of the House of Representatives and the Com- 
3 mittee on the Judiciary of the Senate a written report ana-
4 lyzing the extent to which, during the respective period, 
5 paragraphs (1)(B)(ii) and (7) of section 922(t) of title 18, 
6 United States Code, have prevented firearms from being 
7 transferred to prohibited persons, which report shall in- 
8 clude but not be limited to the following—

9      (1) an assessment of the overall implementation 
10      of such subsections, including a description of the 
11      challenges faced in implementing such paragraphs; 
12      (2) an aggregate description of firearm pur-
13      chase delays and denials, with a description of deni-
14      als, disaggregated by State and by the basis for the 
15      denial; and 
16      (3) an aggregate analysis of the petitions sub-
17      mitted pursuant to such paragraph (1)(B)(ii). 

SEC. 4. REPORTS ON PETITIONS SUPPORTING FIREARMS

TRANSFERS NOT IMMEDIATELY APPROVED

BY NICS SYSTEM, THAT WERE NOT RE-

SPONDED TO IN A TIMELY MANNER.

The Director of the Federal Bureau of Investigation 
shall make an annual report to the public on the number 
of petitions received by the national instant criminal back-
ground check system established under section 103 of the
Brady Handgun Violence Prevention Act that were submitted pursuant to subclause (I) of section 922(t)(1)(B)(ii) of title 18, United States Code, with respect to which a determination was not made within the 10-day period referred to in subclause (II) of such section 922(t)(1)(B)(ii). The report shall include the following, which shall be disaggregated by State:

(1) The number of petitions submitted under such section that were received by the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act.

(2) The number of petitioners who were discovered to be ineligible under Federal or State law during that 10-day period.

(3) The number of petitioners who were discovered to be ineligible under Federal or State law after that 10-day period.

(4) The basis of the ineligibility of the petitioners discovered to be ineligible under Federal or State law during that 10-day period, and the basis of the ineligibility of the petitioners discovered to be ineligible under Federal or State law after that 10-day period.
(5) The number of the petitioners whose petitions were denied and who, within 12 months after the denial, were prosecuted under Federal, State, or local law for receiving or attempting to receive a firearm.

SEC. 5. REPORT TO THE CONGRESS.

Within 150 days after the date of the enactment of this Act, the Attorney General, in consultation with the National Resource Center on Domestic Violence and Firearms, shall submit to the Congress a report analyzing the effect, if any, of this Act on the safety of victims of domestic violence, domestic abuse, dating partner violence, sexual assault, and stalking, disaggregated by State, and whether any further amendments to the background check process, including amendments to the conditions that must be met under this Act for a firearm to be transferred when the system has not notified the licensee that such transfer would not violate subsection (g) or (n) of section 922 of title 18, United States Code, would likely result in a reduction in the risk of death or great bodily harm to victims of domestic violence, domestic abuse, dating partner violence, sexual assault, and stalking.
1 SEC. 6. EFFECTIVE DATE.

2 This Act and the amendments made by this Act shall take effect 210 days after the date of the enactment of this Act.

5 SEC. 7. REPORT ON FIREARM TRANSFERS DENIED AS A RESULT OF A NICS CHECK.

7 Within 90 days after the date of the enactment of this Act, the Inspector General, Department of Justice, shall prepare and submit to the Congress a written report on the number of firearm transactions with respect to which the national instant criminal background check system established under the Brady Handgun Violence Prevention Act has determined that receipt of a firearm by the prospective firearm transferee would violate Federal or State law, and which have been referred to the Bureau of Alcohol, Tobacco, Firearms, and Explosives for investigation.

Passed the House of Representatives March 11, 2021.

Attest:

Clerk.
AN ACT

117TH CONGRESS
1ST SESSION
H. R. 1446

is not such a licensee.
cense may transfer a license to a person who

The amend chapter 44 of title 18, United States

Code, to strengthen the background check process

to be followed before a Federal firearms

H. R. 1446
Item B-4
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: April 28, 2021

SUBJECT: Assembly Bill 71 (Rivas) - Homelessness funding: Bring California Home Act

ATTACHMENTS: 1. Summary Memo – AB 71
2. Bill Text – AB 71

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

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 71 (Rivas) - Homelessness funding: Bring California Home Act (AB 71) 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 71 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 71, the Liaisons may recommend the following actions:

1) Support AB 71;
2) Support if amended AB 71;
3) Oppose AB 71;
4) Oppose unless amended AB 71;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 71, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 22, 2021

To: Cindy Owens, City of Beverly Hills

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

Re: AB 71 (Rivas) - Homelessness funding: Bring California Home Act

Version: Amended in Assembly March 25, 2021

Summary
Conforms state law to the federal Global Intangible Low-Taxed Income (GILTI) provisions and taxes repatriated income to finance the Bring California Home Fund. Specifically, this bill:

1) Conforms, beginning on or after January 1, 2022, under the Personal Income Tax (PIT) Law, state law to GILTI, except as provided.

2) Provides that if a taxpayer that is not a C corporation has income under GILTI, which is derived from a corporation that is part of a combined reporting group doing business in this state and has made a water's-edge election, 50% of that income shall be apportioned to this state using the same apportionment factor as is used for the combined reporting group.

3) Allows a taxpayer that includes repatriation income to either apportion 14% of the income to California or use the apportionment factor otherwise calculated for the combined group for that taxable year. The election shall be made in a form and manner prescribed by FTB.

4) Provides, with respect to GILTI, any dividend elimination will be allowed using the same rules that apply to dividends received from a controlled foreign corporation (CFC) under Revenue and Taxation Code (R&TC) Section 25110(a)(2)(A)(ii).

5) Provides that any taxpayer that includes repatriated income shall be entitled to a credit for any taxes already paid to this state on the repatriated income. The credit allowed shall be calculated by multiplying the final tax liability of the taxpayer for the taxable year in which tax was paid on repatriation income by a fraction not to exceed one, the numerator of which is repatriation income of that corporation for that taxable year and the denominator of which is the total taxable income of that corporation for that taxable year.

6) Provides a taxpayer that has made a water’s-edge election with an opportunity to revoke the election for the 2022 calendar year.

7) Provides, as part of the water’s-edge election, that for taxpayers required to be included in a combined report or taxpayers authorized to be included in a combined report, the total of all business credits allowed, including carryover of any business credit under a former provision,
by all members of the combined report shall not reduce the aggregate amount of the additional
tax liability of all members of the combined report added by this bill by more than $5 million.
The limitation does not apply to the credit for taxes that have already been paid on repatriated
income.

8) Provides, under the Corporation Tax (CT) Law, that for taxpayers not required to be included
in a combined report or not authorized to be included in a combined report, the total of all
credits allowed, including the carryover of any credit under a former provision, for the taxable
year shall not reduce the additional tax liability added by this bill by more than $5 million. This
limitation does not apply to the credit for taxes that have already been paid on repatriated
income, or the low-income housing tax credit (LIHTC).

9) Provides, under the CT Law, that for taxpayers required to be included in a combined report
or taxpayers authorized to be included in a combined report, the total of all credits allowed,
including the carryover of any credit under a former provision, by all members of the combined
report shall not reduce the aggregate amount of the additional tax liability of all members of
the combined report added by this bill by more than $5 million. The limitation does not apply
to the credit for taxes that have already been paid on repatriated income, or the LIHTC.

10) Defines "affiliated corporation" as a corporation that is a member of a commonly controlled
group, as provided in R&TC Section 25105.

11) Defines "global intangible low-taxed income" in the same manner as defined in Internal
Revenue Code (IRC) Section 951A, but not taking into account any subtractions made
pursuant to Title 26 of the Code of Federal Regulation Section 1.951A-2(c)(7).

12) Defines "repatriation income" as income that was deemed repatriated under IRC Section
965(a), relating to the treatment of deferred foreign income as subpart F income.

13) Provides that this bill's provisions are severable, and that if any provision of this bill or its
application is held invalid, the invalidity shall not affect other provisions or applications that
can be given effect without the invalid provision or application.

14) Provides that it is the intent of the Legislature that the revenue, if any, resulting from the
application of this bill in any taxable year beginning on or after January 1, 2022, be used for
purposes of the Bring California Home Act.

15) Makes a number of changes to the Homeless Coordinating and Financing Council, and
require the council to, among other things, identify state programs that provide housing or
housing-based services and report this information to specified committees by July 31, 2022.
The council would also administer allocations from the fund to counties and continuums of
care that apply jointly and to large cities, as provided.

16) Requires the Controller to transfer the additional revenue generated by GILTI and the
inclusion of the repatriated income from the General Fund to the Bring California Home Fund.

EXISTING FEDERAL LAW provides GILTI provisions enacted by the federal Tax Cuts and Jobs
Act (TCJA), effective for taxable years of foreign corporations beginning after December 31, 2017,
and for taxable years of US shareholders in which such taxable years of the foreign corporations
end. Any US shareholder that owns at least 10% of the value or voting rights in a CFC must
include in gross income for the taxable year its GILTI in a manner generally similar to the inclusion of Subpart F income, regardless of whether any amount is distributed to the shareholder. There is no comparable provision in state law.

EXISTING STATE LAW:

1) Requires corporations deriving income from sources both within and outside California to measure their tax liability by reference to their income derived from or attributable to sources within California. To determine the portion of total income that is attributable to California, the apportionment and allocation method is used. The apportionment method uses a formula to calculate the amount of a unitary group's total income that was generated from the group's activities in California. This formula is generally comprised of a single sales factor.

2) Provides that all affiliated US and foreign entities comprising a single trade or business are viewed for certain purposes as a whole called a "unitary group." The business income of all the affiliates that comprise a unitary group is apportioned and reported to California on a single report known as the "combined report."

3) Allows a unitary group the option of calculating its California income and activities on a water's-edge basis in lieu of combining on a worldwide basis. A water's edge election is made for at least 84 months. A group that has made a water's-edge election is allowed a deduction of 75% of qualifying dividends received from its foreign affiliates, known as the "foreign dividend deduction."

4) Restricts the amount of allowable business credits for a corporation to $5 million for taxable years beginning on or after January 1, 2020, and before January 1, 2023.

Background

AB 71 proposes taxing California's share of multinational corporations' Global Intangible Low Taxed Income (GILTI). The author argues that only large multinational corporations would pay GILTI. GILTI ensures that corporations attempting to avoid taxes by shifting profits to low-tax jurisdictions, like the Cayman Islands, pay the taxes they owe in California. Proponents argue that This tax-avoidance safeguard appropriately taxes California income and would bring our tax code in line with other states and the federal Internal Revenue Code.

The author argues that California is home to the largest homeless population in the country. Over 151,000 residents including children are unhoused on any given night and two to three times that number experience homelessness in any given year. Prior to the pandemic, California was already seeing a growth in homelessness because of the sharp increases in housing costs that are outpacing any increases in wages. Between 2018 and 2019, California’s homeless population increased by nearly 17%. Researchers believe California could experience another 20% increase in homelessness because of this pandemic.

California has historically financed very few homelessness programs with ongoing funding. Only in recent years has California increased investment to large cities, homeless continuums of care, and counties to combat homelessness. In 2018, the Legislature appropriated $500 million in the Homeless Emergency Assistance Program for shelters and services. In 2019, the Legislature invested $650 million into the Homeless Housing Assistance Program, and another $300 million in 2020. While these one-time allocations helped local governments house thousands of Californians, they do not address the full scope of the issues facing people experiencing homelessness.
In response to COVID-19, the state and Governor invested millions of one-time federal CARES Act funding to implement Project Roomkey and Project Homekey with the intent of sheltering homeless individuals who are most at risk to contracting the virus. Project Roomkey reached 22,000 households. Los Angeles alone identified 15,000 eligible individuals, but were only able to secure roughly 3,600 hotel rooms. Project Homekey, which relied on federal dollars is expiring at the end of the year, and will offer a little over 6,000 interim or permanent housing units.

**Housing and Homeless Provisions**

This bill would enact the Bring California Home Act, which would establish the Bring California Home Fund in the State Treasury, and modify the Homeless Coordinating and Financing Council to focus on preventing and ending homelessness in California. This bill would require the Controller to annually transfer specified amounts, based on the increased GF revenue from GILTI and deemed repatriated income, to the Bring California Home Fund.

The council would be charged with collecting data and identifying state programs that provide housing or housing-based services and report this information to specified committees by July 31, 2022. The council would also administer allocations from the fund to counties and continuums of care that apply jointly and to large cities, as provided. The council would have to set aside $200,000,000 for bonus awards to recipients, and would have to allocate 60% of the remaining amount in the fund to counties and continuums of care applying jointly and 40% to large cities, in accordance with a specified formula and subject to certain requirements.

The council would allocate available funding in two-year cycles, with the first round allocated no later than March 31, 2023, and develop a simple application that an eligible entity may use to apply for funding, as well as common standards for recipients to monitor, report, and ensure accountability, provide services, and subsidize housing.

The council and each recipient would establish performance outcomes for the initial cycle and outcome goals before each subsequent grant cycle, as provided, and the council would award bonus funding to a recipient, if the recipient has achieved those performance outcomes, or reduce or deny that bonus funding if the recipient has not achieved those performance outcomes.

Failure of the recipient to use money allocated to it for an authorized purpose would require the council to either select an alternative entity to administer the recipient's allocation or solely establish performance outcomes and program priorities for that recipient jurisdiction and work with local, regional, or statewide entities to administer the allocation on behalf of the recipient.

**CalChamber lists AB 71 on its annual list of “Job Killer” bills**

The California Chamber of Commerce (CalChamber) has identified AB 71 as one of 25 “Job Killer” bills currently being considered by the State Legislature. The Chamber questioned why the Legislature is not working on ways to reduce costs on businesses struggling due to the pandemic. They argue that “California employers cannot be the safety net for struggling workers. The billions of dollars coming to the state from the American Rescue Plan should be used to provide the safety net for struggling workers and help get businesses back up and running,” CalChamber characterizes AB 71 as a “Massive Corporate Tax Increase” that “significantly increases the taxation on the gross income of international companies to create a homelessness fund, thereby shifting the responsibility of the crisis onto the private sector, despite the $15 billion in unexpected revenue.
Status of Legislation
The bill is currently schedule for hearing in the Assembly Committee on Housing and Community Development on April 29, 2021.

Support
Aapis for Civic Empowerment Education Fund
Alexandria House
All Home
Alliance for Children's Rights
Alliance of Californians for Community Empowerment Action
American Family Housing
American Indian Movement SoCal
Bay Area Community Services
Bay Area Regional Health Inequities Initiative
Bend the Arc: Jewish Action, Southern California
Bet Tzedek
Brilliant Corners
California Council of Community Behavioral Health Agencies
California Association of Student Councils
California Calls
California Coalition for Rural Housing
California Coalition for Youth
California Democratic Party Renters Council
California Housing Consortium
California Housing Partnership Corporation
California Partnership to End Domestic Violence
California Rural Legal Assistance Foundation
Center for Community Action & Environmental Justice
Central Hollywood Neighborhood Council
Children Now
Chrysalis Center
City of Los Angeles
City of Oakland
Coalition on Homelessness, San Francisco
Community Action Marin
Community Corporation of Santa Monica
Community Forward SF, INC.
Community Solutions for Children, Families and Individuals
Conard House
Corporation for Supportive Housing
County of Los Angeles
County of Santa Clara
Del Rey Neighborhood Council
Destination: Home
Dignity oves
Disability Rights California
Downtown Women's Center
East Bay Asian Local Development
East Bay Housing Organizations
Episcopal Community Services of San Francisco
Everyone Home
Foster Care Counts
Hathaway-sycamores
Hayward; City of
Hope Solutions
Hopics
Housing Authority of the City of Oakland
Housing California
Housing Consortium of the East Bay
Housing Is a Human Right OC
Housing Now! CA
Interface Children & Family Services
Jewish Family Service San Diego
John Burton Advocates for Youth
Justice in Aging
LA Care Health Plan
Linc Housing
Los Angeles County Chief Executive Office
Los Angeles Homeless Services Authority
Lyric
Me Too Survivors’ March International
Mental Health America of Los Angeles
Mogavero Architects
Multi-faith Action Coalition
Mutual Housing California
National Alliance to End Homelessness
National Association of Social Workers, California Chapter
Non Profit Housing Association of Northern California
Northeast Valley Health Corporation
Oakland Homeless Advocacy Working Group
Open Heart Kitchen
Operation Dignity INC
Operations Checks & Balances
People's Budget Orange County
Policylink
Opposition
Advanced Medical Technology Association
Bay Area Council
Bizfed Central Valley
California Association of Winegrape Growers
California Attractions and Parks Association
California Beer and Beverage Distributors
California Building Industry Association
California Business Properties Association
California Cable and Telecommunications Association
California Cattlemen's Association
California Chamber of Commerce
California Fuels and Convenience Alliance
California Hotel & Lodging Association
California Independent Petroleum Association
California League of Food Producers
California Life Sciences Association
California Manufacturers & Technology Association
California Mortgage Bankers Association
California New Car Dealers Association
California Railroad Industry
California Restaurant Association
California Retailers Association
California Taxpayers Association
California Trucking Association
Contra Costa Taxpayers Association
Council on State Taxation
Family Business Association of California
Greater Irvine Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Kern County Taxpayers Association
North Orange County Chamber of Commerce
Orange County Business Council
Orange County Taxpayers Association
Oxnard Chamber of Commerce
Personal Insurance Federation of California
San Gabriel Valley Economic Partnership
Securities Industry and Financial Markets Association
Silicon Valley Leadership Group
Technet
Tri County Chamber Alliance
West Coast Lumber & Building Material Association
Western Growers Association
Western Manufactured Housing Communities Association
Western States Petroleum Association
Wine Institute
Attachment 2
An act to amend Section 23151 of, and to add Sections 23036.3 of, and to add Sections 17087.7 and 25110.1 to, the Revenue and Taxation Code, and to amend Sections 8255 and 8257 of, to add Sections 8257.1, 8257.2, 8258, and 14133.5 to, and to add Chapter 5.2 (commencing with Section 13050) to Part 3 of Division 9 of, the Welfare and Institutions Code, relating to homelessness, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST


(1) The Personal Income Tax Law, in conformity with federal income tax law, generally defines gross income as income from whatever source derived, except as specifically excluded, and provides various exclusions from gross income. Existing federal law, for purposes of determining a taxpayer’s gross income for federal income taxation, requires that a person who is a United States shareholder of any controlled foreign corporation to include in their gross income the global intangible low-taxed income for that taxable year, as provided.
This bill, for taxable years beginning on or after January 1, 2022, would include a taxpayer’s global intangible low-taxed income in their gross income for purposes of the Personal Income Tax Law, in modified conformity with the above-described federal provisions. The bill would exempt any regulation, standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board to implement its provisions from the rulemaking provisions of the Administrative Procedure Act.

The Corporation Tax Law imposes, among other taxes, taxes according to or measured by the net income of the taxpayer for the taxable year at a rate of 8.84%, or 10.84% for financial institutions, but not less than the minimum franchise tax of $800, as specified.

This bill, for taxable years beginning on or after January 1, 2022, and with respect to taxpayers with taxable income under the Corporation Tax Law greater than $5,000,000 for the taxable year, would increase these tax rates from 8.84% to 9.6%, or 10.84% to 11.6% for financial institutions, unless the minimum franchise tax is greater.

The Corporation Tax Law, when the income of a taxpayer subject to tax under that law is derived from or attributable to sources both within and without the state, generally requires that the tax be measured by the net income derived from or attributable to sources within this state, as provided. Notwithstanding this requirement, the Corporation Tax Law authorizes a qualified taxpayer, as defined, to elect to determine its income derived from or attributable to sources within this state pursuant to a water’s-edge election, as provided. Existing law requires that a water’s-edge election be made by contract with the Franchise Tax Board, with an initial term of 84 months, except as specified, and provides for annual renewal of that contract unless the taxpayer provides written notice of nonrenewal at least 90 days before the renewal date. For taxable years beginning on or after January 1, 2003, existing law requires that a water’s-edge election be made on an original, timely filed return for the year of the election, as provided, and provides for the continued effect or termination of that election.

This bill, beginning January 1, 2022, would require that a taxpayer that makes a water’s-edge election under these provisions take into account 50% of the global intangible low-taxed income and 40% of the repatriation income of its affiliated corporations, as those terms are defined. The bill would allow a taxpayer, for calendar year 2022 only, the opportunity to revoke a water’s-edge election if the taxpayer includes global intangible low-taxed income pursuant to these
provisions. The bill would prohibit the total of all business credits, as defined, and all credits allowed under specified provisions of the Corporation Tax Law, with specified exceptions, from reducing the additional tax liability added by this bill’s provisions by more than $5,000,000, as provided. The bill would exempt any regulation, standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board to implement its provisions from the rulemaking provisions of the Administrative Procedure Act.

This bill would state the intent of the Legislature that any revenue resulting from the above-described changes to the Personal Income Tax Law and the Corporation Tax Law be used for purposes of the Bring California Home Act, as described below.

(2) Existing law requires the Governor to create the Homeless Coordinating and Financing Council (council). 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. Existing law requires the Governor to appoint up to 19 members of the council, including representatives from specified state agencies and departments, and a formerly homeless person and a formerly homeless youth who both live in California, and requires the Senate Committee on Rules and the Speaker of the Assembly to each appoint one member to the council from 2 different stakeholder organizations.

This bill would delete the provisions relating to the appointment authority of the Governor and the Legislature, and would instead restructure the council, including requiring the council to be composed of prescribed individuals, including the directors of specified state agencies and departments, such as the State Department of Public Health. The bill would require the council to seek guidance from, and meet with, an advisory committee composed of specified individuals, including a survivor of gender-based violence who formerly experienced homelessness and a formerly homeless person who lives in California.

This bill would require the council, its technical services provider, or an entity with which the council contracts to identify, analyze, and collect various data in regards to homelessness in this state, including identifying state programs that provide housing or housing-based services to persons experiencing homelessness, as provided. The bill would require the council to report on this information to specified
committees of the Legislature by July 31, 2022. The bill would require
the council to seek technical assistance offered by the United States
Department of Housing and Urban Development, if available, for
purposes of conducting this statewide needs and gaps analysis. The bill
would require a state department or agency with a member on the
council to assist in data collection for the analysis by responding to data
requests within 180 days, as specified.

The bill would require the council to convene a funder’s workgroup,
composed of specified individuals, including staff of the council and
staff working for agencies or departments represented on the council,
to accomplish prescribed goals, and would authorize that workgroup
to invite philanthropic organizations focused on ending homelessness,
reducing health disparities, ending domestic violence, or ensuring
Californians do not exit foster care or incarceration to homelessness to
participate in specific meetings. The bill would require the workgroup
to perform specified duties, including collaborating with state agency
staff to develop a universal application for developers, service providers,
providers and other entities to apply to agencies and departments
represented on the council for funding for homeless services and
housing, and to coordinate state agencies and departments to reduce
the risk of long-term homelessness by developing specific protocols
and procedures that accomplish prescribed goals, such as assisting
individuals reentering communities from jails and prisons with housing
navigation, housing acquisition support, and obtaining permanent
housing.

Existing law requires agencies and departments administering state
programs to collaborate with the council to adopt guidelines to revise
or adopt guidelines and regulations to incorporate core components of
Housing First, as provided. Existing law defines “state programs” for
these purposes to mean any programs a California state agency or
department funds, implements, or administers for the purpose of
providing housing or housing-based services to people experiencing
homelessness or at risk of homelessness, but excludes federally funded
programs with inconsistent requirements or programs that fund
emergency shelters.

This bill would delete the exclusion for programs that fund emergency
shelters from this definition of “state programs,” thereby expanding the
scope of programs required to incorporate core components of Housing
First, as described above.
(3) Existing law establishes, among various other programs intended to address homelessness in this state, the Homeless Housing, Assistance, and Prevention program for the purpose of providing jurisdictions with one-time grant funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges informed by a best-practices framework focused on moving homeless individuals and families into permanent housing and supporting the efforts of those individuals and families to maintain their permanent housing. Existing law provides for the allocation of funding under the program among continuums of care, cities, and counties in 2 rounds, the first of which is administered by the Business, Consumer Services, and Housing Agency and the second of which is administered by the coordinating council.

This bill would enact the Bring California Home Act, which would establish the Bring California Home Fund in the State Treasury and continuously appropriate moneys in that fund for the purpose of implementing that act. The bill would require the Controller to annually transfer specified amounts, determined as provided by the Franchise Tax Board based on the above-described changes made by this bill to the Personal Income Tax Law and the Corporation Tax Law, to the Bring California Home Fund. The bill would require the council and the Department of Housing and Community Development (HCD) to jointly administer the fund pursuant to a memorandum of understanding, as provided. The bill would require that recipients and subrecipients under the program ensure that any expenditure of moneys allocated to them serve the eligible population, unless otherwise expressly provided in the bill. The bill would define various terms for these purposes.

The bill would require the council to administer allocations to counties and continuums of care that apply jointly and to large cities, and would require HCD to administer allocations to developers, cities, as provided. The bill would require HCD to allocate $400,000,000 to developers and require the council to set aside $200,000,000 for bonus awards, as provided. Of the remaining amount in the fund, the bill would require the council to allocate 60% to counties and continuums of care applying jointly and 40% to large cities, in accordance with a specified formula and subject to certain requirements. The bill would establish eligibility criteria for a county and continuum of care or a large city to receive an allocation under these provisions and specify the eligible uses for those moneys. The bill would exempt specified activities by a large city under the program relating to the development of a low barrier interim
intervention, affordable housing project, or supportive housing project from the California Environmental Quality Act. The bill, upon the request of the county and continuum of care, would require care to request that the State Department of Social Services to act as a fiscal agent for the county and continuum of care, as provided. The bill would require HCD to allocate moneys to developers in the same manner as deferred payment loans provided under the Multifamily Housing Program, subject to certain requirements, including a requirement that HCD ensure that at least 25% of the moneys allocated under these provisions be awarded to projects located in unincorporated areas and cities that are not large cities. The bill would require that any project that uses funds received under the program for the purposes specified in connection with the allocations made by HCD be allowed as a permitted use, within the zone in which the structure is located, and not be subject to a conditional use permit, discretionary permit, or any other discretionary review or approval. Contract with local agencies or nonprofit organizations providing the housing and housing-based services under the program in exchange for a percentage of the allocation to the county and continuum of care for administrative costs, as provided.

The bill would require the council and HCD to allocate available funding in 2-year cycles, with the first round allocated no later than March 31, 2023, and to develop a simple application that an eligible entity may use to apply for funding, as well as common standards for recipients to monitor, report, and ensure accountability, provide services, and subsidize housing. The bill would require the council and each recipient to establish performance outcomes for the initial cycle and to establish outcome goals before each subsequent grant cycle, as provided, and require the council to award bonus funding to a recipient, if the recipient has achieved those performance outcomes, or reduce or deny that bonus funding the if the recipient has not achieved those performance outcomes.

The bill, except as otherwise provided, would require each recipient to contractually obligate 100% of the amount allocated to it within 3 years, for the first grant cycle, or 1 year, for each subsequent cycle, and to expend the entirety of that amount within 4 years, for the first grant cycle, or 2 years, for each subsequent cycle. If a county and continuum of care or a large city recipient fails to comply with these deadlines, uses moneys allocated to it for an unauthorized purpose, or fails to apply for an allocation within the initial award cycle, the bill would require
the council to either select an alternative entity to administer the recipient’s allocation in accordance with specified requirements or solely establish performance outcomes and program priorities for that recipient jurisdiction and work with local, regional, or statewide entities to administer the allocation on behalf of the recipient. If a developer fails to comply with these deadlines, the bill would require that the moneys awarded to that recipient revert to the fund.

The bill would require each recipient to annually report to the council and HCD specified information relating to allocations made under these provisions. The bill would require the council to conduct regular monitoring and audits of the activities and outcomes of recipients that are joint county-continuum of care applicants or large cities. No later than January 1, 2024, and every 5th January 1 thereafter, the bill would require the council to evaluate the outcomes of this program and submit a report, containing specified information, to specified committees of the Legislature. The bill would require the council and HCD to establish an advisory committee to inform state and local policies, practices, and programs with respect to the experiences of specified demographic groups experiencing homelessness.

(4) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services pursuant to a schedule of benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

By January 1, 2025, this bill would require the department to seek federal approval for a Medi-Cal benefit to fund prescribed services, including housing navigation and housing acquisition support services, for beneficiaries experiencing homelessness, to convene a stakeholder advisory group representing counties, health care consumers, and homeless advocates in developing this plan, to work with counties to determine an effective process for funding the state’s share of the federal medical assistance percentage, and to pursue philanthropic funding to carry out the administrative duties related to these provisions. The bill would authorize the department to use up to 20% of the county-continuum allocation from the Bring California Home Fund, as described above, to pay for the state’s federal medical assistance percentage associated with this benefit.

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

SECTION 1. Section 17087.7 is added to the Revenue and Taxation Code, to read:

17087.7. (a) For taxable years beginning on or after January 1, 2022, Section 951A of the Internal Revenue Code, relating to Global intangible low-taxed income, as enacted by the federal Tax Cuts and Jobs Act of 2017 (Public Law 115–97), shall apply, except as otherwise provided.

(b) Section 951A of the Internal Revenue Code, relating to Global intangible low-taxed income, is modified as follows:

(1) If a taxpayer that is not a “C” corporation has income under Section 951A of the Internal Revenue Code, which is formally derived from a corporation that is part of a combined reporting group doing business in this state and has made a water’s-edge election under Section 25110, 50 percent of that income shall be apportioned to this state using the same apportionment factor as is used for the combined reporting group.

(2) Section 951A of the Internal Revenue Code shall not apply if either of the following applies:

(A) The taxpayer is not a “C” corporation and the income under Section 951A of the Internal Revenue Code is formally derived from a corporation that is part of a combined reporting group doing business in this state that does not make a water’s-edge election under Section 25110.

(B) The taxpayer is not a “C” corporation and the income under Section 951A of the Internal Revenue Code is formally derived from a corporation that is not part of a combined reporting group doing business in this state.

(c) If a taxpayer has income under Section 951A of the Internal Revenue Code, relating to Global intangible low-taxed income, included in its gross income pursuant to this section, the taxpayer may submit a petition to the Franchise Tax Board for alternative apportionment pursuant to Section 25137, in accordance with the standards and procedures established by the board for submission of a petition for alternative apportionment.

(d) Any regulation, standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board to implement this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act.
(Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

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

(f) It is the intent of the Legislature that the revenue, if any, resulting from application of this section in any taxable year beginning on or after January 1, 2022, be used for purposes of the Bring California Home Act (Chapter 5.2 (commencing with Section 13050) of Part 3 of Division 9 of the Welfare and Institutions Code).

SEC. 2. Section 23151 of the Revenue and Taxation Code is amended to read:

23151. (a) With the exception of banks and financial corporations, every corporation doing business within the limits of this state and not expressly exempted from taxation by the provisions of the Constitution of this state or by this part, shall annually pay to the state, for the privilege of exercising its corporate franchises within this state, a tax according to or measured by its net income, to be computed at the rate of 7.6 percent upon the basis of its net income for the next preceding income year, or if greater, the minimum tax specified in Section 23153.

(b) For calendar or fiscal years ending after June 30, 1973, the rate of tax shall be 9 percent instead of 7.6 percent as provided by subdivision (a).

(c) For calendar or fiscal years ending in 1980 to 1986, inclusive, the rate of tax shall be 9.6 percent.

(d) For calendar or fiscal years ending in 1987 to 1996, inclusive, and for any income year beginning before January 1, 1997, the tax rate shall be 9.3 percent.

(e) For any income year beginning on or after January 1, 1997, and before the income year identified in subparagraph (A) of paragraph (1) of subdivision (f), the tax rate shall be 8.84 percent. The change in rate provided in this subdivision shall be made without proration otherwise required by Section 24251.

(f)(1) For the first taxable year beginning on or after January 1, 2000, the tax imposed under this section shall be the sum of both of the following:
(A) A tax according to or measured by net income, to be computed at the rate of 8.84 percent upon the basis of the net income for the next preceding income year, but not less than the minimum tax specified in Section 23153.

(B) A tax according to or measured by net income, to be computed at the rate of 8.84 percent upon the basis of the net income for the first taxable year beginning on or after January 1, 2000, but not less than the minimum tax specified in Section 23153.

(2) Except as provided in paragraph (1), for taxable years beginning on or after January 1, 2000, and before January 1, 2022, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate of 8.84 percent upon the basis of the net income for that taxable year, but not less than the minimum tax specified in Section 23153.

(g) (1) For taxable years beginning on or after January 1, 2022, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the following rate, as applicable, upon the basis of the net income for that taxable year, or if greater, the minimum tax specified in Section 23153:

(A) If the taxpayer has taxable income greater than five million dollars ($5,000,000) for the taxable year, 9.6 percent.

(B) If the taxpayer has taxable income less than or equal to five million dollars ($5,000,000) for the taxable year, 8.84 percent.

(2) It is the intent of the Legislature that the revenue, if any, resulting from application of this subdivision in any taxable year beginning on or after January 1, 2022, be used for purposes of the Bring California Home Act (Chapter 5.2 (commencing with Section 13050) of Part 3 of Division 9 of the Welfare and Institutions Code).

SEC. 2. Section 23036.3 of the Revenue and Taxation Code is amended to read:

23036.3. (a) (1) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, except as provided in subdivision (d), for taxpayers not required to be included in a combined report under Section 25101 or 25110, or taxpayers not authorized to be included in a combined report under Section 25101.15, for each taxable year beginning on or after January 1, 2020, and before January 1, 2023, the total of all credits otherwise allowable under any provision of Chapter 3.5 (commencing with Section 23604) including the carryover of any
credit under a former provision of that chapter, for the taxable year
shall not reduce the “tax,” as defined in Section 23036, by more
than five million dollars ($5,000,000).

(b) (2) Notwithstanding any provision of this part or Part 10.2
(commencing with Section 18401) to the contrary, except as
provided in subdivision (d), for taxpayers required to be included
in a combined report under Section 25101 or 25110, or taxpayers
authorized to be included in a combined report under Section
25101.15, for each taxable year beginning on or after January 1,
2020, and before January 1, 2023, the total of all credits otherwise
allowable under any provision of Chapter 3.5 (commencing with
Section 23604), including the carryover of any credit under a
former provision of that chapter, by all members of the combined
report shall not reduce the aggregate amount of “tax,” as defined
in Section 23036, of all members of the combined report by more
than five million dollars ($5,000,000).

(b) (1) Notwithstanding any provision of this part or Part 10.2
(commencing with Section 18401) to the contrary, except as
provided in subdivision (d), for taxpayers not required to be
included in a combined report under Section 25101 or 25110, or
taxpayers not authorized to be included in a combined report under
Section 25101.15, the total of all credits otherwise allowable under
any provision of Chapter 3.5 (commencing with Section 23604)
including the carryover of any credit under a former provision of
that chapter, for the taxable year shall not reduce the additional
tax liability added by subdivision (a), (b), or (c) of Section 25110.1
by more than five million dollars ($5,000,000).

(2) Notwithstanding any provision of this part or Part 10.2
(commencing with Section 18401) to the contrary, except as
provided in subdivision (d), for taxpayers required to be included
in a combined report under Section 25101 or 25110, or taxpayers
authorized to be included in a combined report under Section
25101.15, the total of all credits otherwise allowable under any
provision of Chapter 3.5 (commencing with Section 23604),
including the carryover of any credit under a former provision of
that chapter, by all members of the combined report shall not
reduce the aggregate amount of the additional tax liability of all
members of the combined report added by subdivision (a), (b), or
(c) of Section 25110.1 by more than five million dollars ($5,000,000).

(c) Any amounts included in an election pursuant to Section 6902.5, relating to an irrevocable election to apply credit amounts under Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 against qualified sales and use tax, as defined in Section 6902.5, are not included in the five million dollar ($5,000,000) limitation set forth in subdivision (a) or (b).

(d) (1) The limitation under subdivision (a) or (b) shall not apply to the credit allowed by Section 23610.5 (relating to credit for low-income housing).

(2) The limitation under subdivision (b) shall not apply to the credit allowed by subdivision (e) of Section 25110.1, relating to credit for taxes already paid to this state on repatriated income.

(e) The amount of any credit otherwise allowable for the taxable year under Section 23036 that is not allowed due to the application of this section shall remain a credit carryover amount under this part.

(f) The carryover period for any credit that is not allowed due to the application of this section shall be increased by the number of taxable years the credit or any portion thereof was not allowed.

(g) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

SEC. 3. Section 25110.1 is added to the Revenue and Taxation Code, to read:

25110.1. (a) Beginning January 1, 2022, a taxpayer that makes a water’s-edge election shall take into account 50 percent of the global intangible low-taxed income, but not the apportionment factors, of its affiliated corporations.

(b) Beginning January 1, 2022, a taxpayer that makes a water’s-edge election shall take into account 40 percent of the repatriation income, but not the apportionment factors, of its affiliated corporations.

(c) Any taxpayer that includes repatriation income may choose to apportion 14 percent of that income to California or use the apportionment factor otherwise calculated for the combined group
for that taxable year, through an election process in the form and manner prescribed by the Franchise Tax Board.

(d) For purposes of calculating dividends to be eliminated from the income of the recipient under Section 25106 or any other law, global intangible low-taxed income included by reason of subdivision (a) shall be treated in the same manner as income included by reason of clause (ii) of subparagraph (A) of paragraph (2) of subdivision (a) of Section 25110.

(e) Any taxpayer that includes repatriated income under subdivision (b) shall be entitled to a credit for any taxes already paid to this state on the repatriated income by reason of Section 24411 or any other law. The credit allowed by this subdivision shall be calculated by multiplying the final tax liability of the taxpayer for the taxable year in which tax was paid on repatriation income by a fraction not to exceed one, the numerator of which is the repatriation income of that corporation for that taxable year and the denominator of which is the total taxable income of that corporation for that taxable year.

(f) Notwithstanding Section 25111, any taxpayer that has made a water’s-edge election under Section 25113 shall be permitted, for calendar taxable year 2022 only, an opportunity to revoke this election if the taxpayer includes global intangible low-taxed income pursuant to this section.

(g) (1) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, for taxpayers not required to be included in a combined report under Section 25101 or 25110, or taxpayers not authorized to be included in a combined report under Section 25101.15, the total of all business credits otherwise allowable, under any provision of Chapter 2 (commencing with Section 17041) of Part 10, including the carryover of any business credit under a former provision of that chapter, but not including the credit permitted by subdivision (e), for the taxable year shall not reduce the additional tax liability added by subdivision (a), (b), or (c) by more than five million dollars ($5,000,000).

(2) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, for taxpayers required to be included in a combined report under Section 25101 or 25110, or taxpayers authorized to be included in a combined report under Section 25101.15, the total of all business credits
otherwise allowable under any provision of Chapter 2 (commencing with Section 17041) of Part 10, including the carryover of any business credit under a former provision of that chapter, but not including the credit permitted by subdivision (e), by all members of the combined report shall not reduce the aggregate amount of the additional tax liability of all members of the combined report added by subdivision (a), (b), (b), or (c) by more than five million dollars ($5,000,000).

(3) Any amounts included in an election pursuant to Section 6902.5, relating to an irrevocable election to apply credit amounts under Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 against qualified sales and use tax, as defined in Section 6902.5, shall not be included in the five million dollar ($5,000,000) limitation set forth in paragraphs (1) and (2).

(4) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401), the credit amount described in paragraph (3) shall be applied after any business credits, subject to the limitations specified in paragraph (1) or (2), as applicable, are applied.

(5) The amount of any business credit otherwise allowable for the taxable year that is not allowed due to the application of this subdivision shall remain a credit carryover amount under Chapter 2 (commencing with Section 17041) of Part 10.

(6) The carryover period for any business credit that is not allowed due to the application of this subdivision shall be increased by the number of taxable years the credit or any portion thereof was not allowed.

(h) Any regulation, standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board to implement this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(i) For purposes of this section, all of the following apply:

(1) “Affiliated corporation” means a corporation that is a member of a commonly controlled group, as defined in Section 25105.

(2) “Business credit” means a credit allowable under any provision of Chapter 2 (commencing with Section 17041) of Part 10, other than the following credits:
(A) The credit allowed by Section 17052, relating to credit for earned income.
(B) The credit allowed by Section 17052.1, relating to credit for a young child.
(C) The credit allowed by Section 17052.6, relating to credit for household and dependent care.
(D) The credit allowed by Section 17052.25, relating to credit for adoption costs.
(E) The credit allowed by Section 17053.5, relating to renter’s tax credit.
(F) The credit allowed by Section 17054, relating to credit for personal exemption.
(G) The credit allowed by Section 17054.5, relating to credit for qualified joint custody head of household and a qualified taxpayer with a dependent parent.
(H) The credit allowed by Section 17054.7, relating to credit for qualified senior head of household.
(I) The credit allowed by Section 17058, relating to credit for low-income housing.
(J) The credit allowed by Section 17061, relating to refunds pursuant to the Unemployment Insurance Code.
(3) “Global intangible low-taxed income” has the same meaning as defined by Section 951A of the Internal Revenue Code, as enacted by the Tax Cuts and Jobs Act (Public Law 115-97), relating to global intangible low-taxed income, but not taking into account any subtractions made pursuant to Section 1.951A-2(c)(7) of Title 26 of the Code of Federal Regulations.
(4) “Repatriation income” means income that was deemed repatriated under Section 965(a) of the Internal Revenue Code, as amended by the Tax Cuts and Jobs Act (Public Law 115-97), relating to treatment of deferred foreign income as subpart F income, as included in a taxpayer’s federal return by operation of the payment schedule of Section 965(h) of the Internal Revenue Code, as amended by the Tax Cuts and Jobs Act (Public Law 115-97), relating to election to pay liability in installments.
(j) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
(k) It is the intent of the Legislature that the revenue, if any, resulting from application of this section in any taxable year beginning on or after January 1, 2022, be used for purposes of the Bring California Home Act (Chapter 5.2 (commencing with Section 13050) of Part 3 of Division 9 of the Welfare and Institutions Code).

SEC. 4. Section 8255 of the Welfare and Institutions Code is amended to read:

8255. For purposes of this chapter:
(a) “Coordinating council” means the Homeless Coordinating and Financing Council established pursuant to Section 8257.
(b) “Core components of Housing First” means all of the following:
   (1) Tenant screening and selection practices that promote accepting applicants regardless of their sobriety or use of substances, completion of treatment, or participation in services.
   (2) Applicants are not rejected on the basis of poor credit or financial history, poor or lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of “housing readiness.”
   (3) Acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems frequented by vulnerable people experiencing homelessness.
   (4) Supportive services that emphasize engagement and problem solving over therapeutic goals and service plans that are highly tenant-driven without predetermined goals.
   (5) Participation in services or program compliance is not a condition of permanent housing tenancy.
   (6) Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in California’s Civil, Health and Safety, and Government codes.
   (7) The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction.
   (8) In communities with coordinated assessment and entry systems, incentives for funding promote tenant selection plans for supportive housing that prioritize eligible tenants based on criteria other than “first-come-first-serve,” including, but not limited to, the duration or chronicity of homelessness, vulnerability to early mortality, or high utilization of crisis services. Prioritization may
include triage tools, developed through local data, to identify high-cost, high-need homeless residents.

(9) Case managers and service coordinators who are trained in and actively employ evidence-based practices for client engagement, including, but not limited to, motivational interviewing and client-centered counseling.

(10) Services are informed by a harm-reduction philosophy that recognizes drug and alcohol use and addiction as a part of tenants’ lives, where tenants are engaged in nonjudgmental communication regarding drug and alcohol use, and where tenants are offered education regarding how to avoid risky behaviors and engage in safer practices, as well as connected to evidence-based treatment if the tenant so chooses.

(11) The project and specific apartment may include special physical features that accommodate disabilities, reduce harm, and promote health and community and independence among tenants.

(c) “Homeless” has the same definition as that term is defined in Section 91.5 of Title 24 of the Code of Federal Regulations.

(d) (1) “Housing First” means the evidence-based model that uses housing as a tool, rather than a reward, for recovery and that centers on providing or connecting homeless people to permanent housing as quickly as possible. Housing First providers offer services as needed and requested on a voluntary basis and that do not make housing contingent on participation in services.

(2) (A) “Housing First” includes time-limited rental or services assistance, so long as the housing and service provider assists the recipient in accessing permanent housing and in securing longer-term rental assistance, income assistance, or employment.

(B) For time-limited, supportive services programs serving homeless youth, programs should use a positive youth development model and be culturally competent to serve unaccompanied youth under 25 years of age. Providers should work with the youth to engage in family reunification efforts, where appropriate and when in the best interest of the youth. In the event of an eviction, programs shall make every effort, which shall be documented, to link tenants to other stable, safe, decent housing options. Exit to homelessness should be extremely rare, and only after a tenant refuses assistance with housing search, location, and move-in assistance.
(e) “State programs” means any programs a California state agency or department funds, implements, or administers for the purpose of providing housing or housing-based services to people experiencing homelessness or at risk of homelessness, with the exception of federally funded programs with requirements inconsistent with this chapter.

(f) “State-funded institutional setting” includes, but is not limited to, a justice, juvenile justice, child welfare, hospitals, and other health care setting.

SEC. 5. Section 8257 of the Welfare and Institutions Code is amended to read:

8257. (a) The Governor shall create a Homeless Coordinating and Financing Council.

(b) The council shall have all of the following goals:

(1) To oversee implementation of this chapter.

(2) To identify mainstream resources, benefits, and services that can be accessed to prevent and end homelessness in California.

(3) To create partnerships among state agencies and departments, local government agencies, participants in the United States Department of Housing and Urban Development’s Continuum of Care Program, federal agencies, the United States Interagency Council on Homelessness, nonprofit entities working to end homelessness, homeless services providers, and the private sector, for the purpose of arriving at specific strategies to end homelessness.

(4) To promote systems integration to increase efficiency and effectiveness while focusing on designing systems to address the needs of people experiencing homelessness, including unaccompanied youth under 25 years of age.

(5) To coordinate existing funding and applications for competitive funding. Any action taken pursuant to this paragraph shall not restructure or change any existing allocations or allocation formulas.

(6) To make policy and procedural recommendations to legislators and other governmental entities.

(7) To identify and seek funding opportunities for state entities that have programs to end homelessness, including, but not limited to, federal and philanthropic funding opportunities, and to facilitate and coordinate those state entities’ efforts to obtain that funding.
(8) To broker agreements between state agencies and departments, and between state agencies and departments and local jurisdictions, to align and coordinate resources, reduce administrative burdens of accessing existing resources, and foster common applications for services, operating, and capital funding.

(9) To serve as a statewide facilitator, coordinator, and policy development resource on ending homelessness in California.

(10) To report to the Governor, federal Cabinet members, and the Legislature on homelessness and work to reduce homelessness.

(11) To ensure accountability and results in meeting the strategies and goals of the council.

(12) To identify and implement strategies to fight homelessness in small communities and rural areas.

(13) To create a statewide data system or warehouse that collects local data through Homeless Management Information Systems, with the ultimate goal of matching data on homelessness to programs impacting homeless recipients of state programs, such as the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9) and CalWORKs (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9).

(14) To set goals to prevent and end homelessness among California’s youth.

(15) To work to improve the safety, health, and welfare of young people experiencing homelessness in the state.

(16) To increase system integration and coordinating efforts to prevent homelessness among youth who are currently or formerly involved in the child welfare system or the juvenile justice system.

(17) To lead efforts to coordinate a spectrum of funding, policy, and practice efforts related to young people experiencing homelessness.

(18) To identify best practices to ensure homeless minors who may have experienced maltreatment, as described in Section 300, are appropriately referred to, or have the ability to self-refer to, the child welfare system.

(c) (1) The council shall be composed of all of the following members:

(A) The Secretary of Business, Consumer Services, and Housing, or the secretary’s designee, who shall serve as chair of the council.

(B) The Director of Transportation.
(C) The Director of Housing and Community Development.

(D) The Director of Social Services.

(E) The Executive Director of the California Housing Finance Agency.

(F) The Director of Health Care Services.

(G) The Secretary of Veterans Affairs.

(H) The Secretary of the Department of Corrections and Rehabilitation.

(I) The Executive Director of the California Tax Credit Allocation Committee in the Treasurer’s office.

(J) The Director of the State Department of Public Health.

(K) A representative of the Victim Services Program within the Division of Grants Management within the Office of Emergency Services. This person shall be appointed by the Director of the Office of Emergency Services.

(L) A representative from the State Department of Education. This person shall be appointed by the Superintendent of Public Instruction.

(M) A representative of the state public higher education system who shall be from one of the following:

   (i) The California Community Colleges.

   (ii) The University of California.

   (iii) The California State University.

(2) The council shall regularly seek guidance from, and meet with, an advisory committee that reflects racial and gender diversity, and shall include all of the following:

   (A) A formerly homeless person who lives in California.

   (B) A formerly homeless youth who lives in California.

   (C) A survivor of gender-based violence who formerly experienced homelessness.

   (D) Representatives of local agencies or organizations that participate in the United States Department of Housing and Urban Development’s Continuum of Care Program.

   (E) Stakeholders with expertise in solutions to homelessness and best practices from other states.

   (F) Representatives of committees on African Americans, youth, and survivors of gender-based violence.

(3) At its discretion, the council may invite stakeholders, individuals who have experienced homelessness, members of
philanthropic communities, and experts to participate in meetings or provide information to the council. (d) The council shall hold public meetings at least once every quarter. (e) Within existing funding, the council may establish working groups, task forces, or other structures from within its membership or with outside members to assist it in its work. Working groups, task forces, or other structures established by the council shall determine their own meeting schedules. (f) The members of the council shall serve without compensation, except that members of the council who are, or have been, homeless may receive reimbursement for travel, per diem, or other expenses. (g) The Business, Consumer Services, and Housing Agency shall provide staff for the council. (h) The members of the council may enter into memoranda of understanding with other members of the council to achieve the goals set forth in this chapter, as necessary, in order to facilitate communication and cooperation between the entities the members of the council represent. (i) There shall be an executive director of the council under the direction of the Secretary of Business, Consumer Services, and Housing. (j) The council shall be under the direction of the executive director and staffed by employees of the Business, Consumer Services, and Housing Agency. SEC. 6. Section 8257.1 is added to the Welfare and Institutions Code, to read:

8257.1. (a) The coordinating council, the coordinating council’s technical service provider, or an entity the coordinating council contracts with for this purpose, shall do all of the following: (1) Identify programs in the state that provide housing or housing-based services to persons experiencing homelessness and describe all of the following for each program, to the extent that data is available: (A) The amount of funding the program receives each year and funding sources for the program. (B) The number of persons the program serves each year, disaggregated by race, gender, and age range.
(C) Limitations, if any, on the length of stay for housing programs and length of provision of services for service programs.

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

(E) Specific subpopulations served and limits on eligibility for services.

(F) Referral and prioritization protocols.

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

(2) Identify the total number and type of subsidized beds or units of permanent housing for people experiencing homelessness statewide.

(3) Analyze the need for supportive housing, rapid rehousing, and affordable housing for people experiencing homelessness.

(4) Analyze the need for services, and the type of services needed, to assist people experiencing homelessness to find housing, move into housing, remain stably housed, and grow income.

(5) Identify the number of and types of interim interventions available to persons experiencing homelessness. The data described in this paragraph shall also include, but is not limited to, all of the following:

(A) The number of year-round shelter beds.

(B) The average length of stay in or use of interim interventions.

(C) The exit rate from an interim intervention to permanent housing.

(6) Analyze the need for additional interim interventions and funding needed to create these interventions, taking into consideration the ideal length of stay set by the United States Department of Housing and Urban Development.

(7) Identify or estimate the total number of people discharged from state-funded institutional settings who fall into homelessness within 72 hours of discharge, disaggregated by race and gender. If data are unavailable, the entity conducting the analysis may extrapolate from national, local, or statewide estimates on the number or percentage of people discharged from specific institutional settings into homelessness.

(8) Collect data on the numbers and demographics of persons experiencing homelessness, including, but not limited to, a quantification of the racial and ethnic disparities in the homeless.
population relative to the general population, to the extent data is available, in all of the following circumstances:

(A) As a young adult.
(B) As an unaccompanied minor.
(C) As a single adult.
(D) As an adult over 50 years of age.
(E) As a survivor of gender-based violence.
(F) As a veteran.
(G) As a person on parole or probation.
(H) As a member of a family.
(I) As a single adult or family experiencing chronic patterns of homelessness.
(J) As a person living with serious mental illness or a substance use disorder.
(K) As a member of the lesbian, gay, bisexual, transgender, and queer (LGBTQ) community.
(L) As a parenting youth.

Collect data on exits from homelessness to housing, including, but not limited to, the number of people moving into permanent housing and the type of housing being accessed, the type of interventions people exiting homelessness received, if any, and racial and gender characteristics of people accessing each type of housing and receiving each type of intervention.

Assess a sampling of data provided by local jurisdictions regarding the number of people experiencing homelessness who accessed interim interventions, including, but not limited to, shelters, recuperative care, and motels and hotels, in response to the COVID-19 pandemic, and the number of people who were able to access permanent housing on or before the expiration of interim assistance, disaggregated by race and gender.

Create a financial model that will assess needs for investment in capital, in operating supports in project-based housing, in rental assistance with private-market landlords, and in services costs for purposes of moving persons experiencing homelessness into permanent housing. The financial model shall include an explanation of how these investments will affirmatively reduce and close any racial disparities identified in the homeless population.

To conduct the needs and gaps analysis required by subdivision (a), the coordinating council or other entity conducting
the analysis shall evaluate data from agencies and departments
with representatives on the council, statewide and local homeless
point-in-time counts and housing inventory counts, data from
housing exits, data from local gaps and needs analyses from
geoographically diverse communities, and available statewide
information on the number or rate of persons exiting state-funded
institutional settings into homelessness.

(2) If specific data are unavailable, the coordinating council or
other entity conducting the analysis may calculate estimates based
on national or local data. The coordinating council or other entity
shall only use data that meets either of the following requirements:
(A) 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.
(B) An agency of the federal government cites and refers to the
data as evidence-based.

(3) The coordinating council or other entity conducting the
analysis may extrapolate data from a geographically diverse
sampling of local data analyses to inform the statewide analysis.

(c) The coordinating council shall report on the final needs and
gaps analysis by July 31, 2022, 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.

(d) The coordinating council shall seek technical assistance
offered by the United States Department of Housing and Urban
Development, if available, for the purpose of conducting the
statewide needs and gaps analysis required by this section.

SEC. 7. 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 coordinating 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 information provided pursuant to subdivision (a), if any. For purposes of this subdivision, “personally identifying information” has the same meaning as defined in Section 1798.79.8 of the Civil Code.

SEC. 8. Section 8258 is added to the Welfare and Institutions Code, to read:

8258. (a) The council shall convene a funder’s workgroup to accomplish the goals of this chapter. The workgroup shall include staff of the council, staff working for agencies or departments represented on the council, and representatives on the committees created pursuant to subdivision (l) of Section 13056. The funder’s workgroup may invite philanthropic organizations focused on ending homelessness, reducing health disparities, ending domestic violence, or ensuring Californians do not exit foster care or incarceration to homelessness to participate in specific meetings.

(b) The funder’s workgroup shall do all of the following:

(1) Align all request for proposals, all-county letters, and notices of funding proposals with standards following evidence-based housing and housing-based service models.

(2) Coordinate, as appropriate, with staff in the Governor’s office to solicit monetary donations or in-kind donations from businesses, nonprofit organizations, or individuals for the purpose of encouraging innovation in ending homelessness and augmenting funding for evidence-based housing and services.

(3) Work collaboratively with county associations, and staff from county and state departments, including the Department of Corrections and Rehabilitation and the State Department of Health Care Services, to establish discharge protocols and a process for agencies and departments to collectively identify and assist individuals exiting state-funded institutions, including, but not limited to, people leaving prisons, state-funded hospitals or nursing homes, and foster care, who are at risk of homelessness, along with procedures or programs for state agencies and departments to implement to prevent discharges into homelessness.

(4) Collaborate with existing state agency staff to develop a universal application for developers, service providers, local government agencies, and other entities to apply to agencies and
departments represented on the council for funding for services
and housing for persons experiencing homelessness.

(5) Examine and promote racially equitable and gender-equitable
policies for departments and agencies that provide housing and
services to individuals experiencing homelessness.

(c) The workgroup shall coordinate relevant state agencies and
departments to reduce the risk of long-term homelessness by
developing specific protocols and procedures that accomplish all
of the following:

(1) (A) Ensure that survivors of domestic violence, sexual
assault, and exploitation experiencing homelessness have access
to housing navigation, housing acquisition support, and programs
funded under this chapter that are specifically designed to meet
their needs.

(B) The services described under subparagraph (A) shall be
provided by, or in consultation with, domestic violence counselors,
as defined in Section 1037.1 of the Evidence Code, and provided
in compliance with all applicable state and federal confidentiality
laws.

(2) Assist individuals reentering communities from jails and
prisons with housing navigation, housing acquisition support, and
obtaining permanent housing.

(3) Assist young adults exiting foster care and former foster
youth with housing navigation, obtaining permanent housing,
accessing legal assistance, and navigating available public benefits
that they may be entitled to receive.

(4) Assist people exiting hospitals, nursing homes, and state
hospitals for people with mental illness to obtain permanent
housing, or, if an individual needs care and supervision, licensed
residential facilities.

(5) Connect older adults to programs and services that assist
independent living, including the assisted living waiver program,
as described in Section 14132.26, in-home supportive services, as
described in Article 7 (commencing with Section 12300) of Chapter
3 of Part 3 of Division 9, Program of All-Inclusive Care for the
Elderly (PACE) services, as described in Chapter 8.75
(commencing with Section 14591) of Part 3 of Division 9, and
other wraparound and personal care services.
SEC. 9. Chapter 5.2 (commencing with Section 13050) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 5.2. BRING CALIFORNIA HOME ACT

13050. This chapter shall be known, and may be cited, as the Bring California Home Act.

13051. The Legislature finds and declares all of the following:

(a) Homelessness is solvable, and the state has a role to play in rendering homelessness rare, brief, and nonrecurring. In fact, national and other state experiences show that jurisdictions at every level, including homeless continuums of care, cities, counties, and the state, must collaborate to achieve advances in reducing and ultimately solving homelessness.

(b) In January 2019, an estimated 151,278 people experienced homelessness in California at a single point in time, as reported by the United States Department of Housing and Urban Development. This is the highest number since 2007, and represented a 17-percent increase since 2018. Experts predict significant increases in homelessness in 2021 resulting from the COVID-19 economic downturn.

(c) African Americans are disproportionately represented among California’s homeless population. While 6.5 percent of Californians identify as Black or African American, almost 40 percent of the state’s homeless population is African American. The rate of homelessness among African Americans is almost twice the rates of poverty among African Americans. Similarly, indigenous populations are over six times more likely to experience homelessness than the general population.

(d) Latinx Californians are least likely to access housing and services available in their communities.

(e) Women have unique precursors and experiences of homelessness. Domestic violence is a primary cause of homelessness for women, and women are more likely to experience domestic violence, sexual assault, and exploitation once they become homeless. Domestic violence is also a common experience and cause of homelessness among families, youth, and people who identify as transgender. Survivors of domestic violence, sexual
assault, and exploitation are typically underserved in our homeless systems.

(f) Research suggests homeless populations are at far greater risk for consequences of COVID-19. Early studies estimated people experiencing homelessness are two to three times as likely to die from COVID-19 than the general population. COVID-19 is putting pressure on local homeless systems to open safe sites for people to shelter, in noncongregant settings, to avoid the spread of COVID-19.

(g) Due to the economic impacts of COVID-19, researchers estimate significant increases in homelessness.

(h) COVID-19 has also resulted in increased rates of domestic violence, putting pressure on domestic violence response systems to ensure safe housing for survivors.

(i) People living on the streets typically resided in a surrounding neighborhood prior to falling into homelessness. As examples, 70 percent of the people experiencing homelessness in the City and County of San Francisco lived in the city before becoming homeless and only 8 percent came from out of state; about 75 percent of the homeless population of the County of Los Angeles lived in the region before becoming homeless; and 73 percent of people experiencing homelessness in the County of Tehama were living in the county before becoming homeless.

(j) Homelessness often results from institutionalization, and homelessness often also causes a cycle of institutionalization that generates significant public sector costs. Reversing a cycle of institutionalization and homelessness requires collaboration between the state, local governments, and the private sector, including collaboration to prevent discharges from institutional settings into homelessness.

(k) Almost 30 years of studies consistently prove housing affordable to people experiencing homelessness and without limits on length of stay, referred to as permanent housing, allows people to exit homelessness and remain stably housed. Recent experiences with investment in permanent housing for veterans shows we can reduce homelessness significantly with appropriate levels of investment in permanent housing. Evidence further shows people cannot recover from a serious mental illness, a substance use disorder, or a chronic medical condition, or reduce their rate or
incidence of incarceration, hospitalization, or institutionalization, unless and until housed.

(l) People who move from homelessness to permanent housing are able to reduce the overall costs of public services. Randomized, control-group studies, including studies published in the Journal of the American Medical Association, show that housing with services allows formerly homeless people with serious mental illness to reduce their Medicaid and justice-system costs, often equivalent to the costs of housing and services. Providing housing to people experiencing homelessness is also shown to reduce local and state jurisdictions’ expenditures on public safety, health care, and sanitation.

(m) By creating a Bring California Home Fund, it is the intent of the Legislature to make homelessness rare, brief, and nonrecurrent. Toward this end, it is the intent of the Legislature to create a subsidy program to fill gaps within state’s response to homelessness, scale evidence-based solutions while promoting innovation to move people quickly into permanent housing, eliminate racial and gender disparities in who becomes homeless and who is able to access housing and housing-based services, establish greater flexibility and a more nimble process in implementing a comprehensive response to homelessness, facilitate critically needed collaboration between different levels of government, align housing and services resources, foster a streamlined process at the local and state levels to fund and build housing opportunities more quickly, and standardize the state’s response to homelessness toward a focus on comprehensive evidence-based housing and housing-based services solutions through long-term state and local structural changes.

(n) It is the intent of the Legislature that racial disparities in the homeless population be eliminated by December 31, 2032.

(o) Multinational corporations have been shifting income out of the California corporate tax base for decades. To recapture lost revenue on an ongoing basis, it is the intent of the Legislature to conform to certain provisions of the federal Internal Revenue Code governing the taxation of corporations, as provided in the act adding this chapter.

(p) It is the intent of the Legislature that the revenue, if any, resulting from application of Sections 17087.7 and 25110.1 of the Revenue and Taxation Code in any taxable year beginning on or
after January 1, 2022, be used for purposes funding the the Bring
California Home Act created through this chapter.

(q) It is further the intent of the Legislature to return corporate
tax rates for the wealthiest corporations to historic corporate tax
rates, as provided in the act adding this chapter, dedicate a funding
source of at least two billion four hundred million dollars
($2,400,000,000) per year to save the lives of people experiencing
homelessness and resolve one of the greatest moral crises of our
state.

13052. (a) (1) The Bring California Home Fund is hereby
created in the State Treasury.

(2) (A) (i) No later than June 1, 2022, the Franchise Tax Board,
in consultation with the Department of Finance, shall estimate the
amount of revenue that would have resulted if Sections 17087.7
and 25110.1 of the Revenue and Taxation Code, as added by the
act adding this chapter, and the amendments to Section 23151 of
the Revenue and Taxation Code made by the act adding this chapter
had applied to taxable years beginning on or after January 1, 2021,
and before January 1, 2022, and notify the Controller of that
amount.

(ii) No later than June 1, 2023, and annually thereafter, the
Franchise Tax Board, in consultation with the Department of
Finance, shall estimate the amount of additional revenue resulting
from the application of Sections 17087.7 and 25110.1 of the
Revenue and Taxation Code, as added by the act adding this
chapter, and the amendments to Section 23151 of the Revenue and
Taxation Code made by the act adding this chapter for the taxable
years beginning on or after January 1 of the calendar year
immediately preceding the year in which the estimate is made and
before January 1 of the year in which the estimate is made and
notify the Controller of that amount.

(iii) Information provided to the Department of Finance and
the Controller pursuant to this subparagraph shall be treated as
an exception to Section 19542 of the Revenue and Taxation Code
under Article 2 (commencing with 19542) of Chapter 7 of Part
10.2 of Division 2 of the Revenue and Taxation Code.

(B) Upon receiving the notifications from the Franchise Tax
Board pursuant to subparagraph (A), the Controller shall transfer
an amount, equal to the amount estimated by the Franchise Tax
Board in those notifications, from the General Fund to the Bring California Home Fund.

(3) In addition to the moneys made available pursuant to paragraph (2), moneys in the fund may include, but are not limited to, moneys transferred from other state sources, private or philanthropic donations, and any recoveries or reversions resulting from activities pursuant to this chapter.

(b) Notwithstanding Section 13340 of the Government Code, moneys in the fund are continuously appropriated to the Homeless Coordinating and Financing Council and the Department of Housing and Community Development solely for the purpose of implementing and administering this chapter.

(c) (1) The Homeless Coordinating and Financing Council and the Department of Housing and Community Development shall work collaboratively with other relevant departments pursuant to a memorandum of understanding to carry out the functions and duties of this chapter and to address their respective and shared responsibilities in implementing, overseeing, and evaluating this chapter, including the reporting requirements of the Franchise Tax Board that will be conducted in consultation with the Department of Finance. The council and the department shall leverage the programmatic and administrative expertise of relevant state agencies, as that term is defined in Section 11000 of the Government Code, in implementing the program.

(2) No later than March 31, 2022, the council and the department shall submit a copy of the final memorandum of understanding to the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget. The copy of the final memorandum of understanding required to be submitted to committees of the Legislature pursuant to this paragraph shall be submitted in compliance with Section 9795 of the Government Code.

(d) In implementing this chapter, the council shall establish a division to implement the auditing, monitoring, technical assistance, administration, and training activities described in this chapter that is separate from the coordinating activities of the council described in Section 8257.

(e) Notwithstanding any other law, nonstate moneys appropriated from the fund that are not encumbered or liquidated shall revert to the fund.
For purposes of this chapter:

(a) “Affordable housing” means multifamily rental housing receiving public subsidy that allows extremely, extremely deeply low income households, extremely low income households, and very low income households occupying that housing to pay no more than 30 percent of their household income on rent.

(b) “Agency” means the California Health and Human Services Agency.

(c) “Area median income” means the median family income of a geographic area of this state, determined in accordance with Section 50093 of the Health and Safety Code.

(d) “Continuum of care” has the same meaning as defined by the United States Department of Housing and Urban Development at Section 578.3 of Title 24 of the Code of Federal Regulations.

(e) “Coordinated entry system” means a centralized or coordinated process developed pursuant to Section 576.400 or 578.7, as applicable, of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2020, designed to coordinate program participant access, assessment, prioritization, and referrals. For purposes of this chapter, a centralized or coordinated assessment system shall cover the geographic area, be easily accessed by individuals and families seeking housing or services, be well advertised, and include a comprehensive and standardized assessment tool. However, the assessment tool may vary to assess the specific needs of an identified population. The centralized or coordinated assessment system shall also specify how it will address the needs of individuals or families who are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, or stalking.

(f) “Council” means the Homeless Coordinating and Financing Council.

(g) “Department” means the Department of Housing and Community Development.

(h) “Diversion” means services to connect individuals and families to alternate housing arrangements, case management services, and financial assistance to divert the household from shelter use and into permanent housing, including, but not limited to, housing arrangements with friends or family.
(h) “Eligible population” means persons experiencing homelessness and persons exiting rapid rehousing, transitional housing, or an institutional setting who are homeless or were homeless before their entry and have no other housing options upon exit without assistance.

(i) “Deeply low income households” means persons and families whose household income does not exceed 20 percent of the area median income, as adjusted for family size and revised annually.

(j) “Extremely low income households” has the same meaning as defined in Section 50106 of the Health and Safety Code.

(k) “Fund” means the Bring California Home Fund created pursuant to Section 13052.

(l) “Gender-based violence” includes domestic violence, dating violence, sexual assault, stalking, human trafficking, and commercial sexual exploitation. The term acknowledges that the majority of victims of gender-based violence are women or female-identified people.

(m) “Holding fees” and “vacancy costs” mean payments to private-market landlords as incentives to hold a housing unit as available to an eligible participant while the participant or landlord are waiting for approval to rent the housing unit.

(n) “Homeless,” “homelessness,” “imminent risk of homelessness,” and “chronically homeless” have the same meanings as those terms are each defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2021, except that a person who was homeless or chronically homeless upon admission to an institutional setting shall continue to be considered homeless or chronically homeless upon discharge, regardless of the length of time the person resided in the institutional setting.

(o) “Homeless Management Information System” or “HMIS” means the information system designated by a continuum of care to comply with federal reporting requirements as defined in Section
Paragraph (p) “Homeless youth” means an unaccompanied youth between 12 and 24 years of age, inclusive, who is experiencing homelessness, as defined in subsection (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)).

Paragraph (q) Subject to paragraph (1) of subdivision (t), (s), “Housing First” means adhering to the core components specified in Section 8255, except that recipients may fund recovery housing if the tenant chooses to live in an abstinence-based setting over a harm reduction setting and the housing otherwise complies with all other core components of Housing First described in Section 8255, including requirements that tenants have leases, that they are not evicted for relapse or failure to participate in services, and that they are provided services to relocate to housing offering a harm reduction model if they choose to live in such housing.

Paragraph (r) “Housing navigation” means services that assist program participants with locating permanent housing with private market landlords or property managers who are willing to accept rental assistance or operating subsidies for the program participants to assist those program participants in obtaining local, state, or federal assistance or subsidies; completing housing applications for permanent housing or housing subsidies and, when applicable, move-in assistance; and obtaining documentation needed to access permanent housing and rental assistance or subsidies.

Paragraph (s) “Interim intervention” means a safe place to live that is low barrier but does not qualify as permanent housing and includes, but is not limited to, emergency shelters, navigation centers, motel vouchers, recovery-oriented interim interventions, Project
Roomkey or Project Homekey sites used as interim housing, a cabin or similar communities, and recuperative or respite care, as those terms may be defined under any other applicable local, state, or federal program. For purposes of this subdivision, an interim intervention shall be deemed to be “low barrier” if all of the following apply:

(1) The interim intervention is a Housing First, service-enriched intervention focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to permanent housing, income, public benefits, and health services. Notwithstanding subdivision (r), (q), for purposes of interim interventions “Housing First” shall not require a lease.

(2) The interim intervention utilizes best practices to reduce barriers to entry, including, but not limited to, allowing partners and older minors, unless the interim intervention is a population-specific site; allowing pets; allowing storage of possessions; allowing residents to engage in treatment for substance use disorders including medications for addiction treatment; offering services to connect persons to permanent housing; providing privacy; and providing linkage to a coordinated entry system.

(3) The interim intervention offers a harm reduction approach, except where tenants request an abstinence-based model.

(4) The interim intervention has a system for entering information regarding client stays, demographics, income, and exit destination through a local HMIS or similar system.

(t) “Large city” means a city or city and county, whether general law or chartered, with a population of 300,000 or greater based on the most recent American Community Survey.

(+) “Master leasing” means that a single lease covers multiple properties leased from a landlord or property manager to a recipient or subrecipient that the recipient or subrecipient sublets to program participants. The single lease shall comply with all applicable provisions of this chapter and be subject to the rights and responsibilities of tenancy under the laws of this state.
“Multifamily rental housing” means an improvement on real estate consisting of one or more buildings that contain five or more residential rental units.

“Operating subsidy” means a subsidy that allows an individual or household to occupy a new or existing permanent housing or supportive housing project while paying no more than 30 percent of their income on rent. rent for the cost of operating projects, such as security, utilities, staffing, and paying off debt. An “operating subsidy” may include a capitalized an operating subsidy reserve for at least 17 years.

“Participant” or “tenant” mean a person or household that is a member of the eligible population and receives assistance under this chapter.

“Permanent housing” means a structure or set of structures with no limit on length of stay, even if accompanied by time-limited rental subsidy, that is subject to applicable landlord-tenant law and has no requirement to participate in supportive services as a condition of access to or continued occupancy in the housing.

“Point-in-time count” has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2021.

“Populations who face barriers to accessing housing” include, but are not limited to, all of the following:

2. Persons who are at least 50 years of age and are experiencing homelessness or exiting nursing care with nowhere to go upon exit.
3. Persons with high-acuity chronic medical or behavioral health conditions experiencing homelessness or who were homeless when admitted to an institutional setting or who have nowhere to live upon discharge from an institutional setting.
4. Persons exiting justice settings who were homeless when incarcerated or who have a history of homelessness prior to incarceration and have nowhere to live upon discharge.
“Prevention and problem-solving” and “rapid resolution” mean using targeted person-centered, short-term housing or services approaches to assist households who are at imminent risk of homelessness or have recently fallen into homelessness to maintain their current housing or identify an immediate and safe housing alternative within their social network.

“Program” means the Bring California Home Program established and implemented in accordance with this chapter.

“Rare, brief, and nonrecurrent” means strategies to help the state and communities build lasting systems addressing the immediate crisis of homelessness that are able to respond to housing instability and homelessness quickly and efficiently.

(2) Making homelessness “rare” means incorporating strategies for system building, partnerships with mainstream systems, and diversion and prevention strategies.

(3) Making homelessness “brief” means leveraging strategies to support comprehensive outreach, low barrier emergency shelter, coordinated entry systems, and swift connections to permanent housing, with Housing First practices underpinning every element of the response.

(4) Making homelessness “nonrecurring” means people exit to permanent housing stably and successfully and do not return to homelessness, as they are able to use housing as a platform for accessing services that allow them to stabilize and thrive.

“Reasonable rent” means an amount of rental payments that does not exceed two times the fair market rent and is consistent with the market rent in the community in which the multifamily rental housing is located. For purposes of this subdivision, “fair market rent” means the rent, including the cost of utilities, as established by the United States Department of Housing and Urban Development pursuant to Parts 888 and 982 of Title 24 of the Code of Federal Regulations, as those parts read on January 1, 2021, for units by number of bedrooms, that must be paid in the market area to rent privately owned, existing, decent, safe, and sanitary rental housing of nonluxury nature with suitable amenities.
“Recipient” means a large city, developer, city or a county that applies jointly with a continuum of care and receives funds under the program, as applicable.

“Recovery housing” means housing geared toward individuals who choose to live in an abstinence-only environment over a harm reduction model, while learning how to sustain long-term recovery from substance use disorders, that allows for medications for addiction treatment, that provides housing navigation services to tenants who wish to leave recovery housing for a harm reduction model, and that otherwise follows the core components of Housing First described in Section 8255 and the provisions of this chapter.

“Rental assistance” means a tenant-based rental subsidy provided to a landlord or property manager to assist a tenant in paying the difference between 30 percent of the tenant’s household income and the reasonable rent for the multifamily rental housing unit, as determined by the recipient.

“Severe rent burden” means a condition in which a person or family pays more than 50 percent of their total household income, as reported by the American Community Survey.

“Shared housing” means a type of permanent housing in which tenants have their own lease, with all of the rights and responsibilities of tenancy under the laws of this state, and may share occupancy of that permanent housing with one or more other tenants, or share use of either or both a kitchen and a bathroom with one or more other tenants, subject to the applicable conditions specified in this chapter.

“Subrecipient” means a unit of local government or a private nonprofit organization that the recipient determines is qualified to undertake the eligible activities for which the recipient seeks funds under the program, and that enters into a contract with the recipient to undertake those eligible activities in accordance with the requirements of the program.
(al) “Supportive housing” means permanent housing that is occupied by an eligible tenant and that is linked to onsite or offsite tenancy transition services and tenancy sustaining services that assist the supportive housing tenants in retaining housing, improving residents’ health status, and maximizing residents’ ability to live and, when possible, work in the community. “Supportive housing” includes associated facilities if used to provide services to housing residents.

(an) “Tenancy acquisition services” means staff dedicated to engaging property owners to rent housing units to the eligible population through rental assistance.

(af) “Tenancy sustaining services” means, using evidence-based service models, any of the following:

(1) Early identification and intervention of behaviors that may jeopardize housing security.

(2) Education and training on the rights and responsibilities of the tenant and the landlord.

(3) Coaching on developing and maintaining key relationships with landlords or property managers.

(4) Assistance in resolving disputes with landlords and neighbors to reduce the risk of eviction.

(5) Advocacy and linkage with community resources to prevent eviction when housing may become jeopardized.

(6) Care coordination and advocacy with health care professionals.

(7) Assistance with a housing recertification process.

(8) Coordinating with the tenant to review and update a housing support and crisis plan.

(9) Training in being a good tenant and lease compliance.

(10) Benefits advocacy.

(11) Evidence-employment services.

(12) Services connecting individuals to education.

(13) Any other service that supports individuals and families to promote housing stability, foster community integration and inclusion, and develop natural support networks and that are offered through a trauma-informed, culturally-competent approach.

(ao) “Tenancy transition services” means using evidence-based service models to provide any of the following:
(1) Screening and assessing the tenant’s preferences and barriers to successful tenancy.
(2) Developing an individualized housing support plan that includes motivational interviewing and goal setting.
(3) Assistance with the housing application and search process.
(4) Identifying resources to cover expenses for move-in and furniture costs.
(5) Ensuring that the living environment is safe and ready for move-in.
(6) Assisting and arranging for the details of the move.
(7) Developing a housing support crisis plan that includes prevention and early intervention when housing is jeopardized.
(8) Engagement services.
(9) Any other evidence-based services that an individual tenant may require to move into permanent housing.

(ap) “Very low income households” has the same meaning as defined in Section 50105 of the Health and Safety Code.

13054. (a) Notwithstanding any other law and to the extent allowable under federal law, assistance, services, or supports received pursuant to this chapter are not income of the participant for purposes of determining eligibility for, or benefits pursuant to, any public assistance program. Participation in other benefits or housing or housing-based services programs shall not disqualify a person or household from being a participant for purposes of housing or services funded pursuant to this chapter.
(b) The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

13055. (a) The council shall administer allocations from the fund to counties and continuums of care that apply jointly pursuant to Section 13058 and to large cities that apply pursuant to Section 13059. The department shall administer allocations to developers pursuant to Section 13060. The council and the department shall administer the fund and allocate the moneys in the fund as follows:
(1) The council and the department may expend up to 5 percent of the moneys available in the fund in any calendar year for purposes of administering the program, including for ongoing technical assistance and training to recipients and recipients,
measuring data and performance, and the costs of the Franchise Tax Board incurred in implementing this chapter.

(2) The department shall allocate four hundred million dollars ($400,000,000) pursuant to Section 13060.

(3) The council shall set aside two hundred million dollars ($200,000,000) for bonus awards to recipients, as provided in subdivision (e) of Section 13056.

(4) The council shall allocate the remaining amount in the fund after the allocations made pursuant to paragraphs (1) through (3), inclusive, and (2) as follows:

(i) Sixty percent of the amount described in this paragraph to counties and continuums of care applying jointly, pursuant to Section 13058.

(ii) Forty percent of the amount described in this paragraph to large cities, pursuant to Section 13059.

(B) The council shall allocate funding to eligible recipients in accordance with this paragraph that apply and meet the applicable threshold requirements under Section 13058 or 13059, as applicable, according to the following formula:

(i) The council shall afford 70 percent weight based on the 2019 homeless point-in-time count conducted by the United States Department of Housing and Urban Development for the relevant jurisdiction.

(ii) The council shall afford 30 percent weight based on the number of extremely low income households who are severely rent burdened in the relevant jurisdiction, based on the most recent American Community Survey at the time of the application.

(b) Each recipient and subrecipient shall ensure that any expenditure of moneys allocated to it pursuant to this chapter serves the eligible population, unless otherwise expressly provided in this chapter.

13056. (a) In allocating moneys under the program, the council and the department shall comply with the following:

(1) No later than September 1, 2022, the council shall develop guidelines and draft notices of funding availability or requests for proposal, and the department shall adopt any necessary changes to existing guidelines, proposal in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5
(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(2) No later than January 1, 2023, and no later than March 1 of each year thereafter, the council shall issue award notices.

(3) No later than March 31, 2023, and no later than April 1 of every other year thereafter, the council shall allocate all available funding for each two-year cycle.

(4) The council and the department shall issue a notice of funding availability or request for proposal, as applicable, on a consistent basis every two years.

(b) (1) The council and the department shall develop a simple application that an entity eligible to receive an allocation under this chapter may use to apply for that allocation and, consistent with the requirements of this chapter, common standards for recipients to monitor, report, and ensure accountability, provide services, and subsidize housing. The council and the department shall, to the extent feasible and consistent with the requirements of this chapter, ensure that the common standards are the same or similar for each applicant.

(2) To the extent feasible, the council and the department shall work with the agency to connect services available under other programs, including, but not limited to, services provided under the Medi-Cal Act (Chapter 7 (commencing with Section 14000)), to housing opportunities created through the fund.

(c) The council shall issue applications for allocations to counties and continuums of care, pursuant to Section 13058, and to large cities, pursuant to Section 13059, on the same date and subject to the same deadlines. The council shall require that recipients under Sections 13058 and 13059, as applicable, provide the following information in their applications:

(1) The expected outcomes, numeric goals, and performance measures established through consultation between the applicant and council staff pursuant to subdivision (g), as well as a description of policy changes the applicant will take to ensure racial and gender equity in service delivery, housing placements, and housing retention and changes to procurement or other means of affirming racial and ethnic groups that are overrepresented among residents experiencing homelessness have equitable access to housing and services.
(2) A description of the specific actions, including funding allocations, that will be taken to affirmatively eliminate gender disparities in accessing homeless systems.
(3) Evidence that the applicant will adhere to Housing First in housing and housing-based services programs.
(4) Specific roles and responsibilities for each local agency, continuum of care, and providers, including roles and responsibilities in implementing systems improvements.
(5) A description of how the applicant will prevent returns to homelessness among the eligible population.
(6) Goals for cross-agency collaboration, including demonstration of collaboration between large cities, counties, and continuums of care, to foster evidence-based solutions to homelessness, and plans for making the applicants capital projects viable through collaboration with other applicants and funders.
(7) An identification of the agency or agencies that will administer the funding, ensuring agencies have relevant experience.
(8) In the case of a joint application by a county and a continuum of care pursuant to Section 13058, a description of how the recipient will align and leverage state funding with existing resources to create a flexible pool of funds.
(9) In the case of a joint application by a county and a continuum of care pursuant to Section 13058, a description of how the applicant will prevent exits to homelessness from institutional settings, including plans to scale funding from mainstream systems for evidence-based housing and housing-based solutions to homelessness.

(10) A description of how an applicant pursuant to Section 13058 will provide incentives to cities within its territory to enact, or how an applicant pursuant to Section 13059 will enact, land use changes to streamline approval of supportive and affordable housing and low-barrier shelters.

(10) Ways in which the applicant will include people with lived expertise of homelessness in planning and decisionmaking.

(11) Processes to include youth and adults with lived expertise of homelessness in decisionmaking, which may include, but is not
be limited to, planning and program delivery, advisory boards, and
technical assistance.

(d) (1) Based on the statewide needs and gaps analysis
conducted pursuant to Section 8257.1, the council shall establish
performance outcomes to make homelessness rare, brief, and
nonrecurring, and develop guidelines, with stakeholder input, to
include criteria in setting state and recipient performance outcome
goals, informed by United States Department of Housing and
Urban Development system performance measures.

(2) The council shall consult with applicants to identify
ambitious and achievable performance outcomes that are
measurable and consistent with United States Department of
Housing and Urban Development performance standards. The
council shall work with applicants to achieve more challenging
outcomes for each progressive grant cycle.

(3) Applicants shall demonstrate an intent to apply before
engaging in consultation with the council pursuant to paragraph
(2), and may submit an application once the council approves the
applicant’s performance outcomes.

(4) Based on criteria in guidelines and data of needs in the
recipient’s jurisdiction, the council and each recipient shall
establish the performance outcomes for the initial cycle within the
first year of award. These performance outcomes may include
systems changes to help the recipient meet subsequent performance
outcomes and reductions in the number of people living in
unsheltered settings.

(5) The council and each recipient shall establish outcome goals
before each subsequent grant cycle, as follows:

(A) Performance outcomes in subsequent cycles shall include,
at minimum, the following:

(i) A specified reduction in the number of people experiencing
homelessness.

(ii) Specific outcomes for more equitably serving populations
overrepresented among the eligible population.

(iii) Specified reductions in racial and gender disparities among
people experiencing homelessness in subsequent grant cycles.

(B) Other performance outcomes may include, but are not
limited to, the following:
A minimum number of people experiencing homelessness who are diverted from a homeless shelter or who have successfully accessed permanent housing during the relevant period.

(ii) Minimum reductions in people becoming homeless, including targeted homelessness prevention and reductions in returns to homelessness.

(iii) A minimum number of people exiting homelessness during the relevant period.

(iv) Commitments of funding to solve homelessness from existing resources used to address mental illness, substance use, medical care, the justice system, and child welfare involvement within the jurisdiction.

(v) Meaningful commitments of local housing and homeless services funding toward solving homelessness.

(vi) Memoranda of understanding for interjurisdictional collaboration, with specific agreements to meet performance standards.

(e) The council shall establish a process and guidelines for awarding bonus funding to recipients under Sections 13058 and 13059, from the moneys described in paragraph (3) of subdivision (a) of Section 13055, in accordance with the following:

(1) (A) The council shall award bonus funding to each recipient in the first two-year cycle of the recipient’s award.

(B) A recipient shall use bonus funding awarded pursuant to this paragraph for the following purposes:

(i) Conducting or working with a technical assistance provider to conduct or update a countywide homeless gaps and needs analysis.

(ii) Capacity building and workforce development for the jurisdiction’s administering staff and providers.

(iii) Funding gaps in existing evidence-based programs serving people experiencing homelessness.

(iv) Investing in data systems to meet reporting requirements or strengthen the recipient’s HMIS.

(v) Creating a mechanism for pooling and aligning housing and services funding from existing, mainstream, and new funding.

(vi) Strengthening existing interim interventions to ensure those systems operate safely in the wake of COVID-19 and other public health crises.

(vii) Improving homeless point-in-time counts.
(viii) Improving coordinated entry systems or creating a youth-specific coordinated entry system.

(ix) Funding capitalized operating subsidy reserves in capital projects, if the jurisdiction does not require the above systems improvements.

(2) (A) If, after the first or a subsequent grant cycle, as applicable, a recipient has achieved the performance outcomes approved by the council pursuant to subdivision (d) for that cycle, the council shall award bonus funding in the next award cycle.

(B) A recipient may use bonus funding awarded pursuant to this paragraph for any purpose, consistent with the following requirements:

(i) The recipient shall use the bonus funding awarded pursuant to this paragraph to serve the eligible population or people at imminent risk of homelessness, as defined in this chapter.

(ii) The recipient shall report to the council on the use of bonus funding awarded pursuant to this paragraph and request approval from the council for that use.

(iii) The recipient may only use bonus funding for the purpose reported pursuant to clause (ii) if the council approves that use of funding. The council shall approve a requested use of funding if, in the council’s judgment, the recipient’s proposed use would further the purposes of this chapter.

(3) If, by a date determined by the council at the end of the first or a subsequent grant cycle, as applicable, a recipient has failed to achieve the outcomes approved by the council pursuant to subdivision (d) for that cycle, the council shall reduce or deny bonus funding to that recipient in the next award cycle. Any moneys dedicated for bonus funding pursuant to paragraph (2) of subdivision (a) of Section 13055 that is not awarded to a recipient in any award cycle for failure to achieve outcomes, as provided in this paragraph, shall revert to the fund and the council shall allocate those moneys as bonus funds to other recipients that have met their approved outcomes in accordance with this subdivision.

(f) The council shall work closely with recipients under Sections 13058 and 13059 to provide technical assistance to those recipients and their subrecipients in complying with the requirements of this chapter and achieving the performance standards approved by the council pursuant to subdivision (d). Technical assistance under...
this subdivision shall include, but is not limited to, all of the
following:
   (1) Using data to develop a systems model that identifies
investments needed for evidence-based interventions to impact
system flow and exits to permanent housing, based on a gaps and
needs analysis.
   (2) Working regionally to scale up housing and services
interventions.
   (3) Adopting Housing First core components.
   (4) Reducing racial disparities in homelessness and racial and
gender disparities in access to housing and services.
   (5) Creating a flexible subsidy pool or other mechanism that
aligns housing and services funding, including funding under this
chapter, as well as existing funding under mainstream programs.
   (6) Meeting United States Department of Housing and Urban
Development performance metrics and standards for reductions
in homelessness.
   (g) The council and the department shall develop quality
standards with which each recipient shall comply. These quality
standards shall include, but are not limited to, the following:
   (1) Each unit of new construction or rehabilitated through capital
funding or operating reserves shall include a bathroom in each unit
and either a kitchenette in each unit or an accessible, shared kitchen
space accessible to all tenants, except that, in the case of acquisition
and rehabilitation of single-room occupancy settings, each housing
unit shall be equipped with a bathroom in the unit or a shared
bathroom and kitchen easily accessible to the tenants.
   (2) (A) For rental assistance provided to private market or
nonprofit landlords, the following shall apply:
      (i) (A) (i) Except as otherwise provided in clause (ii), each
housing unit shall include a bathroom and an easily accessible
kitchen or kitchenette.
      (ii) If the tenant resides in a single-room occupancy setting,
each housing unit shall be equipped with either a bathroom within
the unit or a shared bathroom and a shared kitchen that is easily
accessible to tenants. Jurisdictions shall give preference to units
with bathrooms and sinks within the unit.
(B) For purposes of this paragraph, the council shall develop standards for a kitchen or kitchenette to be deemed easily accessible consistent with the requirements of this chapter.

(2) Shared housing units funded under the program shall be subject to the following restrictions:

(A) Before referring a tenant to shared housing, the referring entity shall consider the following:
   (i) Any functional limitations of the tenant.
   (ii) Whether the proposed housing configuration may put the tenant at risk of gender-based violence, consistent with training on gender-based violence.

(B) Referrals to shared housing shall be consistent with tenant choice in whether to participate in shared housing and with whom the tenant will reside in that shared housing.

(C) A provider of shared housing shall offer services appropriate to meet the needs of tenants living in that shared housing, including services in mitigating conflicts between tenants and services helping tenants move to other housing options, according to tenant choice.

(D) For all shared housing units, each participant, other than a participant who is a minor accompanied by an adult or two adult participants who constitute a single household, shall be offered their own bedroom with a door that has a functioning lock and be required to sign a separate lease agreement.

(3) Supportive housing funded under the program shall comply with the following requirements:

(A) A majority of the services shall be provided onsite, and any offsite services shall be easily accessible to tenants through transportation.

(B) Each tenant shall have a tenancy support specialist that the tenant knows, with a specialist-to-tenant ratio that is consistent with best practices for the population served.

(h) (1) (A) Except as otherwise provided in subparagraph (B), each recipient shall expend moneys allocated to it under the program according to the following schedule:

(i) For the first award cycle, the recipient shall contractually obligate 100 percent of the amount allocated to it pursuant to this
chapter within three years, and expend the entirety of that amount
within four years, of entering into the initial grant agreement.

(ii) For each award cycle after the first award cycle, each
recipient shall contractually obligate 100 percent of the amount
allocated to it pursuant to this chapter within one year, and expend
the entirety of that amount within two years.

(B) Notwithstanding the time periods specified in subparagraph
(A), moneys used to provide a capitalized an operating subsidy
reserve for permanent housing shall be expended over a period of
at least 17 years.

(2) In the case of a recipient that is a developer receiving an
allocation pursuant to Section 13060, if the recipient fails to
obligate or expend that allocation within the time periods specified
in paragraph (1), any moneys awarded to the recipient shall revert
to the fund.

(3) (A) In the case of a recipient that is a county and continuum
of care applying jointly pursuant to Section 13058 or a large city
applying pursuant to Section 13059, if

(2) (A) If a recipient fails to obligate or expend moneys allocated
to it, uses grant moneys allocated to it under this chapter for a
purpose not authorized under the program, or fails to apply for an
allocation of grant funds within the initial award cycle under the
program, the council shall do either of the following:

(i) Select an alternative entity to administer that recipient’s
allocation through a competitive application process, in accordance
with the requirements of subparagraph (C).

(ii) Solely establish the performance outcomes and program
priorities for the recipient jurisdiction, consistent with the
requirements and purposes of this chapter, and work with local,
regional, or statewide public entities to administer the recipient’s
allocation on behalf of the recipient.

(B) If the council determines that there is no alternative entity
that can effectively administer a recipient’s allocation, any moneys
previously allocated to that recipient and not expended shall revert
to the fund for further allocation to other recipients in accordance
with this chapter.

(C) An alternative entity selected pursuant to clause (i) of
subparagraph (A) shall be a public entity or a nonprofit entity with
relevant experience.
(D) (i) An alternative entity selected pursuant to clause (i) of subparagraph (A) shall administer a recipient’s allocation pursuant to this paragraph for a minimum of two grant cycles after entering into a grant agreement.

(ii) After the second grant cycle administered by an alternative entity, the council may reinstate the original recipient to administer moneys allocated in subsequent grant cycles if, in the council’s judgment, the recipient has demonstrated the capability to effectively administer those moneys consistent with the purposes of this chapter. The council shall develop a process by which a recipient may seek reinstatement pursuant to this clause.

(i) The council shall establish a process for awarding recipients under Sections 13058 and 13059 grants in subsequent years in accordance with the following:

(1) To the extent feasible, each recipient under Sections 13058 and 13059 shall continue to receive annual allocations on a consistent date selected by the council that aligns favorably with other, similar allocations of state moneys, including, but not limited to, allocations of tax credits by the California Tax Credit Allocation Committee.

(2) If a city that is not a large city at the time of the initial allocation subsequently becomes a large city and meets the threshold criteria under the program after the first year of allocations pursuant to this chapter, the council shall revise the amount of annual allocations to recipients under Section 13059 at least 180 days, but no more than one year, after the date on which the city establishes eligibility under this chapter. Consistent with the requirements of this chapter, the council may establish a revised formula that minimizes the impact on existing recipients.

(j) If deemed appropriate or necessary, the council shall request the repayment of funds from a recipient or pursue any other remedies available by law for failure to comply with the requirements of this chapter.

(k) The council shall identify any properties, including blighted or vacant properties, that may be converted to permanent housing, and work to acquire or secure these properties in coordination with recipients.

(l) The council and the department shall each establish an advisory committee to inform state and local policies, practices,
and programs, which shall include individuals with relevant lived experiences, with respect to the following:
(1) The experiences of African Americans and other overrepresented racial and ethnic groups experiencing homelessness.
(2) The experiences of women and female-identified persons experiencing homelessness.
(3) The experiences of youth experiencing homelessness, including a youth advisory board.

(m) A county and continuum of care applying jointly pursuant to Section 13058 may elect in the grant agreement to request that the State Department of Social Services act as a fiscal agent in contract with local agencies or nonprofit organizations providing the housing and housing-based services described in this chapter. If so requested pursuant to this subdivision, the State Department of Social Services shall act as a fiscal agent on behalf of the jointly applying county and continuum of care in exchange for a percentage of the allocation to the county and continuum of care for administrative costs under Section 13058, as determined by the State Department of Social Services.

(n) All projects, including interim interventions, funded under the program

(m) Any housing or interim intervention receiving a subsidy under this chapter shall comply with all applicable state laws governing building safety and habitability.

(op) Each recipient and subrecipient shall comply with the core components of Housing First described in subdivision (b) of Section 8255.

(op) The council shall not require recipients to submit invoices for payment, and shall fund the entire grant awarded under Sections 13058 or 13059, as applicable, within 60 days of notice of award.

13057. (a) Each recipient shall annually report to the council and the department, council, in the form and manner prescribed by the council and the department, council, on the data reported to the United States Department of Housing and Urban Development and, in addition, the following information:
(1) The amount of fund moneys expended on each eligible activity under Sections 13058, 13059, or 13060, as applicable, and the number of people served under the program.

(2) Steps taken to advance racial and gender equity within the recipient’s programs and services.

(3) Steps taken to improve systems serving the eligible population.

(b) The council and department shall seek philanthropic funding to augment funding for evaluations under this chapter.

(c) The council shall conduct regular monitoring and audits of the activities and outcomes of recipients under Sections 13058 and 13059. In complying with the requirements of this subdivision, the council shall develop a process for monitoring how recipients are spending allocations and compliance with this chapter and whether each recipient’s activities are resulting in pathways to permanent housing, permanent housing placements, and permanent housing retention.

(d) Notwithstanding Section 10231.5 of the Government Code, no later than January 1, 2024, and every fifth January 1 thereafter, the council shall evaluate the outcomes of the program and submit a report documenting that evaluation to the Assembly Committee on Housing and Community Development and the Senate Committee on Housing in compliance with Section 9795 of the Government Code. The evaluation shall include, but not be limited to, the following:

(1) Data reported by recipients pursuant to this section, including data on the number of people served and the number of participants accessing permanent housing.

(2) The status of coordinated entry systems and training or capacity building programs across a sample of geographically diverse communities.

(3) Innovations developed to reduce exits from institutional settings to homelessness and the outcomes of these innovations.

(4) The progress of recipient coordination and collaboration and housing stability outcomes.

(5) Any agreements reached and coordination brokered between jointly applying counties and continuums of care and cities to use funds in a consistent manner, to prioritize specific populations jointly, to scale up interventions by working across regions, and to offer housing and housing-based services.
(6) The extent to which racial and ethnic demographic groups of persons overrepresented in the homeless population are served under the program, including housing opportunities, housing placements, and housing retention.

(7) The extent to which women and female-identified people are served under the program, including access to housing opportunities, housing placements, and housing retention.

(8) To the extent feasible, impacts on other state programs, including, but not limited to, the utilization of acute care or skilled nursing facilities funded through the Medi-Cal Act (Chapter 7 (commencing with Section 14000)), recidivism to prison, and avoidance of foster care placements, as well as reductions or avoidance of other institutional settings, including hospitals, among the eligible population.

13058. (a) A county and continuum of care that submit a joint application and meet the requirements of this section shall be eligible to receive an allocation of moneys from the fund.

(b) A county and continuum of care that jointly receive an allocation pursuant to this chapter may use up to 10 percent of the amount of that allocation for the costs of administering the allocation. For purposes of this subdivision, “costs of administering” do not include costs associated with staffing to provide services, data collection, or reporting or costs to subrecipients to provide housing or services to the eligible population. Recipients shall pay a reasonable administrative rate to all subrecipients.

(c) (1) A county and continuum of care applying jointly for an allocation shall provide the following evidence of collaboration to the council:

(A) Either of the following:

(i) Evidence that the board of supervisors of the county and the governing body of the continuum of care each approved the joint funding plan before the submission of the application.

(ii) A memorandum of understanding between the chief executive officer, or equivalent officer, of the county and of the continuum of care that establishes the allocation plan for the use of the moneys allocated under this chapter.

(B) Evidence of collaborative planning between the county and the continuum of care, which may include, but is not limited to,
meeting agenda or minutes of the board of supervisors of the county and the governing body of the continuum of care.

(2) If the geographic area of a continuum of care covers territory located in more than one county, each of those counties shall submit a single application that includes a plan outlining the roles, functions, identified uses, and processes for cross-jurisdictional housing referrals between each county.

(d) Recipients under this section shall use the allocation of moneys provided under this chapter for one or more of the following eligible activities:

1. Rental assistance and master leasing for permanent housing.
2. Operating subsidies for permanent housing, funding building security, utilities, janitorial costs, and similar costs in existing affordable and supportive housing projects.
3. Transitional operating costs of transitional housing projects serving persons under 25 years of age that comply with the core components of Housing First described in subdivision (b) of Section 8255.
4. Incentives to landlords to provide permanent housing, including, but not limited to, payment of security deposits, holding fees, signing bonuses, repairs made in advance of occupancy to ensure compliance with habitability standards, and contractors to assist the landlord in making repairs.
5. Move-in assistance, including, but not limited to, security deposits, utility assistance, furniture, and other household goods.
6. Housing navigation, housing acquisition support, housing transition, and tenancy support services to help participants move into housing and remain stably housed, housing-based employment services, and linkages to education.
7. For persons at imminent risk of homelessness, homelessness prevention, problem solving, and other rapid resolution programs to assist these persons in becoming or remaining stably housed, so long as these interventions are targeted to people likely to become homeless, based on data.
8. Systems improvements, including, but not limited to, strengthening coordinated entry systems and assessment systems, collaboration between city and county agencies to coordinate resources and prevent discharges from institutional settings into homelessness, and HMIS system and data matching advances.
(9) (A) Subject to subparagraph (B), to provide assistance to the eligible population or persons residing in supportive housing who require care and supervision in licensed residential facilities due to high vulnerability and complex needs, through the nonmedical out of home care rate for individuals without incomes and the enhanced services rates for those with incomes.

(B) The recipient shall use no more than ___ percent of its allocation for the activities described in this paragraph.

(9) (A) Subject to subparagraph (B), payment of an amount equal to the nonmedical out-of-home care rate for individuals without incomes and the enhanced services rates for those with or without incomes in licensed residential facilities for eligible participants who require care and supervision due to high vulnerability and complex needs. Moneys expended for the purposes described in this paragraph may be used to pay for the costs of board and care of eligible participants.

(B) (i) Funding for the activities described in subparagraph (A) shall not exceed 20 percent of the recipient’s allocation.

(ii) Eligible participants shall only be referred to licensed residential facilities in the following instances:

(I) If a licensed health care professional refers the eligible participant as requiring care and supervision.

(II) If an existing supportive housing tenant’s care needs can no longer be met in supportive housing, as determined by a licensed health care professional.

(iii) The council shall ensure recipients have developed a local process to ensure participant referrals to licensed residential facilities are to the least restrictive, most integrated setting possible, provide tenants, to the extent possible, with choice in where to live and with whom to share housing, monitor quality to ensure that facilities offer high-quality and dignified care and services, and that individuals are not referred to facilities that do not meet their needs due to a lack of other housing options, or as the only option for people experiencing homelessness to access long-term stability. Monitoring of quality is not intended to replace or duplicate the responsibilities of the Community Care Licensing Division of the State Department of Social Services.

(iv) The council shall review data as it becomes available and report to the Assembly Committee on Housing and Community Development and Senate Committee on Housing on publicly
released, independent research and data on the need of people experiencing homelessness for care and supervision or alternatives for referral of people with high vulnerability and complex needs to access less restrictive options. A report required to be submitted pursuant to this clause shall be submitted in compliance with Section 9795 of the Government Code.

(10) (A) Subject to subparagraph (B), one or more of the following:
(i) Shelter diversion and operating support for interim interventions.
(ii) Safe parking programs, including safe parking programs for college students experiencing homelessness.
(iii) Site improvements to Moving persons from congregate shelters or to convert congregate sites to noncongregate shelter for the purposes of complying with public health guidance during and after the COVID-19 pandemic and other future public health emergencies where public health officials recommend social distancing to mitigate disease spread.

(B) (i) Except as otherwise provided in clause (ii), the recipient shall use no more than 50 percent of its allocation in the first grant cycle, and no more than 30 percent of each subsequent grant cycle, for the activities described in this paragraph.
(ii) The council may waive or increase the limitation specified in this subparagraph with respect to the activities described in clause (i) of subparagraph (A) if the recipient demonstrates, to the satisfaction of the council, that the recipient is funding a similar ratio of permanent housing to interim housing units, consistent with data and reflected in the intent of this section and the council’s guidelines.

(e) During the term of any allocation provided to a county and continuum of care that apply jointly pursuant to this section, the recipient shall do all of the following:
(1) Offer robust services in supportive housing, as well as housing navigation, housing acquisition support, and housing transition services, through a standardized contract that the county and the continuum of care develop in collaboration with homeless service providers, using evidence-based standards.
(2) Funnel resources through a mechanism or develop a mechanism within 180 days of entering into a grant agreement to combine moneys allocated under this chapter with local private
and existing local, state, and federal public moneys across the
continuum of care, the county, or a multicounty region toward
common standards for funding permanent housing, services, and,
if necessary, interim interventions.

(3) Allocate funding for rental assistance and operating subsidies
through an agency with experience administering housing subsidies
and recruiting landlords. The agency may be a housing authority
formed pursuant to the Housing Authorities Law (Chapter 1
(commencing with Section 34200) of Part 2 of Division 24 of the
Health and Safety Code), a nonprofit organization, or another
public entity that administers other moneys for purposes similar
to those described in this chapter.

(4) Adopt, and require any subrecipients to adopt, the core
components of Housing First described in subdivision (b) of
Section 8255 for purposes of administering moneys allocated
pursuant to this chapter and implement low-barrier policies for
interim interventions funded under this chapter.

(5) Utilize a process for referral of participants to housing
through a coordinated entry system, or an alternative process that
ensures that persons and areas with the greatest vulnerabilities
receive priority for supportive housing, or, in the absence of an
established process, develop a plan for funding systems
improvements to create a system in compliance with this paragraph
within one year of receiving the allocation, subject to the following:

(A) If the recipient uses funding to pay for operating or services
costs of housing converted from existing hotels, motels, or
apartments, the recipient may continue to house residents of the
existing property, even if not referred through a coordinated entry
or similar system.

(B) The recipient may use funding to house participants outside
of the boundaries of the county or continuum of care, if housing
is available, the referral is based on participant choice, and the
referring county or continuum of care funds the housing and any
necessary services, or the receiving county or continuum of care
notifies the referring agency within two weeks of intent to fund
the costs of housing and any necessary services.

(C) To the extent feasible, referrals to housing should take into
account participant choice, and services should include efforts to
assist people to move into communities in which they are residing,
if consistent with participant choice, and where the participant has
access to services and community amenities.

(6) Use HMIS data for all outcomes reporting.

(7) Establish or use an existing process for training services and
property management staff in evidence-based and best practices.

(8) Ensure that survivors of gender-based violence are able to
access housing and housing-based services.

(9) Prioritize a portion of resources to populations experiencing
homelessness who face barriers to accessing housing or who make
up a disproportionate number of people experiencing homelessness,
based on data from a needs and gaps analysis or an amendment
updating an existing needs and gaps analysis, consistent with the
following:

(A) Prioritizing specific populations for resources under this
paragraph shall not exclude serving other populations.

(B) The recipient shall ensure that prioritization pursuant to this
paragraph does not result in a disproportionate impact on African
American or indigenous populations or other persons of color.

(10) Ensure that at least 10 percent of the amount of allocation
it receives under this chapter serves participants who are youth
experiencing homelessness, in accordance with the following
requirements:

(A) The continuum of care applying jointly with the county
shall ensure that the coordinated entry system used to assess and
refer youth to housing created with funding provided under the
program includes a youth-specific coordinated entry access point
and uses screening and assessment tools that contemplate the
specific needs of youth experiencing homelessness.

(B) Recipients and subrecipients shall offer supportive services
designed to meet the unique needs of youth experiencing
homelessness, which may include, but is not limited to, the
following:

(i) Problem-solving services to maintain existing housing.

(ii) Housing navigation and housing acquisition support.

(iii) Substance use disorder education, prevention, or treatment
services, including group supports.

(iv) Access to education and employment assistance, including,
but not limited to, literacy and graduation equivalent diploma
programs, vocational training, and supports to enroll and participate
in institutions providing secondary or postsecondary education, including supports to applying for financial aid.

(v) Independent living skill development, economic stability, and mobility services.

(vi) Counseling, tenancy support, and case management services.

(vii) Screening, assessment, and treatment or referral of behavioral and physical health care services.

(viii) Services for pregnant and parenting youth.

(ix) Services for lesbian, gay, bisexual, transgender, and questioning youth.

(x) Family support, including family reunification, when safe and appropriate, and engagement and intervention, when appropriate.

(xi) Family finding services to identify appropriate family members.

(xii) Outreach to youth who are experiencing homelessness.

(xiii) Legal representation and connection to public benefits for which the unaccompanied homeless youth are eligible or entitled to receive, including foster care.

(C) Providers with which a recipient contracts to provide services to youth in accordance with this paragraph shall proactively engage youth experiencing homelessness to determine which supportive services meet the needs of each participant and, if appropriate, the participant’s family.

(D) Providers with whom recipients contract to provide services to youth shall work with colleges and universities to market programs to students experiencing homelessness.

(f) (1) Upon the request of a large city located within a recipient county, and pursuant to a memorandum of understanding, the county shall allocate a portion of the moneys allocated to it under this chapter for support services and operating subsidies for new supportive housing units that the large city develops, in the city, provided that the county recipient obligates and uses the moneys allocated to it within the time periods specified in subdivision (h) of Section 13056. The amount provided to a large city pursuant to this paragraph shall not exceed 40 percent of the large city’s proportionate share of the county’s most recent homeless point-in-time count, unless the recipient county, in its discretion, determines that greater amount is appropriate.
(2) The recipient county’s obligation to fund support services and operating subsidies pursuant to this subdivision shall be proportionate to the share of capital funding for new housing used for those purposes from the total amount allocated to the recipient under this chapter.

(3) Nothing in this subdivision shall be construed to require a county or continuum of care to allocate moneys provided under this chapter to a large city to fund services provided at a new any interim intervention that the city-funded or created funded.

(4) Notwithstanding any other provision of this chapter, in committing operating subsidies to a supportive housing project funded by a large city pursuant to this subdivision, a recipient may commit a capitalized an operating subsidy reserve that includes at least 17 years for those operating subsidies.

(g) Each jointly applying county and continuum of care shall ensure that funding received and allocations made pursuant to this chapter are used consistent with data on geographic need.

13059. (a) A large city that submits an application and meets the requirements of this section shall be eligible to receive an allocation from the fund.

(b) A large city that receives an allocation pursuant to this chapter may use up to 10 percent of the amount of that allocation for the costs of administering the allocation. For purposes of this subdivision, “costs of administering” do not include costs associated with staffing to provide services, data collection, or reporting or costs to subrecipients to provide housing or services to the eligible populations. Recipients shall pay a reasonable administrative rate to all subrecipients.

(c) Recipients under this section shall use the allocation of moneys provided under this chapter for one or more of the following eligible activities:

(1) Operating subsidy reserves, capitalized over at least 17 years, for affordable housing projects that serve the eligible population.

(2) Capital funds for development, acquisition, preservation, or motel conversion to create either affordable housing or supportive housing for the eligible population.

(3) Rental assistance in permanent housing.

(4) Transitional housing projects serving

(2) Flexible funding to help the eligible population move into permanent housing and, for persons under 25 years of age age,
into transitional housing that follow the core components of Housing First, consistent with the individual’s choice.

(5) Prevention and problem-solving.

(4) (A) Subject to subparagraph (B), one or more of the following:

(i) Interim interventions based on an annual needs assessment and taking into consideration commitments made over the five years prior to the date of the recipient’s application to shelter beds that have not yet been constructed or created.

(ii) Site improvements to congregate shelters or to convert Activities to move persons from congregate sites to noncongregate shelters for the purposes of complying with public health guidance during and after the COVID-19 pandemic and future public health emergencies where social distancing is recommended to mitigate disease spread.

(iii) Outreach, engagement, and other services to assist persons in connecting to permanent housing.

(iv) Health interventions, including, but not limited to, hygiene centers.

(v) Storage of belongings.

(vi) Safe parking and overnight, warm places where persons can sleep, including safe parking sites for college students experiencing homelessness.

(B) (i) Except as otherwise provided in clause (ii), the recipient shall use no more than 50 percent of its allocation in the first grant cycle, and no more than 35 percent of each subsequent grant cycle, for the activities described in this paragraph.

(ii) The council may waive or increase the limitation specified in this subparagraph with respect to the activities described in clause (i) of subparagraph (A) if the recipient demonstrates, to the satisfaction of the council, that the recipient is funding a similar ratio of permanent housing to interim housing units, consistent with local data on need.

(d) Any activity approved or carried out or action taken by a large city to lease, convey, or encumber land that the large city owns, any action taken by a large city to facilitate the lease, conveyance, or encumbrance of land that the large city owns, or any action taken by a large city to provide financial assistance in furtherance of providing, or to otherwise approve or construct, a
low barrier interim intervention, affordable housing project, or
supportive housing project in the large city using moneys allocated
under this chapter shall not be subject to the California
Environmental Quality Act (Division 13 (commencing with Section
21000) of the Public Resources Code). If the large city takes any
action that is exempt from Division 13 (commencing with Section
21000) of the Public Resources Code, it shall file a notice of
exemption with the Office of Planning and Research and the clerk
of the county in which the large city is located in the manner
specified in subdivisions (b) and (c) of Section 21152 of the Public
Resources Code, except that the notice of determination required
by that section shall instead specify that the project is not subject
to Division 13 (commencing with Section 21000) of the Public
Resources Code pursuant to this subdivision.

(e)

(d During the term of any allocation provided to a large city
that applies pursuant to this section, the recipient shall do all of
the following:

1. (A) Refer tenants to supportive housing units through a
coordinated entry system, or an alternative process that ensures
that persons with the greatest vulnerabilities receive priority. To
the extent feasible, referrals shall take into account participant
choice, and referral services shall include efforts to place refer
persons in a community in which they choose to reside and have
access to community-based services and natural supports.

(B) If a recipient uses funding to pay for operating or services
costs of housing converted from existing hotels, motels, or
apartments, the recipient may continue to house residents of the
existing property, even if not referred through a coordinated entry
or similar system.

(C) A recipient may use funding to house participants outside
of the boundaries of the city, provided that housing is available,
referral is based on participant choice, and the referring city funds
the housing and any necessary services, or the receiving city or
county, if within an unincorporated area, notifies the referring
agency within two weeks of intent to fund the costs of housing
and any necessary services.

(D) To the extent feasible, referrals to housing should take into
account participant choice, and services should include efforts to
assist people to move into communities in which they are residing,
if consistent with participant choice, and where the participant has
access to services and community amenities.

(2) Notwithstanding any inconsistent provision of the Permit
Streamlining Act (Chapter 4.5 (commencing with Section 65920)
of Division 1 of Title 7 of the Government Code), streamline
permitting for projects developed with moneys allocated under
this chapter to expedite the permitting and approval process to no
more than 180 days and provide other incentives to developers to
create affordable housing.

(2) Allocate funding through a local competitive application
process.

(4) Either

(3) Use either or both of the following:

(A) Use HMIS data for all outcomes reporting.
(B) Use a coordinated entry system to enter and share data
across the homelessness system.

(5) Prioritize a portion of resources to populations experiencing
homelessness who face barriers to accessing housing or who make
up a disproportionate number of people experiencing homelessness,
based on data from a needs and gaps analysis or an amendment
updating an existing needs and gaps analysis, consistent with the
following:

(A) Prioritizing specific populations for resources under this
paragraph shall not exclude serving other populations.
(B) The recipient shall ensure that prioritization pursuant to this
paragraph does not result in a disproportionate impact on African
American or indigenous populations or other persons of color.

(6) Ensure that at least 10 percent of the amount of allocation
it receives under this chapter serves participants who are youth
experiencing homelessness, in accordance with the following
requirements:

(A) The large city shall ensure that the coordinated entry system
used to assess and refer youth to housing created with funding
provided under the program includes a youth-specific coordinated
entry access point and uses screening and assessment tools that
contemplate the specific needs of youth experiencing homelessness.
(B) Recipients and subrecipients shall offer supportive services
designed to meet the unique needs of youth experiencing
homelessness, which may include, but is not limited to, the
following:
(i) Problem-solving services to maintain existing housing.
(ii) Housing navigation and housing acquisition support.
(iii) Substance use disorder education, prevention, or treatment
services, including group supports.
(iv) Access to education and employment assistance, including,
but not limited to, literacy and graduation equivalent diploma
programs, vocational training, and supports to enroll and participate
in institutions providing secondary or postsecondary education,
including supports to applying for financial aid.
(v) Independent living skill development, economic stability,
and mobility services.
(vi) Counseling, tenancy support, and case management services.
(vii) Screening, assessment, and treatment or referral of
behavioral and physical health care services.
(viii) Services for pregnant and parenting youth.
(ix) Services for lesbian, gay, bisexual, transgender, and
questioning youth.
(x) Family support, including family reunification, when safe
and appropriate, and engagement and intervention, when
appropriate.
(xi) Family finding services to identify appropriate family
members.
(xii) Outreach to youth who are experiencing homelessness.
(xiii) Legal representation and connection to public benefits for
which the unaccompanied homeless youth are eligible or entitled
to, including foster care.
(C) Providers with which a recipient contracts to provide
services to youth in accordance with this paragraph shall
proactively engage youth experiencing homelessness to determine
which supportive services meet the needs of each participant and,
if appropriate, the participant’s family.
(D) Providers with whom recipients contract to provide services
to youth shall work with colleges and universities to market
programs to students experiencing homelessness.
13060. (a) The department shall allocate the amount described
in paragraph (2) of Section 13055 in accordance with this section.
The department shall allocate those moneys in the same manner as deferred payment loans provided under the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). For purposes of distributing grants under this section, to the extent that there is any conflict between the provisions of this chapter and Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code, the provisions of this chapter shall prevail.

(b) The department shall ensure that at least 25 percent of the moneys allocated pursuant to this section are awarded to projects located in unincorporated areas and cities that are not large cities. 

c) Moneys allocated pursuant to this section shall be available for development, acquisition, rehabilitation, preservation, motel conversion, and—capitalized—operating—subsidy—reserves, in accordance with the following:

(1) Funds under this section shall be used to create affordable housing for the eligible population and for target populations with extremely low incomes at imminent risk of homelessness, targeted based on data of likelihood to fall within homelessness:

(2) Projects funded under this section shall comply with the quality standards set forth in subdivision (g) of Section 13056.

(3) The department shall impose leverage requirements to ensure viability and promote the rapid development of quality housing. However, these leverage requirements shall not factor into a competitive score for the allocation of moneys under this section.

(4) A recipient may use moneys allocated under this section for construction financing.

(5) Referrals to housing units funded through a grant under this section shall be made through a coordinated entry system.

(d) Notwithstanding any other law, any project that uses funds received under this chapter for any of the purposes specified in this section shall be deemed consistent and in conformity with any applicable local plan, standard, or requirement, and allowed as a permitted use, within the zone in which the structure is located, and shall not be subject to a conditional use permit, discretionary permit, or any other discretionary review or approval.

SEC. 10. Section 14133.5 is added to the Welfare and Institutions Code, immediately following Section 14133.45, to read:
14133.5. (a) By January 1, 2025, the Department of Health Care Services shall seek federal approval for a Medi-Cal benefit to fund all of the following services for beneficiaries experiencing homelessness:

1. (1) Housing navigation and housing acquisition support services.
2. (2) Tenancy transition services.
3. (3) Tenancy sustaining services.
4. (4) Housing-based employment services.

(b) The department shall convene a stakeholder advisory group representing counties, health care consumers, and homeless advocates in developing the plan.

c) The department shall work with counties to determine an effective process for funding the state’s share of the federal medical assistance percentage. Pursuant to an agreement with organizations representing California counties, the department may use up to 20 percent of the county-continuum allocation, as set forth under Section 13058, to pay for the state’s federal medical assistance percentage associated with the benefit identified in subdivision (a) for Medi-Cal beneficiaries experiencing homelessness.

d) The department shall pursue philanthropic funding to carry out the administrative duties of this section. The Homeless Coordinating and Financing Council may allocate a portion of the administrative funds, pursuant to paragraph (1) of subdivision (a) of Section 13055, to create and pursue the plan in this section, and that portion shall equal no more than 1 percent of the Bring California Home Fund.
Item B-5
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 339 (Lee) - Local government: open and public meetings involves a policy matter that has a nexus to the City’s adopted Legislative Platform language. Specifically, the following statements may apply to AB 339 as it relates to local control and land use:

- In general, oppose any county, state or federal mandates without the direct or indirect reimbursement for the costs associated with complying with new and/or modified laws, regulations, policies, procedures, permits and/or programs.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 339 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 339, the Liaisons may recommend the following actions:

1) Oppose AB 339;
2) Support AB 339;
3) Support if amended AB 339;
4) Oppose unless amended AB 339;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position of oppose, then staff will prepare a letter for the Mayor to sign as the legislation appears to be consistent with the City’s Legislative Platform. Any other positions recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
Attachment 1
April 22, 2021

To: Cindy Owens, City of Beverly Hills

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

Re: AB 339 (Lee) Local government: open and public meetings.

Version: Amended in Assembly April 15, 2021

Summary

1) Requires all meetings to include an opportunity for members of the public to attend via a telephonic option and an internet-based service option.

2) Requires all meetings to include an in-person public comment opportunity, except in specified circumstances during a declared state or local emergency.

3) Requires all meetings to provide the public with an opportunity to comment on proposed legislation in person and remotely via a telephonic and an internet-based service option and would specify requirements for public comment registration.

4) Requires the legislative bodies of a local agency to provide interpretation services as requested, and have a system to process requests for interpretation services and publicize that system online.

5) Makes a finding that the provisions of the bill allow for greater public access through requiring specified entities to provide a telephonic and internet-based service option and instructions on how to access these options to the public for specified meetings and allow for greater accommodations for non-English speakers attending the meetings and that these proposed changes to state law are in line with open meeting requirements in the State Constitution.

Existing Law

The Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and participate.

Under existing law, a member of the legislative body who attends a meeting where action is taken in violation of this provision, with the intent to deprive the public of information that the member knows the public is entitled to, is guilty of a crime.

Background
The author argues that laws governing public participation for the state legislature, local agencies, and state boards and commissions all require certain processes for members of the public to participate at open meetings. Note: AB 339 was recently amended to delete provisions that would have applied to the State. The newly amended bill only now applies to local governments.

However, participation is often limited to those who are able to travel to meetings to speak in-person, and to those who speak and read English. These requirements, along with inconsistent language access standards, often preclude immigrants and low-income people from participating. While COVID-19 precautions have increased usage of remote participation options, not all agencies allow for effective remote participation. Additionally, there is frequently confusion over how to access meetings through remote technology options. The lack of timely notification and clear instructions reinforces obstacles.

COVID-19 has exacerbated existing barriers that prevent people from participating in public discourse designed to inform the rules and policies that govern us. In addition, linguistic, physical, and geographic isolation prevents constituents from exercising their civic duties, which limits our governing bodies from achieving their full potential. AB 339 would protect the public’s access to government, both during and following the COVID-19 pandemic.

Opponents argue that would purposefully add significant unfunded mandates on local public agencies by requiring public agencies to provide both call-in and internet-based options, in addition to in-person options, for members of the public to attend and comment during any public meeting.

AB 339 goes further to require extensive translation services in real-time during public meetings and of extensive and often technical meeting materials, additionally burdening local agencies with significant costs.

Opponents raise the concern that imposing these mandated costs on local agencies under particularly challenging fiscal circumstances coupled with the overwhelming practical challenges associated with implementing such a measure makes local agencies that would have to live under these mandates deeply concerned about their ability to effectively conduct the people’s business.

Much has changed since the Brown Act was first enacted in 1953 and technology has evolved to allow for even more civic engagement. While these triumphs are to be celebrated, opponents argue that mandates in this bill would create more burdens on our already struggling local agencies and could actually do more to hinder local government deliberations than increase participation.

Public agencies have strived to maintain a continuity of government during the pandemic while also continuing to provide essential services. However, once the state of emergency is lifted and elected officials return to their meeting rooms, there will be an immediate technological and staffing challenge of providing a live mic for public comment and connecting that system to both a teleconferencing and internet-based service.

Opponents also argue that AB 339 would condition the operations of local government on the operability of Zoom and other virtual meeting platforms in a way that dangerously destabilizes the ability of local governments to meet our fiscal, legal, and practical obligations to the public. Opponents also raise concerns about the downstream impacts of AB 339 on advisory bodies, such as the boards and commissions that advise and make recommendations to primary legislative bodies.
The requirement to employ translators and provide live translation services presents another deep cost requirement and operational burden that could end up paralyzing the work of local agencies. AB 339 places new translation requirements in the Brown Act rather than the Dymally-Alatorre Bilingual Services Act, which governs local government translation services.

Under current law, local government translation service requirements are governed by Government Code § 7290-7299.8, more commonly known as the Dymally-Alatorre Bilingual Services Act. The Act requires local public agencies to provide certain materials in multiple languages and requires agencies serving a substantial number of non-English-speaking people to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to assist those in such positions, to ensure provision of information and services in the language of the non-English speaking person.

However, unlike the one size fits all approach to translation requirements in AB 339, the Dymally-Alatorre Bilingual Services Act properly recognizes the diversity of local agencies in size, scope, location, services offered, and financial resources available.

Under this bill, local public agencies, regardless of size, financial resources, or the public’s desire for services, would be required to employ a translator for any language that is spoken by five percent or more of the agency’s jurisdiction for live translation services during a meeting. This again raises the question of what happens if enough translators are not available for every council, planning commissioner, or board meeting.

There are thousands of public agencies in the state governed by the Brown Act and forcing them to schedule their meetings and their work around a workforce, the capacity of which is unknown, raises serious concerns about how are local elected officials are to continue the work that is expected of them. Additional requirements to mandate translation of written materials poses another significant challenge, in that agenda materials can be extensive and technically complex, requiring specialized translation skills and significant amounts of time to complete appropriately.

Recent amendments exempt the state government and its agencies from these onerous requirements, leaving the bill exclusively targeted at local governments. Opponents find it deeply disturbing that there is a prospect of the state saying, once again, “one rule for thee, another rule for me”. If the merits of this bill are so beneficial that they require the most expansive mandates since the Brown Act’s inception on the operation of public meetings, it is utterly ridiculous for the state to not have to comply given that the impact of its decisions are far more wide-reaching than the impact of the decision of any one agency on its jurisdiction.

Status of Legislation
AB 339 (Lee) has been referred to Assembly Committee on Local Government Committee and has been scheduled for hearing on Wednesday, April 28, 2021.

Support
American Civil Liberties Union (Co-sponsor)  Clean Water Action
Californians for Justice  Coalition for Humane Immigrant Rights (CHIRLA)
Californians for Pesticide Reform  Courage Campaign
Central California Asthma Collaborative  Cultiva La Salud
Central California Environmental Justice Network  Dolores Huerta Foundation
Central Valley Air Quality Coalition  Faith in the Valley
Coalition for Pesticide Reform  Fairmead Community & Friends
Fresno Barrios Unidos
Greenbelt Alliance
Jakara Movement
Leadership Counsel for Justice and Accountability (Sponsor)
Los Angeles Sunshine Coalition
Mi Familia Vota
Pesticide Action Network
PolicyLink
Pueblo Unido CDC
Root & Rebound
Time for Change Foundation

Oppose
The League of California Cities
California Special Districts Association
California State Association of Counties
Urban Counties of California
Rural County Representatives of California
Association of California Healthcare Districts
Association of California School Administrators
Community College League of California
California Downtown Association (CDA)
Public Risk Innovation, Solutions, and Management
Attachment 2
Introduced by Assembly Members Lee and Cristina Garcia
(Coauthors: Assembly Members Arambula, Cooley, and Robert Rivas)

January 28, 2021

An act to amend Sections 9027, 54953, 54954.2, 54954.3, 11122.5, 11123, 11125.7 of, and to add Sections 9027.1 and 9028.1 to, and 54954.3 of the Government Code, relating to state and local government: public meetings.

LEGISLATIVE COUNSEL’S DIGEST


Existing law requires all meetings, as defined, of a house of the Legislature or a committee thereof to be open and public, and requires all persons to be permitted to attend the meetings, except as specified.

This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation, as provided, and requires translation services to be provided for the 10 most spoken languages, other than English, in California, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified. The bill would require
instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Under existing law, a member of the legislative body who attends a meeting where action is taken in violation of this provision, with the intent to deprive the public of information that the member knows the public is entitled to, is guilty of a crime.

This bill would require all meetings to include an opportunity for all persons members of the public to attend via a call-in telephonic option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require, even in the case of a declared state or local emergency, teleconferenced require all meetings to include an in-person public comment opportunity, except in specified circumstances during a declared state or local emergency. The bill would require all meetings to provide the public with an opportunity to address the legislative body comment on proposed legislation in person and remotely via a call-in or a telephonic and an internet-based service, as provided, and would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified: specify requirements for public comment registration. The bill would also require the legislative bodies of the local agency to employ a sufficient amount of qualified bilingual persons to provide translation during the meeting in the language of a non English speaking person, in jurisdictions which govern a substantial number of non English speaking people, as defined: provide interpretation services as requested, and have a system to process requests for interpretation services and publicize that system online.

Existing law, the Bagley-Keele Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The Act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

This bill would require all meetings, as defined, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services
and requires both a call-in and an internet-based service option to be provided to the public. The bill would require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified.

Existing law, the Dymally-Alatorre Bilingual Services Act, requires any materials explaining services available to the public to be translated into any non-English language spoken by a substantial number of the public, as defined, served by the agency, and requires every state and local agency serving a substantial number of non-English-speaking people, as defined, to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to ensure provision of information and services in the language of the non-English-speaking person.

This bill would require legislative bodies of local agencies and state bodies, as defined, to translate agendas and agencies to make available instructions for accessing on joining the meeting to be translated into all languages for which 5% of the population in the area governed by the local agency, or state body’s jurisdiction, are speakers: to all non-English-speaking persons upon request, and publish the instructions in the 2 most spoken languages other than English within the local agency’s jurisdiction.

By imposing new duties on local governments and expanding the application of a crime with respect to meetings, 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 no reimbursement is required by this act for a specified reason.

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

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.


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

SECTION 1. Section 9027 of the Government Code is amended to read:

9027. Except as otherwise provided in this article, all meetings of a house of the Legislature or a committee thereof shall be open and public, and all persons shall be permitted to attend the meetings. Additionally, all meetings shall include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services. Both a call-in and an internet-based service option shall be provided to the public. As used in this article, “meeting” means a gathering of a quorum of the members of a house or committee in one place, including a gathering using teleconference technology, for the purpose of discussing legislative or other official matters within the jurisdiction of the house or committee. As used in this article, “committee” includes a standing committee, joint committee, conference committee, subcommittee, select committee, special committee, research committee, or any similar body.

SEC. 2. Section 9027.1 is added to the Government Code, to read:

9027.1. All meetings shall provide the public with an opportunity to comment on proposed legislation, either in person or remotely via call-in or internet-based service, consistent with requirements in Section 9027. Persons commenting in person shall not have more time or in any other way be prioritized over persons commenting remotely via call-in or internet-based service. Translation services shall be provided for the 10 most-spoken
languages, other than English, in California. If there are time
restrictions on public comment, persons giving a public comment
in a language other than English shall have double the amount of
time as those giving a comment in English to allow for translation;
unless simultaneous translation equipment is available.

SEC. 3. Section 9028.1 is added to the Government Code, to
read:

9028.1. Instructions on how to attend the meeting via call-in
or internet-based service shall be posted online in an easily
accessible location at the time the meeting is scheduled and notice
of the meeting is published. The posted instructions shall include
translations into the 10 most-spoken languages, other than English,
in California, and shall list a hotline that members of the public
can call for assistance, with assistance in the 10 most-spoken
languages provided.

SEC. 4.

SECTION 1. Section 54953 of the Government Code is
amended to read:

54953. (a) All meetings of the legislative body of a local
agency shall be open and public, and all persons shall be permitted
to attend any meeting of the legislative body of a local agency,
agency in person, except as otherwise provided in this chapter.
Additionally, all
(b) All meetings shall include an opportunity for all persons
members of the public to attend via a call-in telephonic option or
and an internet-based service—option—that provides
closed captioning services. Both a call-in and an internet-based
service option shall be provided to the public. For the
purposes of this chapter, “internet-based service option” means
a service or platform that allows two-way video and audio
participation through the internet.

(b)
(c) (1) Notwithstanding any other provision of law, the
legislative body of a local agency may use teleconferencing for
the benefit of the public and the legislative body of a local agency
in connection with any meeting or proceeding authorized by law.
The teleconferenced meeting or proceeding shall comply with all
requirements of this chapter and all otherwise applicable provisions
of law relating to a specific type of meeting or proceeding.
(2) Teleconferencing, as authorized by this section, may be used by members of the legislative body for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, other than what is required by subdivision (a), it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d) (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(5) Notwithstanding

(A) Unless there are any laws that prohibit in-person government meetings in the case of a declared state of emergency, including a public health emergency, teleconferenced all meetings shall include an in-person public comment opportunity, wherein members of the public can report to a designated site to give public comment in person. The location of the designated site and any relevant instructions on in-person commenting shall be included with the public posting of the agenda.

(B) All meetings shall provide the public with an opportunity to comment on proposed legislation, both in person and remotely via a telephonic and an internet-based service option, and ensure the opportunity for the members of the public participating via a telephonic or an internet-based option to comment on agenda...
items with the same time allotment as a person attending a meeting in person.

(C) Registration for public comment period is permitted, so long as instructions to register are posted, members of the public are able to register over the telephone and in person, and registration remains open until the comment period has finished for that agenda item. Information collected for registration purposes shall be limited to name, telephone number, and county of residence.

(d) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(e) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (c), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at
a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

SEC. 5.
SEC. 2. Section 54954.2 of the Government Code is amended to read:
54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency’s internet website, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. In compliance with the Dymally-Alatorre Bilingual Services Act (Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1), agendas

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and instructions for accessing the meeting, whether teleconferenced
or in person, shall be translated into all languages for which 5
percent of the population in the area governed by the local agency
is a speaker.

(2) Instructions on joining the meeting via telephonic or
internet-based service option, including registration for public
comment, if required, shall be made available to all
non-English-speaking persons upon request and should at minimum
be published in the two most spoken languages other than English
within the boundaries of the territory over which the local agency
exercises jurisdiction. The meeting agenda should be made
available upon request to all non-English-speaking persons within
those boundaries in their language, regardless of national origin
or language ability.

(3) For a meeting occurring on and after January 1, 2019, of a
legislative body of a city, county, city and county, special district,
school district, or political subdivision established by the state that
has an internet website, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the
primary internet website homepage of a city, county, city and
county, special district, school district, or political subdivision
established by the state that is accessible through a prominent,
direct link to the current agenda. The direct link to the agenda shall
not be in a contextual menu; however, a link in addition to the
direct link to the agenda may be accessible through a contextual
menu.

(B) An online posting of an agenda including, but not limited
to, an agenda posted in an integrated agenda management platform,
shall be posted in an open format that meets all of the following
requirements:

(i) retrievable, downloadable, indexable, and electronically
searchable by commonly used internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any
restriction that would impede the reuse or redistribution of the
agenda.

(C) A legislative body of a city, county, city and county, special
district, school district, or political subdivision established by the
state that has an internet website and an integrated agenda
management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary internet website homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an internet website with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) “Integrated agenda management platform” means an internet website of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) “Legislative body” has the same meaning as that term is used in subdivision (a) of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.
(4) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on the member’s own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency’s internet website, if the
local agency has one, shall only apply to a legislative body that
meets either of the following standards:
(1) A legislative body as that term is defined by subdivision (a)
of Section 54952.
(2) A legislative body as that term is defined by subdivision (b)
of Section 54952, if the members of the legislative body are
compensated for their appearance, and if one or more of the
members of the legislative body are also members of a legislative
body as that term is defined by subdivision (a) of Section 54952.

SEC. 6.
SEC. 3. Section 54954.3 of the Government Code is amended
to read:
54954.3. (a) Every agenda for regular meetings shall provide
an opportunity for members of the public to directly address the
legislative body on any item of interest to the public, before or
during the legislative body’s consideration of the item, that is
within the subject matter jurisdiction of the legislative body,
provided that no action shall be taken on any item not appearing
on the agenda unless the action is otherwise authorized by
subdivision (b) of Section 54954.2. All meetings must also provide
the public with an opportunity to address the legislative body
remotely via call-in and internet-based service, consistent with
requirements in Section 54953. Persons commenting in person
shall not have more time or in any other way be prioritized over
persons commenting remotely via call-in or internet-based service.
Instructions on how to attend the meeting via call-in or
internet-based service shall be posted online along with the meeting
agenda in an easily accessible location. However, the agenda
need not provide an opportunity for members of the public to
address the legislative body on any item that has already been
considered by a committee, composed exclusively of members of
the legislative body, at a public meeting wherein all interested
members of the public were afforded the opportunity to address
the committee on the item, before or during the committee’s
consideration of the item, unless the item has been substantially
changed since the committee heard the item, as determined by the
legislative body. Every notice for a special meeting shall provide
an opportunity for members of the public to directly address the
legislative body concerning any item that has been described in
the notice for the meeting before or during consideration of that item.

(b) (1) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(2) Notwithstanding paragraph (1), when the legislative body of a local agency limits time for public comment, the legislative body of a local agency shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body of a local agency.

(3) Paragraph (2) shall not apply if the legislative body of a local agency utilizes simultaneous translation equipment in a manner that allows the legislative body of a local agency to hear the translated public testimony simultaneously.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(d) Legislative bodies of local agencies shall employ a sufficient amount of qualified bilingual persons to provide translation during the meeting in the language of the non-English-speaking person, in jurisdictions which govern a substantial number of non-English-speaking people. “Non-English-speaking people” is defined as members of a group who either do not speak English, or who are unable to effectively communicate in English because it is not their native language, and who comprise 5 percent or more of the people served by the statewide or any local office or facility of a state agency.

(d) All members of the public shall be entitled to participate in public meetings, regardless of national origin or language ability. If interpretation services are requested for the public meeting and public comment period, those services should be provided.

(e) Local agencies shall have in place a system for requesting and receiving interpretation services for public meetings, including the public comment period. Local agencies shall publicize this
system and the instructions on how to request certified  
interpretation services for public meetings online.

SEC. 7. Section 11122.5 of the Government Code is amended  
to read:

11122.5. (a) As used in this article, “meeting” includes any  
congregation of a majority of the members of a state body,  
including a virtual congregation using teleconference technology,  
at the same time and place to hear, discuss, or deliberate upon any  
item that is within the subject matter jurisdiction of the state body  
to which it pertains.

(b) (1) A majority of the members of a state body shall not,  
outside of a meeting authorized by this chapter, use a series of  
communications of any kind, directly or through intermediaries,  
to discuss, deliberate, or take action on any item of business that  
is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee  
or official of a state agency from engaging in separate  
conversations or communications outside of a meeting authorized  
by this chapter with members of a legislative body in order to  
answer questions or provide information regarding a matter that  
is within the subject matter jurisdiction of the state agency, if that  
person does not communicate to members of the legislative body  
the comments or position of any other member or members of the  
legislative body.

(c) The prohibitions of this article do not apply to any of the  
following:

(1) Individual contacts or conversations between a member of  
a state body and any other person that do not violate subdivision  
(b).

(2) (A) The attendance of a majority of the members of a state  
body at a conference or similar gathering open to the public that  
involves a discussion of issues of general interest to the public or  
to public agencies of the type represented by the state body, if a  
majority of the members do not discuss among themselves, other  
than as part of the scheduled program, business of a specified  
nature that is within the subject matter jurisdiction of the state  
body.

(B) Subparagraph (A) does not allow members of the public  
free admission to a conference or similar gathering at which the
organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body; if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body:

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonious occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.

SEC. 8. Section 11123 of the Government Code is amended to read:

11123. (a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article. Additionally, all meetings shall include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services. Both a call-in and an internet-based service option shall be provided to the public.

(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:
(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, other than what is required by subdivision (a) and such that all members of the body that are present at the meeting are teleconferencing into the meeting, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting to ensure that members of the public are able to give public comment in person. This location must be publicly accessible and able to accommodate a reasonable amount of people, given the circumstances.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. While this section requires that both an call-in and internet-based service are available to the public to join all open meetings that are held in-person, this section does not prohibit a state body from providing members of the public with additional locations in or opportunities by which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(e) Instructions on how to attend the meeting via call-in or internet-based service shall be posted online along with the meeting
agenda in an easily accessible location at least 72 hours before all
regular meetings and at least 24 hours before all special meetings.
In compliance with the Dymally-Alatorre-Bilingual-Services
Act (Chapter 17.5 (commencing with Section 7290) of Division 7
of Title 1), the posted instructions shall also be translated into all
languages of which 5 percent of the population of the state body’s
jurisdiction speaks.
(d) The state body shall publicly report any action taken and
the vote or abstention on that action of each member present for
the action.
SEC. 9. Section 11125.7 of the Government Code is amended
to read:
11125.7. (a) Except as otherwise provided in this section, the
state body shall provide an opportunity for members of the public
to directly address the state body on each agenda item before or
during the state body’s discussion or consideration of the item.
This section is not applicable if the agenda item has already been
considered by a committee composed exclusively of members of
the state body at a public meeting where interested members of
the public were afforded the opportunity to address the committee
on the item, before or during the committee’s consideration of the
item, unless the item has been substantially changed since the
committee heard the item, as determined by the state body. Every
notice for a special meeting at which action is proposed to be taken
on an item shall provide an opportunity for members of the public
to directly address the state body concerning that item prior to
action on the item. In addition, the notice requirement of Section
11125 shall not preclude the acceptance of testimony at meetings,
other than emergency meetings, from members of the public if no
action is taken by the state body at the same meeting on matters
brought before the body by members of the public.
(b) In compliance with subdivision (a) of Section 11123, public
comment shall be made available for those attending any meeting
via call-in or internet-based-service option. Persons commenting
in person shall not have more time or in any other way be
prioritized over persons commenting remotely via call-in or
internet-based-service.
(c) The state body may adopt reasonable regulations to ensure
that the intent of subdivision (a) is carried out, including, but not
limited to, regulations limiting the total amount of time allocated
for public comment on particular issues and for each individual speaker:

(d) (1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the state body. In compliance with the Dymally-Alatorre Bilingual Services Act (Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1), translation services shall be provided for all languages of which 5 percent of the population of the state body’s jurisdiction speaks. Should there be a limit on speaking time, persons commenting in another language shall be given twice as much time as those commenting in English in order to accommodate time for translation services. This is not required when simultaneous translation services are available:

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(e) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(f) This section is not applicable to closed sessions held pursuant to Section 11126:

(g) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(h) This section is not applicable to hearings conducted by the California Victim Compensation Board pursuant to Sections 13963 and 13963.1.

(i) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly
address the commission before or during the commission’s consideration of the item.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result either from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, or because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 11. The Legislature finds and declares that Sections 4, 5, and 6, 1, 2, and 3 of this act, which amend Sections 54953, 54954.2, and 54954.3 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

The provisions of the act allow for greater public access through requiring specified entities to provide a call-in telephonic and internet-based service option and instructions on how to access these options to the public for specified meetings and allow for greater accommodations for non-English speakers attending the meetings.
Item B-6
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: April 28, 2021
SUBJECT: Assembly Bill 854 (Lee) - Residential real property: withdrawal of accommodations

ATTACHMENTS: 1. Summary Memo – AB 854
2. Bill Text – AB 854

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

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 854 (Lee) - Residential real property: withdrawal of accommodations (AB 854) 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 854 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 854, the Liaisons may recommend the following actions:

1) Support AB 854;
2) Support if amended AB 854;
3) Oppose AB 854;
4) Oppose unless amended AB 854;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 854, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 22, 2021

To: Cindy Owens, City of Beverly Hills

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

Re: AB 854 (Lee) Residential real property: withdrawal of accommodations.

Version: Amended in Assembly March 18, 2021

Summary:
Prohibits property owners who have owned rental accommodations for less than five years from using or threatening to use the Ellis Act to withdraw rental accommodations and places other limits on the use of the Ellis Act. Specifically, this bill:

- Prohibits an owner of a rental property from using the Ellis Act to file a notice to withdraw accommodations, prosecute an action to recover possession of accommodations, or threaten to do either, unless the owner has owned the property for at least five years.
- Requires that, if the owner is not an individual person, all persons or entities with an ownership interest in the property must have held the property for at least five continuous years.
- Prohibits an owner who files intent to withdraw a property with the public entity under the Act from subsequently withdrawing another property, prosecuting an action to recover possession, or threatening to do either of these things, if the other property is purchased within ten years of the prior filing.
- Prohibits any person or entity with an ownership interest in a property from acting in concert with a co-owner, successor owner, prospective owner, agent employee, or assignee to circumvent the above prohibitions.
- Requires an owner notifying a public entity about an intention to withdraw a property under the Act to include in the notice, the identity of each person, entity, and members of an entity, with an ownership interest in the property. Further specifies that this information shall not be confidential and shall be available for public inspection.
- Provides that a violator of any of these provisions is liable to the tenant for actual damages, special damages of at least $2,000 for each violation, and reasonable attorney fees and court costs as determined by the court.
- Specifies that the remedy provided by the bill is not exclusive and shall not preclude either the tenant or lessee from pursuing any other remedy provided by law.

Existing Law
The Ellis Act was established to ensure that landlords have an option to remove tenants in order to withdraw the property and exit the rental market. Under the Act, landlords can evict tenants without cause and remove properties from the rental market if they follow certain procedures. In
Nash v. City of Santa Monica (1984) 37 Cal.3d 97, the California Supreme Court upheld the power of a city to require a residential real property owner to obtain a removal permit, under specified criteria, before the owner could demolish their rental property and cause its removal from the marketplace.

The Act only applies when an owner seeks to remove all the units within a building or all units on a parcel with a building containing three or fewer units, from the market. The Act authorizes local governments to place restrictions on how property owners can "Ellis" a property and exit the rental property market. Specifically, an owner can be required to give tenants 120 days' notice that the property is being withdrawn from the rental market. Tenants age 62 and older and those with a disability must receive one year's notice. If a property withdrawn under the Act is offered for rent again within five years from withdraw, then it must be offered to the last tenant at the same rent the tenant was charged at the time the unit was withdrawn.

Status of Legislation
The bill is currently in Assembly Committee on Housing and Community Development. A hearing date has not been scheduled.

Support
AAPIs for Civic Empowerment Education
Fund
Abundant Housing LA
ACCE Action
AIDS Healthcare Foundation
Alliance of Californians for Community
Empowerment (ACCE) Action
Build Affordable Faster
Cal Berkeley Democrats
California Democratic Party Renters Council
California Rural Legal Assistance
Foundation
Center for Community Action &
Environmental Justice
Central Coast Alliance United for a
Sustainable Economy
City for Everyone
Democratic Party of the San Fernando
Valley
East Bay for Everyone
Ensuring Opportunity Campaign to End
Poverty in Contra Costa County
Eviction Defense Collaborative
Housing Equality & Advocacy Resource
Team
Housing Now! CA
Housing Rights Committee of San
Francisco
Legal Aid of Sonoma County
Los Angeles County Chief Executive Office
Progressive Asian Network for Action
Public Advocates
Public Law Center
San Francisco Anti-displacement Coalition
South Bay Community Land Trust
Tenants Together
The Greenlining Institute
The People's Resource Center
The Women's Building
Union Station Homeless Services
United Food and Commercial Workers,
Western States Council
Western Center on Law & Poverty
YIMBY Action

Opposition
Apartment Association of Greater Los
Angeles
Apartment Association of Orange County
Apartment Association, California Southern
Cities
California Apartment Association
California Association of Realtors
California Rental Housing Association
East Bay Rental Housing Association
Southern California Rental Housing
Association
Zacks & Freedman, P.C
Attachment 2

Existing law, commonly known as the Ellis Act, generally prohibits public entities from adopting any statute, ordinance, or regulation, or taking any administrative action, to compel the owner of residential real property to offer or to continue to offer accommodations, as defined, in the property for rent or lease.

This bill would prohibit an owner of accommodations from filing a notice with a public entity of an intent to withdraw accommodations or prosecuting an action to recover possession of accommodations, or threatening to do so, if not all the owners of the accommodations have been owners of record for at least 5 continuous years, or with respect to property that the owner acquired within 10 years after providing notice of an intent to withdraw accommodations at a different property.
This bill would require an owner of accommodations notifying the public entity of an intention to withdraw accommodations from rent or lease to identify each person or entity with an ownership interest in the accommodations, as provided. That information would be available for public inspection. The bill would prohibit an owner or any person or entity with an ownership interest from acting in concert with a coowner, successor owner, prospective owner, agent, employee, or assignee to circumvent these provisions. The bill would provide specified, nonexclusive remedies for a violation.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Existing law, commonly known as the Ellis Act, prohibits a public entity from adopting any statute, ordinance, or regulation, or taking any administrative action, to compel the owner of residential real property to offer or to continue to offer accommodations in the property for rent or lease, except as specified.

This bill would make nonsubstantive changes to those provisions.


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

SECTION 1. Section 7060.8 is added to the Government Code, to read:

7060.8. (a) An owner of accommodations shall not file a notice with a public entity to withdraw accommodations pursuant to this chapter, prosecute an action to recover possession of accommodations pursuant to this chapter, or threaten to do either of these things, unless all the owners of the accommodations have been owners of record for at least five continuous years. If an owner of record is not a natural person, then all persons or entities with an ownership interest in that entity shall have held that interest for at least five continuous years.

(b) If an owner of accommodations files a notice of intent with the public entity to withdraw accommodations under this chapter, and the owner subsequently acquires a new property containing accommodations within 10 years of that filing, the owner shall not withdraw accommodations pursuant to this chapter, prosecute an action to recover possession of accommodations pursuant to this
chapter, nor threaten to do either of these things, with respect to
the later acquired property.
(c) An owner of accommodations, or any person or entity with
an ownership interest in an entity that owns the accommodations,
shall not act in concert with a coowner, successor owner,
prospective owner, agent, employee, or assignee, to circumvent
the limitations of subdivision (a) or (b).
(d) An owner of accommodations notifying the public entity of
an intention to withdraw accommodations from rent or lease shall
identify each person or entity with an ownership interest in the
accommodations, and if any entity is not a natural person, identify
all persons or entities with an ownership interest in that entity.
This information shall not be confidential and shall be available
for public inspection.
(e) A person or entity that violates the provisions described in
subdivision (a) or (b) is liable to the tenant or lessee for actual
damages, special damages of not less than two thousand dollars
($2,000) for each violation, and reasonable attorney’s fees and
costs in an amount fixed by the court. The remedy provided by this
section is not exclusive and shall not preclude either the tenant or
lessee from pursuing any other remedy provided by law.
SEC. 2. The Legislature finds and declares that housing,
including maintenance of accommodations is a matter of statewide
concern and is not a municipal affair as that term is used in Section
5 of Article XI of the California Constitution. Therefore, Section
1 of this act adding 7060.8 of the Government Code applies to all
cities, including charter cities.
SECTION 1.—Section 7060 of the Government Code is amended
to read:
7060. (a) A public entity, as defined in Section 811.2, shall
not, by statute, ordinance, or regulation, or by administrative action
implementing any statute, ordinance or regulation, require the
owner of any residential real property to offer, or to continue to
offer, accommodations in the property for rent or lease, except for
guestrooms or efficiency units within a residential hotel, as defined
in Section 50519 of the Health and Safety Code, if the residential
hotel meets all of the following conditions:
(1) The residential hotel is located in a city and county, or in a
city with a population of over 1,000,000.
(2) The residential hotel has a permit of occupancy issued before January 1, 1990.

(3) The residential hotel did not send a notice of intent to withdraw the accommodations from rent or lease pursuant to subdivision (a) of Section 7060.4 that was delivered to the public entity prior to January 1, 2004.

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

(1) “Accommodations” means either of the following:

(A) The residential rental units in any detached physical structure containing four or more residential rental units.

(B) With respect to a detached physical structure containing three or fewer residential rental units, the residential rental units in that structure and in any other structure located on the same parcel of land, including any detached physical structure specified in subparagraph (A).

(2) “Disabled” means a person with a disability, as defined in Section 12955.3 of the Government Code.
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.

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 1053 (Gabriel) - City selection committees: County of Los Angeles: quorum: teleconferencing (AB 1053) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City's state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 1053 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1053, the Liaisons may recommend the following actions:

1) Support AB 1053;
2) Support if amended AB 1053;
3) Oppose AB 1053;
4) Oppose unless amended AB 1053;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1053, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 22, 2021

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1053 (Gabriel) LA County City selection committees: quorum: teleconferencing.

Version
Amended in the Assembly on April 20, 2021

Summary
1) Reduces the threshold for a quorum from a majority to one third of all member cities within the county for meetings that have been postponed to a subsequent time and place because a quorum was not present, as long as the agenda is limited to items that appeared on the immediately preceding agenda where a quorum was not established.

2) Authorize meetings of the LA County city selection committee to be conducted by teleconferencing and electronic means.

3) Modernizes the City Selection voting and quorum process by allowing meetings to be conducted by teleconferencing and electronic means.

4) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the challenges faced as a result of the current governance structure of the County of Los Angeles.

Existing Law
1) Provides for the creation of a city selection committee in each county that consists of 2 or more incorporated cities for the purpose of appointing city representatives to boards, commissions, and agencies.

2) Specifies that a quorum for a city selection committee requires a majority of the number of the incorporated cities within the county shall be entitled to representation on the city selection committee.

3) Requires a city selection committee meeting to be postponed or adjourned to a subsequent time and place whenever a quorum is not present at the meeting.

4) Requires a city selection committee to conduct regular meetings at the times specified by the committee in its rules and regulations, and to meet upon the call of its chairperson.
5) Authorizes the chairperson of the committee to call a special meeting of the committee at any time and requires the chairperson to call a special meeting upon the written request of 50% of the members of the city selection committee.

**Background**

Members of the LA County City Selection Committee include the Mayor of each city within Los Angeles County. Each city appoints an elected official as a delegate to the City Selection Committee; it usually is the Mayor. The term of office for each Member of the LA County City Selection Committee coincides with City Mayor terms, and the Committee meets three or four times a year, at the call of the Chairman. Their duties are to appoint City representatives to such Boards, Commissions and Agencies as may be required by law, i.e., LAFCO, South Coast Air Quality Management District, Los Angeles County Metropolitan Transportation Authority, Los Angeles County Hazardous Waste Management Advisory Committee; and to nominate for appointment Members to the California Coastal Commission.

Nominations for the City Selection Committee appointees to the MTA are made by the Sector Subcommittees for the Sectors whose representatives’ terms are expiring. The cities assigned to one of the four regions in Los Angeles County (North County/San Fernando Valley, San Gabriel Valley, Southeast Long Beach and Southwest Corridor) shall meet as a Sector Subcommittee. Each candidate with a majority weighted vote will then be nominated from that Sector for consideration for appointment to the MTA.

The Los Angeles County City Selection Committee is composed of the mayors of each of the 88 cities within Los Angeles County; 45 or more mayors must be present at the City Selection Committee's meetings to reach a quorum. Because mayors often get caught in traffic or cannot attend meetings for other reasons, the Los Angeles County City Selection Committee has historically had trouble reaching a quorum. Even when an unavailable mayor designates an alternate to attend and vote at a Committee meeting in his or her place, the designated alternate is sometimes unable to attend. This situation has made it difficult for the committee to function.

The Brown Act specifically allows local legislative bodies to use teleconferencing instead of meeting in person, but the size of Los Angeles County and the number of mayors (or alternates) needed to reach a quorum makes it impractical for the committee to hold teleconference meetings instead of meeting in person.

The Los Angeles County Division of the League of California Cities (Division) supports AB 1053 and characterizes the bill as a measure that will modernize the City Selection voting and quorum process by allowing meetings to be conducted by teleconferencing and electronic means.

AB 1053 would also allow the quorum for each subsequent meeting to be lowered to one-third of all member cities within a county, if the agenda is limited only to items which appeared on the immediately preceding agenda where quorum was not established.

City Selection Committees make appointments to key boards and commissions in each county. In large counties like Los Angeles, the City Selection Committee is made up of 88 different member cities which can create logistical challenges for city officials trying to get to meetings across the county during peak rush hours.

However, in response to the COVID-19 pandemic, the Los Angeles County City Selection Committee has moved its operations to remote meetings, which has created efficiencies in
obtaining a quorum and filling key appointments. Making these changes permanent under AB 1053 helps ensure that key board and commission appointments continue to be filled.

**Status of Legislation**
AB 1053 is currently pending in the Assembly Local Government Committee

**Support**
Los Angeles County Division of the League of California Cities

**Opposition**
None listed at this time.
Attachment 2
An act to amend Sections 50272 and 50277 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

AB 1053, as amended, Gabriel. City selection committees: *County of Los Angeles:* quorum: teleconferencing.

Existing law creates a city selection committee in each county that consists of 2 or more incorporated cities for the purpose of appointing city representatives to boards, commissions, and agencies. Under existing law, a quorum for a city selection committee requires a majority of the number of the incorporated cities within the county entitled to representation on the city selection committee. Existing law requires a city selection committee meeting to be postponed or adjourned to a subsequent time and place whenever a quorum is not present at the meeting.

*This bill, for the city selection committee in the County of Los Angeles,* would reduce the quorum requirement to \( \frac{1}{3} \) of all member cities within the county for a meeting that was postponed to a subsequent time and place because a quorum was not present, as long as the agenda is limited to items that appeared on the immediately preceding agenda where a quorum was not established.
Existing law requires a city selection committee to conduct regular meetings at the times specified by the committee in its rules and regulations, and to meet upon the call of its chairperson. Existing law authorizes the chairperson of the committee to call a special meeting of the committee at any time and requires the chairperson to call a special meeting upon the written request of 50% of the members of the city selection committee.

This bill, for the city selection committee in the County of Los Angeles, would authorize a city selection committee meeting to be conducted by teleconferencing and electronic means.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Los Angeles.


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

SECTION 1. Section 50272 of the Government Code is amended to read:

50272. (a) (1) Representatives of a majority of the number of cities within a county entitled to representation on the city selection committee shall constitute a quorum of the committee.

(2) A majority vote of the representatives of the number of cities within a county entitled to representation on the committee shall be necessary to appoint representatives to boards, commissions, or agencies.

(b) Whenever a quorum is not present at a meeting of any city selection committee, the meeting shall be postponed or adjourned to a subsequent time and place, as determined by the chairperson.

(c) For the city selection committee in the County of Los Angeles, the quorum for a meeting postponed to a subsequent time and place pursuant to subdivision (b) shall be reduced to one-third of all member cities within the county, if the agenda is limited to items that appeared on the immediately preceding agenda where a quorum was not established.

SEC. 2. Section 50277 of the Government Code is amended to read:

50277. (a) A city selection committee shall conduct regular meetings at the times specified by it in its rules and regulations, and shall also meet upon the call of its chairperson.
(b) (1) The chairperson of a selection committee may call a special meeting of the committee at any time, and the chairperson shall call a special meeting of the selection committee upon the written request of 50 percent of the members of the city selection committee.

(2) When a chairperson is required to call a special meeting of a city selection committee pursuant to this section, the meeting shall be called and held within 60 days after receipt of the written request required under paragraph (1).

(3) Within three weeks prior to the date fixed for a special meeting of the committee, the chairperson of the committee shall notify the committee secretary of the date, time, and place of the special meeting.

(c) City—For the city selection committee in the County of Los Angeles, selection committee meetings may be conducted by teleconferencing and electronic means, provided that the meeting complies with all other requirements of this section.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the challenges faced as a result of the current governance structure of the County of Los Angeles.
Item B-8
TO:       City Council Liaison/Legislative/Lobby Committee
FROM:    Cynthia Owens, Policy and Management Analyst
DATE:    April 28, 2021
SUBJECT: Assembly Bill 1199 (Gipson) - Homes for Families and Corporate Monopoly Transparency Excise Tax: qualified property: reporting requirements
ATTACHMENTS:  1. Summary Memo – AB 1199
               2. Bill Text – AB 1199

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

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 1199 (Gipson) - Homes for Families and Corporate Monopoly Transparency Excise Tax: qualified property: reporting requirements (AB 1199) 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 1199 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1199, the Liaisons may recommend the following actions:

1) Support AB 1199;
2) Support if amended AB 1199;
3) Oppose AB 1199;
4) Oppose unless amended AB 1199;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1199, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 22, 2021

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1199 (Gipson) Homes for Families and Corporate Monopoly Transparency  
Excise Tax: qualified property: reporting requirements

Version: Amended in Assembly April 5, 2021

Summary
AB 1199 would require qualified entity, as defined, that owns qualified property, as defined, to report annually to the Secretary of State specified information regarding the qualified property owned by the qualified entity. The bill would require the Secretary of State to create a searchable database, updated annually, on the Secretary of State’s internet website, with the information provided by the qualified entity.

AB 1199 would also impose an annual excise tax upon a qualified taxpayer for the privilege of renting or leasing out qualified property in the state at a rate of 25% of the gross receipts of the qualified taxpayer that are derived from rental income. The bill would require the California Department of Tax and Fee Administration to collect the tax pursuant to the Fee Collection Procedures Law and would require all amounts collected to be deposited in the Homes for Families Fund, which the bill would create. Upon appropriation, the bill would require that moneys in the fund be used for specified purposes relating to rental assistance, homelessness, affordable housing, and housing counseling services.

Background
According to the author’s fact sheet, the tax revenue from AB 1199 could generate $1 to $1.4 billion annually to support first time homebuyer education, down payment assistance programs and rental assistance for low-income families.

Status of Legislation
AB 1199 is currently in Assembly Revenue and Taxation Committee. A hearing date has not been set.

Support
According to the author’s fact sheet, the following are in support:

Affordable Housing Advocates  
Affordable Housing Alliance  
Affordable Housing Network of Santa Clara County  
AIDS Legal Referral Panel  
Alliance for Community Transit - Los Angeles  
Alliance of Californians for Community Empowerment (ACCE)—SPONSOR
American Indian Movement So Cal
Anti-Eviction Mapping Project
Asian Americans Advancing Justice – California
Bend the Arc
Berkeley Tenants Union
Beverly-Vermont Community Land Trust
Burbank Tenants’ Rights Committee
CADEM Renters’ Caucus
California Capital Financial Development Corporation
California Coalition for Rural Housing
California Community Land Trust Network
California Democratic Council
California Faculty Association - San Francisco State University
California Reinvestment Coalition—SPONSOR
Causa Justa :: Just Cause
CDC Small Business Finance
Center for LGBTQ Economic Advancement & Research
Central Valley Realtist Board of NAREB
Château Shatto
City Heights Community Development Corporation
Clergy and Laity United for Economic Justice (CLUE)
Coachella Valley Housing Corporation
Coalition for Economic Survival (CES)
Coalition for Humane Immigrant Rights (CHIRLA)
Community Financial Resources
Courage California
Crenshaw Subway Coalition
East Bay Housing Organizations
East Los Angeles Community Corporation
East Yard Communities for Environmental Justice
EPACANDO
Esperanza Community Housing Corporation
Eviction Defense Collaborative
Eviction Defense Network
Fair Housing Advocates of Northern California
Fair Housing Council of the San Fernando Valley
First Unitarian Church of Los Angeles
The Greenlining Institute
Haven Neighborhood Services
The Hayward Collective
Homeownership SF
Housing and Economic Rights Advocates
Housing Equality & Advocacy Resource Team (HEART LA)
Housing Long Beach
Housing Rights Center
Housing Rights Committee San Francisco—SPONSOR
HPP Cares Community Development Corporation
Inclusive Action for the City
Inland Empire Association of Realtists
Inner City Law Center
Inquilinos Unidos
KIWA (Koreatown Immigrant Workers Alliance)
Koreatown Youth & Community Center
LA Forward
Law Foundation of Silicon Valley
Maternal and Child Health Access
Me Too Survivors’ March International
Mission Economic Development Agency (MEDA)
Multicultural Real Estate Alliance for Urban Change
Mutual Housing California
NAACP Stockton Branch
National CAPACD- National Coalition for Asian Pacific American Community Development
National Council of Jewish Women Los Angeles
National Harm Reduction Coalition
National Housing Law Project
National Union of Healthcare Workers
Neighborhood Housing Services Los Angeles—SPONSOR
New Economics for Women
North Bay Tenants Project/ Sonoma County Tenants Union
Northern California Land Trust
Neighborhood Partnership Housing Services, Inc.
Oakland Community Land Trust
One Redwood City
Pasadena Tenants Union
Peace and Freedom Party
Public Counsel
The Public Interest Law Project
PUENTE Learning Center
R&N Strategies
Reinvent South Stockton Coalition  
Renaissance Entrepreneurship Center  
Renewed Hope Housing Advocates  
Rent and Mortgage Relief SLO County  
RISE Coalition  
Sacred Heart Community Service of San Jose  
Sacramento Housing Alliance  
Sacramento Tenants Union  
SAJE (Strategic Actions for a Just Economy)  
San Francisco Anti-Displacement Coalition  
San Francisco Democratic County Central Committee  
Seminary of the Street  
Senior and Disability Action  
Silicon Valley Rising Action  
Social Justice Learning Institute  

**Opposition**  
None listed at this time.
Attachment 2
An act to add Article 8 (commencing with Section 12280) to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, and to add Part 6.8 (commencing with Section 11951) to Division 2 of the Revenue and Taxation Code, relating to landlords, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1199, as amended, Gipson. Homes for Families and Corporate Monopoly Transparency Excise Tax: qualified property: reporting requirements.

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

This bill would require a qualified entity, as defined, that owns qualified property, as defined, to report annually to the Secretary of State specified information regarding the qualified property owned by the qualified entity. The bill would require the Secretary of State to create a searchable database, updated annually, on the Secretary of State’s internet website, with the information provided by the qualified entity.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.
This bill would impose an annual excise tax upon a qualified taxpayer, as defined, for the privilege of renting or leasing out qualified property, as defined, in this state at an unspecified rate based on 25% of the gross receipts of the qualified taxpayer that are derived from rental income. The bill would require the California Department of Tax and Fee Administration to collect the tax pursuant to the Fee Collection Procedures Law and would require all amounts collected, less refunds and administrative costs, to be deposited in the Homes for Families Fund, which the bill would create. Upon appropriation, the bill would require that moneys in the fund be used for specified purposes relating to rental assistance, homelessness, affordable housing, and housing counseling services.

Because the bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, the bill would impose a state-mandated local program.

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

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


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

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

(a) California has an unprecedented shortage of housing. According to the California Housing Partnership Corporation, 1,299,120 low-income renter households in California do not have access to an affordable home.

(b) Currently, 500,000 properties in California are owned by corporations, and over 250,000 properties are owned by entities that own 10 or more properties.

(c) Sixty-seven percent of rental units in the City of Los Angeles are owned by investment vehicles, according to Strategic Actions for a Just Economy.
(d) Research of the Great Recession found that foreclosed properties in the urban core and inner-ring suburbs of the Los Angeles region were much more likely to be purchased by corporate investors rather than owner-occupants, signaling a longer-term transfer of wealth out of the hands of Black and Latinx communities and into those of real estate investors that were able to sweep up foreclosed properties during the Great Recession.

(e) COVID-19 has created physical, emotional, and financial distress for millions, with the federal Consumer Financial Protection Bureau finding that 11,000,000 Americans are worried about imminent foreclosure or eviction for failure to make housing payments.

(f) Nearly one-fifth (17 percent) of renters in California, or over 2,000,000 families, were behind in their rent payments as of the beginning of January 2021.

(g) Analysis by Neighborhood Housing Services of Los Angeles County and the Center for Neighborhood Knowledge at the University of California, Los Angeles, found that compared with non-Hispanic Whites, African American households experienced more pandemic job losses resulting in financial difficulties in paying for usual household expenses, are nearly one and one-half times as likely to have difficulty paying a mortgage, feel less financially secure about the immediate future, and are over twice as likely to have low confidence in meeting next month’s mortgage payments. Further, the foreclosure notice rate is over one and one-half times as great in Black neighborhoods. The paper concluded that thousands of African Americans will lose their homes if no actions are taken.

(h) At the same time, real estate interests have received billions of dollars in tax breaks, and 10 of the largest landlords in California have increased their wealth by billions of dollars during the pandemic and have amassed $191 billion cash on hand and available to purchase additional properties.

(i) It is the intent of the Legislature to prevent large corporations and investors from denying working class families and first-time homebuyers the option to buy homes.

(j) It is the intent of the Legislature to prevent corporations from unnecessarily inflating rental prices and gouging tenants with high and unnecessary fees.
It is the intent of the Legislature to mitigate the impact of abusive practices of large corporate landlords who are more likely to acquire available homes, raise rents, evict tenants, and operate rental units with habitability issues, as compared to smaller “mom and pop” landlords.

It is the intent of the Legislature to prevent landlords from hiding behind limited liability corporations (LLCs) and similarly opaque legal structures. Property records and ownership have been historically transparent in America for the good of the public. The rise of LLCs and other legal entities has made it harder for tenants to know who owns their home and how to address problems, as well as making it harder for law enforcement agencies to investigate and prosecute crimes, such as money laundering.

It is the intent of the Legislature that the California Department of Tax and Fee Administration, the Franchise Tax Board, and the Secretary of State coordinate activities as appropriate so that residents know who their landlords are, so that communities know who owns property in their neighborhoods, and so that large corporate landlords are taxed according to the provisions of this act.

SECTION 1.

SEC. 2. Article 8 (commencing with Section 12280) is added to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 8. Reporting Requirements for Qualified Entities

12280. (a) On or before February 1, 2023, and on or before February 1 each year thereafter, a qualified entity that owns qualified property shall, upon registration or renewal of registration with the Secretary of State, or submission of a statement of information to the Secretary of State, report the following information to the Secretary of State in the form and manner as required by the Secretary of State:

(1) The identity of the beneficial owner of each qualified property owned by the qualified entity in the previous calendar year.

(2) The number of units for each qualified property owned by the qualified entity in the previous calendar year that were offered for rent or lease.
(b) The Secretary of State shall create a searchable database, updated annually, on the Secretary of State’s internet website, with the information provided by the qualified entity in subdivision (a).

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

(1) (A) Except as otherwise provided in subparagraph (B), “beneficial owner” means a natural person for whom, directly or indirectly and through any contract arrangement, understanding, relationship, or otherwise, any of the following applies:
   (i) The person exercises substantial control over a qualified entity.
   (ii) The person owns 25 percent or more of the equity interest of a qualified entity.
   (iii) The person receives substantial economic benefits from the assets of a qualified entity.
   (B) “Beneficial owner” does not include any of the following:
      (i) A minor child.
      (ii) A person acting as a nominee, intermediary, custodian, or agent on behalf of another person.
      (iii) A person acting solely as an employee of a qualified entity and whose control over or economic benefits from that qualified entity derives solely from the employment status of the person.
      (iv) A person whose only interest in a qualified entity is through a right of inheritance.
      (v) A creditor of a qualified entity, unless the creditor meets the requirements specified in subparagraph (A).

(2) “Qualified entity” means a limited liability company or a limited partnership, corporation, limited liability company, limited partnership, trust, or other similar legal entity.

(3) “Qualified property” has the same meaning as that term is defined in Section 11952 of the Revenue and Taxation Code.

(d) It is the intent of the Legislature that the reporting obligations established by this section be subject to the same penalties and enforcement provisions as provided in the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).
SEC. 2.  
SEC. 3. Part 6.8 (commencing with Section 11951) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 6.8. HOMES FOR FAMILIES AND CORPORATE MONOPOLY TRANSPARENCY EXCISE TAX

11951. This part shall be known, and may be cited, as the Homes for Families and Corporate Monopoly Transparency Excise Tax Law.

11952. For purposes of this part:
(a) “Affordable housing unit” means a housing unit where rents are legally restricted to reflect no more than 30 percent of the household income for persons and families of low or moderate income.
(b) “Affordable housing unit” means a housing unit where occupancy is legally restricted by a recorded covenant with a public entity, with a term of at least 30 years, to lower income households at an affordable rent, as that term is defined in Section 50053 of the Health and Safety Code, or at a rent that is consistent with the limits established by the California Tax Credit Allocation Committee.
(c) “Department” means the California Department of Tax and Fee Administration.
(d) “Fund” means the Homes for Families Fund created pursuant to Section 11960.
(e) “Lower income households” has the same meaning as that term is defined in Section 50079.5 of the Health and Safety Code.
(f) (1) “Qualified property” means real property that is offered for rent or lease and that is either of the following:
   (A) A single-family dwelling.
   (B) A multifamily dwelling.
(2) “Qualified property” does not include property where 50 percent or more of the units are affordable housing units.
(g) (1) “Qualified taxpayer” means a person or entity that owns 10 or more qualified properties that are single family dwellings or 25 or more qualified properties that are either single family residential dwellings or multifamily dwellings in this state during the calendar year.

(2) “Qualified taxpayer” does not include any of the following:

(A) An eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable rental housing.

(B) A limited partnership in which the managing general partner is an eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable housing.

(C) A limited liability company in which the managing member is an eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable rental housing.

(D) A community land trust as defined in Section 402.1.

(E) A limited-equity housing cooperative as defined in Section 817 of the Civil Code.

(F) The state, the Regents of the University of California, a county, city, district, public authority, or public agency, and any other political subdivision or public corporation in the state.

(h) “Single family dwelling” means a residential structure with less than five dwelling units.

11955. (a) An annual excise tax is hereby imposed upon a qualified taxpayer for the privilege of renting or leasing out qualified property in this state at a rate of 25 percent of the gross receipts of the qualified taxpayer that are derived from rental income.

(b) It is the intent of the Legislature to enact legislation that would increase do the following:

(1) Increase the rate specified in subdivision (a) based on the overall number of qualified properties.

(2) Increase the rate specified in subdivision (a) if the qualified taxpayer receives a certain number of code violations issued by the building department or health department of a city or county.

11957. (a) The department shall administer and collect the excise tax imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For
purposes of this part, references in the Fee Collection Procedures Law to “fee” shall include the tax imposed by this part and references to “feepayer” shall include any person or entity liable for the payment of the tax imposed by this part.

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

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

11958. The tax imposed by this part shall not be passed through to tenants by way of higher rents.

11960. (a) The Homes for Families Fund is hereby created in the State Treasury.

(b) All taxes, interest, penalties, and other amounts collected pursuant to this part, less refunds and costs of administration, shall be deposited in the fund.

(c) Upon appropriation, moneys in the fund shall be used for the following purposes:

(1) Rental assistance and relief for California tenants.

(2) Support for legal services to prevent evictions, harassment, and violations of law by landlords.

(3) Providing services and programs for persons experiencing homelessness in this state, including veterans.

(4) Supporting the protection of existing, and the production of new, housing with an affordable housing cost or affordable rent, as defined in Sections 50052.5 and 50053, respectively, of the Health and Safety Code.

(5) Housing counseling services to promote homeownership.

(6) Job training apprenticeship programs, and programs.
Financial support for landlords that own fewer than 10 properties and have lost rental income from tenants due to COVID-19.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 5. 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 order to discourage large corporate landlords from increasing acquisitions of distressed assets, raising rents, and displacing tenants, to provide relief to tenants facing evictions, and to provide support for home ownership during a health and economic crisis, it is necessary that this act take effect immediately.
Item B-9
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: April 28, 2021
SUBJECT: Assembly Bill 1258 (Nguyen) Housing element: regional housing need plan: judicial review
ATTACHMENTS: 1. Summary Memo – AB 1258
2. Bill Text – AB 1258

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

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 1258 (Nguyen) Housing element: regional housing need plan: judicial review (AB 1258) 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 1258 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1258, the Liaisons may recommend the following actions:

1) Support AB 1258;
2) Support if amended AB 1258;
3) Oppose AB 1258;
4) Oppose unless amended AB 1258;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1258, then staff will place the item on a future City Council Agenda for concurrence.
April 22, 2021

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1258 (Nguyen) Housing element: regional housing need plan: judicial review

Version  
As Amended in the Assembly on March 22, 2021

Summary  
Would make the final written determination of a region’s housing needs subject to judicial review in an action brought by the council of governments (COG).

The bill would also specify that the final regional housing need plan adopted by the council of governments or the State Department of Housing and Community Development (HCD), as the case may be, shall be subject to judicial review.

Existing Law  
The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a housing element.

Existing law also requires that the housing element include, among other things, an inventory of land suitable and available for residential development that identifies sites 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, as specified.

Background  
Since 1969, the State of California has required all local governments (cities and counties) to produce and maintain adequate plans to meet the housing needs of everyone in the community. Local governments work to comply with this requirement by adopting housing plans as part of their “general plan” (also required by the state).

General plans serve as “blueprint” for how local jurisdictions will grow and develop and include seven elements: land use, transportation, conservation, noise, open space, safety, and housing. The law mandating that housing be included as an element of each jurisdiction’s general plan is known as “housing-element law.”

California’s housing-element law acknowledges that, in order for the private market to accommodate housing needs and demand, local governments must adopt plans and regulatory systems that provide opportunities for the development of housing within their jurisdictions. As a
result, housing policy in California rests largely on the effective implementation of local general plans and local housing elements.

Under current law, local jurisdictions are required to prepare an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites. That inventory must identify specific sites or parcels that are available for residential development.

HCD plays the critical role of reviewing housing element plan for each jurisdiction to determine whether they comply with state law. HCD must then submit written findings back to each local government. HCD must approve housing elements for each jurisdiction before they can be adopted and incorporated into local General Plans.

HCD is responsible for determining the regional housing needs assessment (segmented by income levels) for each region’s planning body known as a “council of governments” (COG). HCD starts with demographic population information from the California Department of Finance and uses a formula to calculate a figure for each region/COG.

Each COG uses its own demographic figures to calculate what it believes the regional housing need is. Each COG then coordinates with HCD ― taking into account factors not captured in the calculations ― to arrive at a final figure. This final figure is the regional housing needs assessment.

**Status of Legislation**
AB 1258 is currently pending in the Assembly Committee on Housing and Community Development.

**Support**
None listed at this time.

**Opposition**
None listed at this time.
Attachment 2
An act to amend Section 65584 of the Government Code, relating to housing—An act to amend Sections 65584 and 65584.01 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

AB 1258, as amended, Nguyen. Housing element: regional housing need plan: judicial review.

Existing law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. Under existing law, a part of the housing element is an assessment of housing needs, which includes the locality’s share of the regional housing need. Under existing law the Department of Housing and Community Development, in consultation with each council of governments, determines each region’s existing and projected housing needs. Under existing law, upon making that determination, the council of governments may object to the determination, and the department is required to respond to an objection by making a final written determination. Existing law requires that, based on the determination of the department, a council of governments, or for cities and counties without a council of governments, the department, adopts a final regional housing need plan that allocates a share of the regional housing need to each locality in the region.

This bill would subject the department’s final written determination of a region’s housing needs to judicial review in an action brought by
the council of governments. The bill would also subject the final regional housing need plan adopted by the council of governments or the department, as the case may be, to judicial review.

Existing law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. Under existing law, a part of the housing element is an assessment of housing needs, which includes the locality's share of the regional housing need. Under existing law the appropriate council of governments, or for cities and counties without a council of governments, the Department of Housing and Community Development, adopts a final regional housing need plan that allocates a share of the regional housing need to each locality in the region.

This bill would subject the final regional housing need plan to judicial review.


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

SECTION 1. Section 65584 of the Government Code is amended to read:

65584. (a) (1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.

(2) It is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, and reasonable actions should be taken by local and regional governments to ensure that future housing production meets, at a minimum, the regional housing need established for planning purposes. These actions shall include applicable reforms and incentives in Section 65582.1.
(3) The Legislature finds and declares that insufficient housing in job centers hinders the state’s environmental quality and runs counter to the state’s environmental goals. In particular, when Californians seeking affordable housing are forced to drive longer distances to work, an increased amount of greenhouse gases and other pollutants is released and puts in jeopardy the achievement of the state’s climate goals, as established pursuant to Section 38566 of the Health and Safety Code, and clean air goals.

(b) (1) The department, in consultation with each council of governments, shall determine each region’s existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05.

(2) The final regional housing need plan adopted under paragraph (1) by the council of governments or the department, as the case may be, shall be subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the council of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.

(d) The regional housing needs allocation plan shall further all of the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction
receiving an allocation of units for low- and very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.

(5) Affirmatively furthering fair housing.

(e) For purposes of this section, “affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

(f) For purposes of this section, “household income levels” are as determined by the department as of the most recent American Community Survey pursuant to the following code sections:

(1) Very low incomes as defined by Section 50105 of the Health and Safety Code.

(2) Lower incomes, as defined by Section 50079.5 of the Health and Safety Code.

(3) Moderate incomes, as defined by Section 50093 of the Health and Safety Code.
(4) Above moderate incomes are those exceeding the moderate-income level of Section 50093 of the Health and Safety Code.

(g) Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08 are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 2. Section 65584.01 of the Government Code is amended to read:

65584.01. For the fourth and subsequent revision of the housing element pursuant to Section 65588, the department, in consultation with each council of governments, where applicable, shall determine the existing and projected need for housing for each region in the following manner:

(a) The department’s determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If agreement is not reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified.
by the department as a result of discussions with the council of governments.
(b) (1) At least 26 months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region’s housing needs. The council of governments shall provide data assumptions from the council’s projections, including, if available, the following data for the region:
   (A) Anticipated household growth associated with projected population increases.
   (B) Household size data and trends in household size.
   (C) The percentage of households that are overcrowded and the overcrowding rate for a comparable housing market. For purposes of this subparagraph:
      (i) The term “overcrowded” means more than one resident per room in each room in a dwelling.
      (ii) The term “overcrowded rate for a comparable housing market” means that the overcrowding rate is no more than the average overcrowding rate in comparable regions throughout the nation, as determined by the council of governments.
   (D) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.
   (E) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs. For purposes of this subparagraph, the vacancy rate for a healthy rental housing market shall be considered no less than 5 percent.
   (F) Other characteristics of the composition of the projected population.
   (G) The relationship between jobs and housing, including any imbalance between jobs and housing.
   (H) The percentage of households that are cost burdened and the rate of housing cost burden for a healthy housing market. For the purposes of this subparagraph:
      (i) The term “cost burdened” means the share of very low, low-, moderate-, and above moderate-income households that are paying more than 30 percent of household income on housing costs.
(ii) The term “rate of housing cost burden for a healthy housing market” means that the rate of households that are cost burdened is no more than the average rate of households that are cost burdened in comparable regions throughout the nation, as determined by the council of governments.

(I) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the data request.

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (I), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments. The methodology submitted by the department may make adjustments based on the region’s total projected households, which includes existing households as well as projected households.

(c) (1) After consultation with the council of governments, the department shall make a determination of the region’s existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (b). The region’s existing and projected housing need shall reflect the achievement of a feasible balance between jobs and housing within the region using the regional employment projections in the applicable regional transportation plan. Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department’s determination of the region’s existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (a), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.
(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (b). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (b), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (b).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region’s existing and projected housing need that includes an explanation of the information upon which the determination was made.

(4) The final written determination of the region’s existing and projected housing need, pursuant to paragraph (3), shall be subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure. Such action shall be brought by the council of governments.

(d) Statutory changes enacted after the date the department issued a final determination pursuant to this section shall not be a basis for a revision of the final determination.

SECTION 1. Section 65584 of the Government Code is amended to read:

65584. (a) (1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county:

(2) It is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, and reasonable actions should be taken by local and regional governments to
ensure that future housing production meets, at a minimum, the regional housing need established for planning purposes. These actions shall include applicable reforms and incentives in Section 65582.1.

(3) The Legislature finds and declares that insufficient housing in job centers hinders the state’s environmental quality and runs counter to the state’s environmental goals. In particular, when Californians seeking affordable housing are forced to drive longer distances to work, an increased amount of greenhouse gases and other pollutants is released and puts in jeopardy the achievement of the state’s climate goals, as established pursuant to Section 38566 of the Health and Safety Code, and clean air goals.

(b) (1) The department, in consultation with each council of governments, shall determine each region’s existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05.

(2) The final regional housing need plan adopted under paragraph (1) by the council of governments or the department, as the case may be, shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the council of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.
(d) The regional housing needs allocation plan shall further all of the following objectives:

1. Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low—and very low—income households.

2. Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

3. Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

4. Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.

5. Affirmatively furthering fair housing.

(e) For purposes of this section, “affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

(f) For purposes of this section, “household income levels” are as determined by the department as of the most recent American Community Survey pursuant to the following code sections:

(2) Lower incomes, as defined by Section 50079.5 of the Health and Safety Code.

(3) Moderate incomes, as defined by Section 50093 of the Health and Safety Code.

(4) Above moderate incomes are those exceeding the moderate-income level of Section 50093 of the Health and Safety Code.

(g) Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08 are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
Item B-10
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Senate Bill 5 (Atkins) - Affordable Housing Bond Act of 2022 (SB 5) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 5 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 5, the Liaisons may recommend the following actions:

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

Should the Liaisons recommend the City take a position on SB 5, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 22, 2021

To: Cindy Owens, City of Beverly Hills

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

Re: SB 5 (Atkins) Housing Bond Act of 2022

Version: Amended in Senate March 10, 2021

Summary

SB 5, as currently written, would enact the Affordable Housing Bond Act of 2022, which would authorize the issuance of bonds in the amount of $6.5 billion. Proceeds from the sale of these bonds would be used to fund affordable rental housing and homeownership programs. The bond would have to be approved by voters on the 2022 ballot.

Background/Synopsis

Fueled by low interest rates and a historic housing shortage, the New York Times reported that the median home price in California reached $712,430 in September 2020, closing out four straight months of record highs. The state’s housing market briefly cooled in the early months in the coronavirus pandemic, but by June, they were fully on the rebound, with the median sales price reaching $626,200, the highest ever at the time, according to a report from the California Department of Finance (DOF). As mortgage rates remain below 3 percent and many buyers looked to upgrade to larger homes, that number could continue to climb. In August 2020, the median price crept above $700,000 for the first time in history.

Proposition 46 of 2002 provided $2.1 billion for a variety of affordable housing programs, and Proposition 1C of 2006 provided an additional $2.85 billion. Both Proposition 46 and Proposition 1C provided roughly four to five years of funding, and the state’s Department of Housing and Community Development (HCD) has awarded just about all of these funds. California also lost tax increment as a funding stream for affordable housing with the dissolution of redevelopment agencies. With the loss of redevelopment and expenditure of the last voter-approved housing bonds, $1.5 billion of annual state investment dedicated to housing has been eliminated.

As defined by the U.S. Department of Housing and Urban Development, housing is considered affordable when a person pays no more than 30 percent of their income toward housing costs. Housing costs for renters include rent plus utilities, and for homeowners, include mortgage payments, taxes, insurance, and utilities. When a person pays more than 30 percent of their income toward housing costs, they are considered housing cost burdened. When a person pays more than 50 percent of their income toward housing costs, they are considered severely housing cost burdened.
California’s high housing costs disproportionately affect extremely low- and very low-income households, but many low- and moderate-income households also have trouble renting a home at an affordable level.

SB 5 is part of a package of housing bills introduced by Senate Pro Tem Toni Atkins and several other members of the Senate Democratic Caucus on December 7, 2020. This group of bills is known as the Building Housing Opportunities For All Senate Housing Package. According to the Senate Democratic Caucus, these bills are intended to empower homeowners who want to help solve the crisis, and “provides more land-use tools and flexibility to meet the needs of local governments and community partners, and streamlines procedural hurdles.”

**Status of Legislation**
The bill has been referred to Senate Housing and Governance and Finance Committees. A hearing date has not been set for either committees.

**Support**
None received at this time

**Oppose**
None received at this time
Attachment 2
SENATE BILL No. 5

Introduced by Senators Atkins, Caballero, McGuire, Rubio, Skinner, and Wiener

December 7, 2020

An act relating to housing.
An act to add Part 17 (commencing with Section 54050) to Division 31 of the Health and Safety Code, relating to housing, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds.

LEGISLATIVE COUNSEL’S DIGEST


Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time homebuyers. Existing law also authorizes the issuance of bonds in specified amounts pursuant to the State General Obligation Bond Law and requires that proceeds from the sale of these bonds be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks.

This bill would state the intent of the Legislature to enact legislation that would authorize the issuance of bonds and would require the proceeds from the sale of those bonds to be used to finance housing-related programs that serve the homeless and extremely low income and very low income Californians.
This bill would enact the Affordable Housing Bond Act of 2022, which, if adopted, would authorize the issuance of bonds in the amount of $6,500,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds would be used to fund affordable rental housing and homeownership programs. The bill would state the intent of the Legislature to determine the allocation of those funds to specific programs.

This bill would provide for submission of the bond act to the voters at the November 8, 2022, statewide general election in accordance with specified law.


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

SECTION 1. Part 17 (commencing with Section 54050) is added to Division 31 of the Health and Safety Code, to read:

PART 17. AFFORDABLE HOUSING BOND ACT OF 2022

Chapter 1. General Provisions

54050. This part shall become operative only upon adoption by the voters at the November 8, 2022, statewide general election.

54051. This part shall be known as the Affordable Housing Bond Act of 2022.

54052. For purposes of this part, “fund” means the Affordable Housing Bond Act Trust Fund of 2022 created pursuant to Section 50054.

Chapter 2. Affordable Housing Bond Act Trust Fund and Program

54054. (a) The Affordable Housing Bond Act Trust Fund of 2022 is hereby created within the State Treasury. It is the intent of the Legislature that the proceeds of bonds (exclusive of refunding bonds issued pursuant to Section 54074) be deposited in the fund and used to fund affordable rental housing and homeownership programs.
(b) It is the intent of the Legislature to further determine the allocation of these funds to specific programs.

54056. (a) The Legislature may, from time to time, amend any law related to programs to which funds are, or have been, allocated pursuant to this chapter for the purposes of improving the efficiency and effectiveness of those programs or to further the goals of those programs.

(b) The Legislature may amend this chapter to reallocate the proceeds of bonds issued and sold pursuant to this part among the programs to which funds are to be allocated pursuant to this chapter as necessary to effectively promote the development of affordable housing in this state.

54057. It is the intent of the Legislature to develop and implement high-road labor policies to use a skilled construction workforce to build projects utilizing bond funds.


54058. Bonds in the total amount of six billion five hundred million dollars ($6,500,000,000), exclusive of refunding bonds issued pursuant to Section 54074, or so much thereof as is necessary as determined by the committee, are hereby authorized to be issued and sold for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. All bonds herein authorized that have been duly issued, sold, and delivered as provided herein shall constitute valid and binding general obligations of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both principal of and interest on those bonds when due.

54060. The bonds authorized by this part shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except subdivisions (a) and (b) of Section 16727 of the Government Code, and all of the provisions of that law as amended from time to time apply to the bonds and to this part, except as provided in Section 54076, and are hereby incorporated in this part as though set forth in full in this part.
54062. (a) Solely for the purpose of authorizing the issuance
and sale, pursuant to the State General Obligation Bond Law, of
the bonds authorized by this part, the committee is continued in
existence. For the purposes of this part, the Housing Finance
Committee is “the committee” as that term is used in the State
General Obligation Bond Law.

(b) For the purposes of the State General Obligation Bond Law,
the Department of Housing and Community Development is
designated the “board” for programs administered by the
department, and the California Housing Finance Agency is the
“board” for programs administered by the agency.

54064. Upon request of the board stating that funds are needed
for purposes of this part, the committee shall determine whether
or not it is necessary or desirable to issue bonds, and, if so, the
amount of bonds to be issued and sold. Successive issues of bonds
may be authorized and sold to carry out those actions progressively
and are not required to be sold at any one time. Bonds may bear
interest subject to federal income tax.

54066. There shall be collected annually, in the same manner
and at the same time as other state revenue is collected, a sum of
money in addition to the ordinary revenues of the state, sufficient
to pay the principal of, and interest on, the bonds each year. It is
the duty of all officers charged by law with any duty in regard to
the collections of state revenues to do or perform each and every
act that is necessary to collect that additional sum.

54068. Notwithstanding Section 13340 of the Government
Code, there is hereby continuously appropriated from the General
Fund in the State Treasury, for the purposes of this part, an amount
that will equal the total of both of the following:

(a) The sum annually necessary to pay the principal of, and
interest on, bonds issued and sold pursuant to this part, as the
principal and interest become due and payable.

(b) The sum that is necessary to carry out Section 54072,
appropriated without regard to fiscal years.

54070. The board may request the Pooled Money Investment
Board to make a loan from the Pooled Money Investment Account,
in accordance with Section 16312 of the Government Code, for
purposes of this part. The amount of the request shall not exceed
the amount of the unsold bonds that the committee has, by
resolution, authorized to be sold, excluding any refunding bonds
authorized pursuant to Section 54074, for purposes of this part, less any amount loaned pursuant to this section and not yet repaid and any amount withdrawn from the General Fund pursuant to Section 54072 and not yet returned to the General Fund. The board shall execute any documents as required by the Pooled Money Investment Board to obtain and repay the loan. An amount loaned shall be deposited in the fund to be allocated in accordance with this part.

54072. For purposes of carrying out this part, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold, excluding any refunding bonds authorized pursuant to Section 54074, for purposes of this part, less any amount loaned pursuant to Section 54070 and not yet repaid and any amount withdrawn from the General Fund pursuant to this section and not yet returned to the General Fund. Any amounts withdrawn shall be deposited in the fund to be allocated in accordance with this part. Any moneys made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from moneys received from the sale of bonds that would otherwise be deposited in that fund.

54074. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. Approval by the electors of this act shall constitute approval of any refunding bonds issued to refund bonds issued pursuant to this part, including any prior issued refunding bonds. A bond refunded with the proceeds of a refunding bond as authorized by this section may be legally defeased to the extent permitted by law in the manner and to the extent set forth in the resolution, as amended from time to time, authorizing that refunded bond.

54076. Notwithstanding any provisions in the State General Obligation Bond Law, the maturity date of bonds authorized by this part shall not be later than 35 years from the date of each bond. The maturity of each series shall be calculated from the date of issuance of each bond.

54078. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by
this part are not “proceeds of taxes” as that term is used in Article
XIII B of the California Constitution, the disbursement of these
proceeds is not subject to the limitations imposed by that article.

54080. Notwithstanding any provision of the State General
Obligation Bond Law with regard to the proceeds from the sale
of bonds authorized by this part that are subject to investment
under Article 4 (commencing with Section 16470) of Chapter 3 of
Part 2 of Division 4 of Title 2 of the Government Code, the
Treasurer may maintain a separate account for investment
earnings, may order the payment of those earnings to comply with
any rebate requirement applicable under federal law, and may
otherwise direct the use and investment of those proceeds so as to
maintain the tax-exempt status of tax-exempt bonds and to obtain
any other advantage under federal law on behalf of the funds of
this state.

54082. (a) Subject to subdivision (b), all moneys derived from
premiums and accrued interest on bonds sold pursuant to this part
shall be transferred to the General Fund as a credit to expenditures
for bond interest.

(b) Amounts derived from premiums may be reserved and used
to pay the costs of bond issuance before transfer to the General
Fund.

SEC. 2. Section 1 of this act shall be submitted by the Secretary
of State to the voters as the Affordable Housing Bond Act of 2022
at the November 8, 2022, statewide general election.

SECTION 1. It is the intent of the Legislature to enact
legislation that would authorize the issuance of bonds and would
require the proceeds from the sale of those bonds to be used to
finance housing-related programs that serve the homeless and
extremely low-income and very low-income Californians over the
course of the next decade.
Item B-11
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: April 28, 2021

SUBJECT: Senate Bill 344 (Hertzberg) - California Emergency Solutions and Housing Program: grants: homeless shelters: pets and veterinary services

ATTACHMENTS: 1. Summary Memo – SB 344
  2. Bill Text – SB 344

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

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Senate Bill 344 (Hertzberg) - California Emergency Solutions and Housing Program: grants: homeless shelters: pets and veterinary services (SB 344) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City's state lobbyist, Shaw Yoder AntwiH Schmelzer & Lange, provided a summary memo for SB 344 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 344, the Liaisons may recommend the following actions:

1) Support SB 344;
2) Support if amended SB 344;
3) Oppose SB 344;
4) Oppose unless amended SB 344;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 344, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 9, 2021

To: Cindy Owens, City of Beverly Hills

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

Re: SB 344 (Hertzberg) - Homeless shelters grants: pets and veterinary services

Version: Amended in Senate March 22, 2021

Introduction and Background
SB 344 would require the Department of Housing and Community Development (HCD) to develop and administer a program to award grants to qualified homeless shelters for the provision of shelter, food, and basic veterinary services for pets owned by individuals experiencing homelessness. The nonprofit Pets of the Homeless estimates that five to 10 percent of the 3.5 million Americans experiencing homelessness have dogs or cats. The majority of homeless shelters, motels, and other assisted housing programs do not allow individuals to keep pets that do not qualify as services animals. As a result, many homeless individuals refuse housing and services if a condition of assistance requires the abandonment of their pets.

The 2019 budget agreement (SB 109, Committee on Budget and Fiscal Review, Chapter 363, Statutes of 2019) allocated $5 million to HCD for grants to provide shelter, food, and basic veterinary services for the pets of individuals in homeless shelters. HCD issued a notice of funding availability (NOFA) for the Pet Assistance and Support (PAS) program in December 2019. PAS grants were available to cities, counties, and nonprofit corporations with a primary mission to shelter individuals experiencing homelessness and meeting the definition of “qualified shelter” (have rules of conduct and responsibility, provide crates or kenneling, provide food to both homeless individuals and their pets, and offer veterinarian services). HCD received 49 applications for PAS grants, totaling $9 million. All funding was awarded to 28 shelters in April 2020; grants were set at $100,000 to $200,000, depending on the applicant’s operating budget and funding gap. All grant funds must be spent by December 30, 2022.

SB 344 would require HCD to develop and administer a program to award grants to qualified homeless shelters for the provision of shelter, food, and basic veterinary services for pets owned by people experiencing homelessness. A qualified shelter must meet or commit to meet the following conditions:

- It has rules of conduct and responsibility regarding pets and their owners.
- It provides crates or kenneling either near bunks or in a separate area.
- It provides food for both people experiencing homelessness and their pets.
- It offers the services of a veterinarian, including spay and neutering services.
The bill authorizes HCD to use up to 5% of funds appropriated for these purposes for its administrative costs and authorizes the department to implement the program through the issuance of forms, guidelines, and NOFAs that are exempted from the rulemaking provisions of the Administrative Procedures Act.

**Status of Legislation**
The bill is currently on the Senate Appropriations Committee’s Suspense File.

**Support**
California Catholic Conference  
Humane Society of the United States  
American Society for the Prevention of Cruelty to Animals (ASPCA)  
Best Friends Animal Society  
Mars Petcare  
Santa Cruz County Animal Shelter  
Union Station Homeless Services  
Mars, Incorporated  
Feeding Pets of the Homeless

**Opposition**
None listed at this time.
Attachment 2
An act to add Section 50491 to Chapter 3.6 (commencing with Section 50535) to Part 2 of Division 31 of the Health and Safety Code, relating to homeless shelters.

LEGISLATIVE COUNSEL’S DIGEST


Existing law establishes the California Emergency Solutions and Housing Program, under the administration of the Department of Housing and Community Development and requires the department to, among other things, provide rental assistance and housing relocation and stabilization services to ensure housing affordability to people who are experiencing homelessness or who are at risk of homelessness.

This bill would require the department to develop and administer a program to award grants to qualified homeless shelters, as described, for the provision of shelter, food, and basic veterinary services for pets owned by people experiencing homelessness. The bill would authorize the department to use up to 5% of the funds appropriated in the annual Budget Act for those purposes for its costs in administering the program.

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

(a) California is experiencing increased homelessness.
(b) According to Pets of the Homeless, of the 3,500,000 Americans who are homeless, 5 to 10 percent have dogs or cats.
(c) Many shelters, motels, and other assisted housing programs do not permit animals on their property, pushing potential recipients to live in cars, recreational vehicles (RVs), and tent camps.
(d) Being asked to abandon a pet is a major barrier to engaging homeless persons to use services and is emotionally draining to an already vulnerable population.
(e) Pets provide warmth, security, and companionship to many who sleep on the streets. Pets also provide a type of normalcy, as providing food and water for their pets helps some homeless persons connect with reality.
(f) After surrendering a pet, owners reunite with their dogs only 15 percent of the time, while 60 percent or more of animals are left in the animal shelter system and most will die.
(g) By providing services for pets whose owners are without a home, both ends of the leash would be getting needed assistance. More homeless people in need would be inclined to obtain medical and living assistance, and the conditions for their pets would be improved.

SEC. 2. Section 50491 is added to the Health and Safety Code, to read:

50491. (a) The department shall develop and administer a program to award grants to qualified homeless shelters for the provision of shelter, food, and basic veterinary services for pets owned by people experiencing homelessness.
(b) In selecting recipients for grants, the department shall consider whether a qualified homeless shelter was developed using a streamlined approval process.
(e) For purposes of this section, a “qualified homeless shelter” means a homeless shelter that meets all of the following conditions:

(1) It has rules of conduct and responsibility regarding pets and their owners.
(2) It provides crates or kenneling either near bunks or in a separate area.

(3) It provides food for both people experiencing homelessness and their pets.

(4) It offers the services of a veterinarian, including spay and neutering services.

SEC. 2. Chapter 3.6 (commencing with Section 50535) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 3.6. HOMELESS SHELTERS: PETS AND VETERINARY SERVICES

50535. (a) The department shall develop and administer a program to award grants to qualified homeless shelters for the provision of shelter, food, and basic veterinary services for pets owned by people experiencing homelessness.

(b) For purposes of this section, a “qualified homeless shelter” means a homeless shelter that meets or commits to meeting all of the following conditions:

(1) It has rules of conduct and responsibility regarding pets and their owners.

(2) It provides crates or kenneling either near bunks or in a separate area.

(3) It provides food for both people experiencing homelessness and their pets.

(4) It offers the services of a veterinarian, including spay and neutering services.

(c) The department may use up to 5 percent of the funds appropriated in the annual Budget Act for the purposes of this section for its costs in administering the program authorized by this section.

(d) The department may implement the program through the issuance of forms, guidelines, and one or more notices of funding availability, as the department deems necessary, to exercise the powers and perform the duties conferred on it by this chapter. Any forms, guidelines, and notices of funding availability adopted pursuant to this section are hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5
(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
Item B-12
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Senate Bill 477 (Wiener) - General plan: annual report (SB 477) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

According to the analysis performed for the State Senate Committee on Appropriations, this legislation is not considered an unfunded state mandate as local agencies have the authority to charge and adjust planning and permitting fees as necessary to cover administrative costs.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 477 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 477, the Liaisons may recommend the following actions:

1) Support SB 477;
2) Support if amended SB 477;
3) Oppose SB 477;
4) Oppose unless amended SB 477;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 477, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 21, 2021

To: Cindy Owens, City of Beverly Hills

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

Re: SB 477 (Wiener) - General plan: annual report

Version: As introduced on February 17, 2021

Introduction and Background
SB 477 would require cities and counties to submit additional detailed information on housing development projects in annual progress reports (APRs) submitted to the Department of Housing and Community Development (HCD), as specified. The bill would also authorize HCD to assess the accuracy of information submitted as part of the APR and require local planning agencies to correct any inaccurate information.

Existing law requires cities and counties to prepare a general plan comprised of seven mandatory elements, including a housing element that includes an identification of existing and projected housing needs. The housing element must include an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period that is sufficient to meet the regional housing needs for all income levels. Housing elements must be updated every eight years in urban areas, and every five years in more rural areas.

Existing law requires each city and county to submit an APR to HCD and the Governor’s Office of Planning and Research (OPR) that includes specified information relating to progress in meeting the jurisdiction’s share of regional housing needs pursuant to its housing element. Among this information, cities and counties must report zoning and rezoning information, specified information regarding density bonuses granted, the number of housing development applications received in the prior year and the number of proposed units included in those developments, the number of units approved and disapproved in the prior year, and the number of new housing units issued a completed entitlement, building permit, or certificate of occupancy in the housing element cycle, and the income category of each unit.

Specifically, this bill:

- Adds to the APR reporting requirements, beginning January 1, 2023, the following:
  - Streamlining for permanent supportive housing. The number of applications submitted, the location and total number of developments approved, the total
number of building permits issued, and the total number of units including both rental and for-sale housing by AMI constructed, pursuant to AB 2162 of 2018.
  o Project Roomkey. The number of applications submitted, the location and total number of developments approved, the total number of building permits issued, and the total number of units including both rental and for-sale housing by AMI constructed, pursuant to AB 101 of 2019.
  o Low barrier navigation centers. The number of applications submitted, the total number of building permits issued, and the location and total number of developments approved, pursuant to AB 101 of 2019.

• Adds to the APR reporting requirements, beginning January 1, 2023, the following information for each project:
  o A current schedule of mitigation fees, exactions, and affordability requirements imposed on each parcel by the city, county, or special district; zoning ordinances and development standards that apply to each parcel; a list of projects located within military use airspace or low-level flight path; current and five previous annual fee reports; and an archive of impact fee nexus studies. Existing law requires cities and counties to post all of this information on their websites pursuant to AB 1483 of 2019.
  o Whether the application was submitted pursuant to ADU or JADU statute, or both.
  o Whether the project is seeking any bonus, concession, or waiver under density bonus law and if so, each bonus, concession, or waiver as requested and as approved.
  o Whether the project was submitted pursuant to SB 35 of 2017.
  o Whether the project was submitted pursuant to Project Roomkey.
  o Whether the project was submitted pursuant to a list of specified CEQA exemptions.
  o Whether the project was submitted pursuant to CEQA.

• Authorizes HCD to assess the accuracy of the information submitted pursuant to (1) and (2) above. Authorizes HCD, if it determines that an APR contains inaccurate information, to require the planning agency to correct that information.

Status of Legislation
The bill is currently on the Senate Appropriations Committee’s Suspense File.

Support
Silicon Valley Community Foundation
California Narcotic Officers’ Association
Greenbelt Alliance
TMG Partners
Habitat for Humanity California
Circulate San Diego
Council of Infill Builders
The Two Hundred
San Francisco Bay Area Planning and Urban Research Association
California YIMBY
Sand Hill Property Company
Terner Center for Housing Innovation at the University of California, Berkeley
Silicon Valley @ Home
South Pasadena Residents for Responsible Growth
Housing Action Coalition
Councilmember Zach Hilton, City of Gilroy

**Opposition**
Riviera Homeowners Association
Sherman Oaks Homeowners Association
Livable California
A Better Way Forward to House California
Mission Street Neighbors
California Cities for Local Control
Catalysts
Councilmember Dawn Murdock, City of Palos Verdes Estates
Hollywoodland Homeowners Association
South Shores Community Association
Verdugo Woodlands West Homeowners Association
Attachment 2
An act to amend, repeal, and add Section 65400 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

SB 477, as introduced, Wiener. General plan: annual report.

Existing law, the Planning and Zoning Law, requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the planning agency of a city or county to provide, by April 1 of each year, an annual report to, among other entities, the Department of Housing and Community Development that includes, among other specified information, the number of applications submitted, the location and total number of developments approved, the number of building permits issued, and the number of units constructed pursuant to a specific streamlined, ministerial approval process.

This bill would, commencing January 1, 2023, require a planning agency to include in that annual report specified information on costs, standards, and applications for proposed housing development projects and specified information on housing development projects within the jurisdiction. The bill, commencing January 1, 2023, would authorize the department to assess the accuracy of the information submitted as part of the annual report and, if it determines that any report submitted to it by a planning agency contains inaccurate information, require that the planning agency correct that inaccuracy.

By adding to the duties of local planning officials with respect to preparing and submitting the above-described annual report to the
Department of Housing and Community Development, 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 no reimbursement is required by this act for a specified reason.


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

SECTION 1. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) (i) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(ii) The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted
to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government’s compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

(iii) The report may include the number of units that have been completed pursuant to subdivision (c) of Section 65583.1. For purposes of this paragraph, committed assistance may be executed throughout the planning period, and the program under paragraph (1) of subdivision (c) of Section 65583.1 shall not be required. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) The number of net new units of housing, including both rental housing and for-sale housing and any units that the County of Napa or the City of Napa may report pursuant to an agreement entered into pursuant to Section 65584.08, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of
housing satisfies. That production report shall, for each income
category described in this subparagraph, distinguish between the
number of rental housing units and the number of for-sale units
that satisfy each income category. The production report shall
include, for each entitlement, building permit, or certificate of
occupancy, a unique site identifier that must include the assessor’s
parcel number, but may include street address, or other identifiers.

(I) The number of applications submitted pursuant to subdivision
(a) of Section 65913.4, the location and the total number of
developments approved pursuant to subdivision (c) of Section
65913.4, and the total number of building permits issued pursuant
to subdivision (c) of Section 65913.4, the total number of units
including both rental housing and for-sale housing by area median
income category constructed using the process provided for in
subdivision (c) of Section 65913.4.

(J) If the city or county has received funding pursuant to the
Local Government Planning Support Grants Program (Chapter 3.1
(commencing with Section 50515) of Part 2 of Division 31 of the
Health and Safety Code), the information required pursuant to
subdivision (a) of Section 50515.04 of the Health and Safety Code.

(K) The progress of the city or county in adopting or amending
its general plan or local open-space element in compliance with
its obligations to consult with California Native American tribes,
and to identify and protect, preserve, and mitigate impacts to
places, features, and objects described in Sections 5097.9 and
5097.993 of the Public Resources Code, pursuant to Chapter 905
of the Statutes of 2004.

(L) The following information with respect to density bonuses
granted in accordance with Section 65915:

(i) The number of density bonus applications received by the
city or county.

(ii) The number of density bonus applications approved by the
city or county.

(iii) Data from a sample of projects, selected by the planning
agency, approved to receive a density bonus from the city or
county, including, but not limited to, the percentage of density
bonus received, the percentage of affordable units in the project,
the number of other incentives or concessions granted to the
project, and any waiver or reduction of parking standards for the
project.
(M) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its internet website within a reasonable time of receiving the report.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court’s order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

(c) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 2. Section 65400 is added to the Government Code, to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the
Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) (i) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(ii) The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government’s compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

(iii) The report may include the number of units that have been completed pursuant to subdivision (c) of Section 65583.1. For purposes of this paragraph, committed assistance may be executed throughout the planning period, and the program under paragraph (1) of subdivision (c) of Section 65583.1 shall not be required. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.
(G) A listing of sites rezoned to accommodate that portion of
the city’s or county’s share of the regional housing need for each
income level that could not be accommodated on sites identified
in the inventory required by paragraph (1) of subdivision (c) of
Section 65583 and Section 65584.09. The listing of sites shall also
include any additional sites that may have been required to be
identified by Section 65863.

(H) The number of net new units of housing, including both
rental housing and for-sale housing and any units that the County
of Napa or the City of Napa may report pursuant to an agreement
entered into pursuant to Section 65584.08, that have been issued
a completed entitlement, a building permit, or a certificate of
occupancy, thus far in the housing element cycle, and the income
category, by area median income category, that each unit of
housing satisfies. That production report shall, for each income
category described in this subparagraph, distinguish between the
number of rental housing units and the number of for-sale units
that satisfy each income category. The production report shall
include, for each entitlement, building permit, or certificate of
occupancy, a unique site identifier that must include the assessor’s
parcel number, but may include street address, or other identifiers.

(I) The number of applications submitted pursuant to subdivision
(a) of Section 65913.4, Section 65651, and Section 65662, and
Section 50675.1.2 of the Health and Safety Code, the location and
the total number of developments approved pursuant to subdivision
(c) of Section 65913.4, Section 65653, and Section 65662, and
Section 50675.1.2 of the Health and Safety Code, the total number
of building permits issued pursuant to subdivision (c) of Section
65913.4, Section 65653, and Section 65662, and Section 50675.1.2
of the Health and Safety Code, and the total number of units
including both rental housing and for-sale housing by area median
income category constructed using the process provided for in
subdivision (c) of Section 65913.4 and Section 65651, and Section
50675.1.2 of the Health and Safety Code.

(J) If the city or county has received funding pursuant to the
Local Government Planning Support Grants Program (Chapter 3.1
(commencing with Section 50515) of Part 2 of Division 31 of the
Health and Safety Code), the information required pursuant to
subdivision (a) of Section 50515.04 of the Health and Safety Code.
(K) The information required in paragraph (1) of subdivision (a) of Section 65940.1.

(L) All of the following information regarding each housing development project located within the local agency:

(i) Whether the application was submitted pursuant to Section 65852.2 or 65852.22, or if an application was submitted pursuant to both Sections 65852.2 and 65852.22.

(ii) Whether the project is seeking any bonus, concession, or waiver under Section 65915, and if so, the bonus, concession, or waiver as requested and as approved. Each bonus, concession, or waiver shall be recorded.

(iii) Whether the project was submitted pursuant to Section 65913.4.

(iv) Whether the project was submitted pursuant to Section 50675.1.2 of the Health and Safety Code.

(v) Whether the project was submitted pursuant to Sections 21080.50, 21081.3, 21094.5, 21099, 21155.1, 21155.2, 21155.4, 21159.22, 21159.23, 21159.24, 21159.25, or 21159.28 of the Public Resources Code.

(vi) Whether the project was submitted pursuant to Chapter 5.5 (commencing with Section 21163) of Division 13 of the Public Resources Code.

(M) The progress of the city or county in adopting or amending its general plan or local open-space element in compliance with its obligations to consult with California Native American tribes, and to identify and protect, preserve, and mitigate impacts to places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code, pursuant to Chapter 905 of the Statutes of 2004.

(N) The following information with respect to density bonuses granted in accordance with Section 65915:

(i) The number of density bonus applications received by the city or county.

(ii) The number of density bonus applications approved by the city or county.

(iii) Data from a sample of projects, selected by the planning agency, approved to receive a density bonus from the city or county, including, but not limited to, the percentage of density bonus received, the percentage of affordable units in the project, the number of other incentives or concessions granted to the
project, and any waiver or reduction of parking standards for the
project.

(O) The Department of Housing and Community Development
shall post a report submitted pursuant to this paragraph on its
internet website within a reasonable time of receiving the report.

(b) The Department of Housing and Community Development
may assess the accuracy of the information submitted as part of
the annual report required pursuant to paragraph (2) of subdivision
(a). If the department determines that any report submitted to it by
a planning agency pursuant to this section contains inaccurate
information, the department may require that the planning agency
correct that inaccuracy.

(c) If a court finds, upon a motion to that effect, that a city,
county, or city and county failed to submit, within 60 days of the
deadline established in this section, the housing element portion
of the report required pursuant to subparagraph (B) of paragraph
(2) of subdivision (a) that substantially complies with the
requirements of this section, the court shall issue an order or
judgment compelling compliance with this section within 60 days.

If the city, county, or city and county fails to comply with the
court’s order within 60 days, the plaintiff or petitioner may move
for sanctions, and the court may, upon that motion, grant
appropriate sanctions. The court shall retain jurisdiction to ensure
that its order or judgment is carried out. If the court determines
that its order or judgment is not carried out within 60 days, the
court may issue further orders as provided by law to ensure that
the purposes and policies of this section are fulfilled. This
subdivision applies to proceedings initiated on or after the first
day of October following the adoption of forms and definitions by
the Department of Housing and Community Development pursuant
to paragraph (2) of subdivision (a), but no sooner than six months
following that adoption.

(d) This section shall become operative on January 1, 2023.

SEC. 3. No reimbursement is required by this act pursuant to
Section 6 of Article XIIIB of the California Constitution because
a local agency or school district has the authority to levy service
charges, fees, or assessments sufficient to pay for the program or
level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Item B-13
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Senate Bill 556 (Dodd) - Street light poles, traffic signal poles: small wireless facilities attachments (SB 556) involves a policy matter that has a nexus to the City's adopted Legislative Platform language. Specifically, the following statements may apply to SB 556 as it relates to local control and land use:

- Oppose preemption of the City of Beverly Hills' local authority whether by state or federal legislation or ballot propositions.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 556 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 556, the Liaisons may recommend the following actions:

1) Oppose SB 556;
2) Support SB 556;
3) Support if amended SB 556;
4) Oppose unless amended SB 556;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position of oppose, then staff will prepare a letter for the Mayor to sign as the legislation appears to be consistent with the City’s Legislative Platform. Any other positions recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
Attachment 1
April 22, 2021

To: Cindy Owens, City of Beverly Hills

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

Re: SB 556 (Dodd) Street light poles, traffic signal poles: small wireless facilities

Version: Amended in Assembly April 12, 2021

Summary
Enacts the California Connectivity Act, which requires local governments and municipal utilities to make their streetlights and traffic poles available for small cells, and regulates the fees that local governments can charge for such attachments. Specifically, this bill:

Requires a local government or municipal utility to make street light and traffic signal poles available for the placement of small wireless facilities, defined to mean a small cell pursuant to federal law, under fair, reasonable, and nondiscriminatory fees. Access to street light poles or traffic signal poles may also be subject to other reasonable terms and conditions, which may include reasonable aesthetic and safety standards, consistent with the FCC’s small cell order.

Limits fees that local governments and municipal utilities can charge.

SB 556 also prohibits a local government or municipal utility from unreasonably denying a street light or traffic signal pole lease or license for the purpose of placing small wireless facilities. A local government or municipal utility can deny an application for a pole attachment due to:

- Insufficient capacity or safety, reliability, engineering concerns, and impacts to core traffic or street light service, unless the communication service provider agrees to replace the street light or traffic signal pole; or
- An impact from the attachment on an approved project for future use by the municipal utility or the local government of its street light poles or traffic signal poles for delivery of the core service related to the pole.

If a request to attach is accepted, the following timelines must be met:

- Within 14 days after acceptance of the request, the municipal utility or local government must provide a cost estimate, based on actual cost, for any necessary make-ready work required to accommodate the small wireless facility.
- Within 14 days of receiving the estimate, the requesting party must accept or reject the make-ready cost estimate.
- Within 60 days of acceptance of the cost estimate, the municipal utility or local government must notify any existing third-party attachers that make-ready work for a new attacher needs to be performed, although the party requesting attachment is
responsible for coordinating with the existing attachers for make-ready work to be completed.

- Within 60 days of the notice, or within 105 days in the case of a request to attach to over 300 poles, all parties must complete all necessary make-ready work. The municipal utility or local government may complete make-ready work without the consent of the existing attachers, if the existing attachers fail to move their attachments by the end of these time periods.
- These timelines may be extended upon mutual agreement between the communications service provider and the local government or municipal utility that owns the poles.

**Limitations on fees.** SB 556 also limits the fees that local governments and municipal utilities can charge for small wireless facility attachments to street light and traffic signal poles. Specifically, the bill allows local governments and municipal utilities to establish fees for use of a street light or traffic signal pole that is a reasonable approximation of the direct and actual costs, consistent with the FCC small cell order. Local governments and municipal utilities can charge the following fees:

- An annual attachment rate per pole that is based on the percentage of usable space taken up by the small wireless facility and the total annual cost of ownership of the street light or traffic signal pole, similar to the methodology used for calculating the cost of using a utility pole. If the local government or municipal utility charges a rate that exceeds its actual costs, it must use those fees to reduce the rate.
- A one-time fee to reimburse the local government or municipal utility for the costs of rearranging existing attachments on the pole.
- A one-time fee to process a request for attachment, if the fee does not exceed the actual cost of processing the request.

Establishes a rebuttable presumption that a local government’s or municipal utility’s annual attachment fees are reasonable if those fees are equal to or less than the annual $270 fee for each small wireless attachment included in the FCC’s 2018 small cell order. The bill also requires a local government or municipal utility to offer this $270 annual fee until it adopts an annual small wireless facility attachment fee that complies with the bill’s terms.

Specifies that any agreement on rates, terms, and conditions for small wireless facility attachments to street light and traffic signal poles that occurred prior to the January 14, 2019, enactment of the FCC’s 2018 Small Cell Order are only valid for attachments installed by January 1, 2022, and they are only valid until the contract expires.

Requires a municipal utility to use its existing utility pole attachment fee authority to set street light and traffic signal fees specified by this bill unless it adopts the $270 annual fee that is presumed reasonable pursuant to the FCC’s 2018 Small Cell Order.

Allows different rates, terms, and conditions if the communication service provider and the local government or municipal utility agree.

**Federal law on small cells.** Carriers and local governments have clashed over the extent of local authority to condition or deny applications to site wireless facilities. Accordingly, several state and federal laws prescribe aspects of permitting. Two federal laws, the Telecommunications Act of 1996 (Telecom Act) and the Spectrum Act, regulate the siting and
approval of wireless facilities, including small cells. The Federal Communications Commission (FCC) is responsible for administering these laws and implementing this requirement.

The Telecom Act establishes several requirements to remove barriers for ensuring competitive telecommunications markets. First, state and local governments cannot adopt legal requirements that prohibit or have the effect of prohibiting an entity from providing interstate and intrastate telecommunications services. However, it also protects state and local government authority to set certain legal and regulatory requirements for telecommunications services and facilities. Specifically, state and local governments can manage the public right-of-way and require fair and reasonable compensation from carriers, as long as those requirements are competitively neutral and nondiscriminatory. If a state or local government establishes legal requirements that violate this framework, the FCC must preempt those state or local requirements.

Under a separate section of the Telecom Act, state and local governments also cannot adopt requirements that unreasonably discriminate among providers of functionally equivalent wireless services or prohibit or have the effect of prohibiting the provision of wireless service. Local governments must also act within a reasonable period of time after an application for a wireless permit is submitted. Otherwise, state and local governments can regulate the placement, construction, and modification of wireless facilities.

The Spectrum Act further requires, notwithstanding the protections of local authority in the Telecom Act, state and local governments to allow “eligible facilities requests:” requests for collocation, removal, or replacement of new transmission equipment on a structure with an existing wireless installation.

Federal regulations spell out the types of wireless installations that are considered “small wireless facilities”—small cells. Specifically, small cells:

- Can occupy up to 31 cubic feet, including antennas and all other wireless equipment;
- Are mounted on structures up to 50 feet tall or 10% taller than other adjacent structures;
- Are not located on Tribal lands; and
- Meet other technical requirements.

FCC's small cell order. Since the enactment of the Telecom Act, the FCC has adopted several orders aimed at lowering market barriers and encouraging the deployment of cable and wireless facilities. In 2018, the FCC adopted the Small Cell Order, the Moratoria Order, and the One Touch Make-Ready Order. Collectively, these orders were intended to more clearly limit local governments’ ability to regulate certain telecommunications facilities and prevent utility pole owners from delaying or prohibiting certain telecommunications attachments, including small wireless facilities. Specifically, the Small Cell Order and Moratoria Order limit the fees that local governments can charge for the use of space on utility poles and the time frame for reviewing a communication provider’s request to attach a small wireless facility to a utility pole. As part of these orders, the FCC asserted that the Telecom Act gave the FCC the authority to preempt local rules that restrict the attachment of small wireless facilities when those local rules are discriminatory or have the effect of prohibiting a provider from providing a telecommunications service.

Shot clock. Although previous orders already established so-called “shot clocks” for local governments to act on applications for wireless deployments, the small cell order adopted a new
set of shot clocks specific to small cells, specific remedies that apply to violations of the shot clock, and expand the types of permit approvals that are covered by the shot clock. Specifically, the order establishes a 60-day shot clock for siting small cells on a preexisting structure and a 90-day shot clock for applications that propose a small cell on a new structure. These time periods are presumptively reasonable, meaning that local governments can exceed them if they have a good reason. The order also provided that exceeding a reasonable period of time would be considered as having the effect of prohibiting deployment, which opens up options for expedited relief in court. Finally, prior shot clocks only applied to zoning permits, but the Small Cell Order applied the shot clocks to all other permits required for small cell deployment, including license or franchise agreements to access the right-of-way, building permits, public notices and meetings, lease negotiations, electric permits, road closure permits, and aesthetic approvals.

Fee limitations. Relying on arguments proffered by the wireless industry, the FCC orders also found that some state and local governments charge excessive fees for wireless facility deployments, which have the cumulative effect of prohibiting deployment in other parts of the country. Accordingly, the FCC orders limited fees for accessing the right-of-way, or fees for the use of government property in the right-of-way, such as light poles and traffic signal poles, for deployment of small cells violate the Telecom Act unless the fees:

- Are a reasonable approximation of the state or local government’s costs;
- Only factor in objectively reasonable costs; and
- Are no higher than the fees charged to similarly-situated competitors in similar situations.

However, the order also established a safe harbor level of fees—a presumptively reasonable fee amount below which a carrier must prove that it is unreasonable. The FCC set these amounts at $270 per small cell per year, along with a one time fee of $500 per application for small cell deployment, plus some additional costs. Additionally, the order recognized that local costs vary significantly. Accordingly, it does not prohibit local governments from charging a fee above the $270 threshold and not all recurring fees above $270 would be inconsistent with the FCC’s order. Instead, if a state or local government establishes fees above this amount and if a carrier then challenges the fee, the state or local government must demonstrate that fee is a reasonable approximation of the cost, objectively reasonable, and non-discriminatory.

Aesthetics. As noted in the FCC order, local governments impose aesthetic regulations on wireless facilities for a variety of reasons, including to “(1) ensure that the design, appearance, and other features of buildings and structures are compatible with nearby land uses; (2) manage [the right-of-way] so as to ensure traffic safety and coordinate various uses; and (3) protect the integrity of their historic, cultural, and scenic resources and their citizens’ quality of life.” The FCC order found that some aesthetic regulations can have the effect of prohibiting deployment and therefore established limitations on the aesthetic requirements local governments can impose without being preempted. Specifically, the order required local aesthetic regulations to be reasonable, no more burdensome than those applied to other types of infrastructure deployments, and objective and published in advance.

According to the author, “SB 556 brings California into conformance with existing federal and state laws seeking to accelerate the deployment of wireless broadband network infrastructure throughout California. For too long, wireless broadband deployments have been delayed by confusing regulations, entrenched in excessive bureaucracy. These processes have had a severe impact on bringing high-speed internet to many communities across California. As
employers and schools across our state have shifted to virtual participation, highlighting disparities of access faced by low-income families and people of color, it is now time to take immediate steps to close the digital divide and ensure a better access to internet for all.”

**Senate Energy amendments (Not yet in print)**
The author committed to accepting amendments in Senate Energy, Utilities, and Communications, but due to timing, those amendments must be taken in Senate Governance and Finance. Those amendments include to:

- “Delete this bill’s reference to the aesthetic requirements in the FCC’s 2018 Small Cell Order.
- “Remove the requirement that a local government or POU must offer $270 as its recurring attachment fee until it adopts a fee schedule that complies with this bill.
- “Specify that a local government may deny an application for an attachment based on safety, engineering, and insufficient capacity concerns if (1) the communications provider is unwilling to replace the pole or (2) replacement of the pole would not mitigate the safety, engineering and capacity concerns and (3) the local government or POU identifies the concern and provides the applicant with an opportunity to provide remedies mitigating the concerns.”

**Status of Legislation**
SB 556 is scheduled for hearing in the Senate Governance and Finance Committee. The hearing has been scheduled for hearing on April 22, 2021.

**Support**
Bay Area Council; Contra Costa County Office of Education; Crown Castle and Its Affiliates; CTIA; East Bay Leadership Council; Lake County Office of Education; Latinos in Information Sciences and Technology Association; LeadingAge California; LGBTQ Center Long Beach; LGBT Community Center of The Desert; LGBT Technology Partnership & Institute; Long Beach Area Chamber of Commerce; Los Angeles County Business Federation; Napa County Office of Education; OCA National; Orange County Business Council; Plumas County Office of Education/unified School District; Sacramento Hispanic Chamber of Commerce; Sacramento Lgbt Community Center; Sf.citi; Silicon Valley Leadership Group; Sonoma County Office of Education; T-Mobile USA, Inc.; Verizon; Wall Las Memorias Project.
Opposition
Mayor Eric Garcetti, City of Los Angeles;
Mayor Robert Whalen, City of Laguna Beach;
Bay Area Educators for Safe Tech;
Belmont; City of;
Brea; City of;
California Alliance of Nurses for Healthy Environments;
California Street Light Association
Carlsbad; City of;
Chino Hills; City of;
City of Agoura Hills;
City of Arcata;
City of Bellflower;
City of Calabasas;
City of Campbell;
City of Carmel-by-the-sea;
City of Chino;
City of Clearlake;
City of Clovis;
City of Colton;
City of Costa Mesa;
City of Del Mar;
City of Downey;
City of El Centro;
City of Fortuna;
City of Foster City;
City of Fountain Valley;
City of Hesperia;
City of La Palma;
City of Lathrop;
City of Los Alamitos;
City of Los Altos;
City of Madera;
City of Maywood;
City of Mission Viejo;
City of Monterey;
City of Newport Beach;
City of Norwalk;
City of Novato;
City of Oakdale;
City of Oceanside;
City of Pacifica;
City of Petaluma;
City of Placentia;
City of Rancho Cucamonga;
City of Redding;
City of Ripon;
City of Riverbank;
City of San Buenaventura;
City of San Fernando;
City of Signal Hill;
City of Solana Beach;
City of South Lake Tahoe;
City of Stockton;
City of Sunnyvale;
City of Tehachapi;
City of Thousand Oaks;
City of Torrance;
City of Tracy;
City of Tulare;
City of Vacaville;
City of Vista;
City of Wasco;
City of West Hollywood;
City of Whittier;
Community Union, INC.;
East Bay Neighborhoods for Responsible Technology;
Ecological Options Network;
El Segundo, City of;
Elk Grove; City of; Encinitas;
City of; Environmental Health Trust;
Facts: Families Advocating for Chemical & Toxins Safety;
Fusion Massage of Santa Barbara;
Keep Cell Antennas Away;
Keep Cell Antennas Away From Our Elk Grove Homes; Lakewood;
City of; Mission Viejo;
City of; Moms Across America;
Monterey Vista Neighborhood Association;
Napa County Progressive Alliance;
Napa Neighborhood Association for Safe Technology;
Palmdale; City of;
Rancho Cordova; City of;
Sacramento; County of;
Safetech4santararosa.org;
San Diego;
City of; San Jose; City of;
Santa Barbara Body Therapy Institute;
Santa Barbara Green Sisters;
Save North Petaluma River and Wetlands;
Sebastopol; City of;
South Bay Cities Council of Governments;
Stop Smart Meters!; Sustainable Tamalmonde;
The City of Lakewood;
The City of Union City,
Thousand Oaks; City of;
Topanga Peace Alliance;
Torrance; City of;
Towards an Internet of Living Beings;
Town of Fairfax;
Town of Mammoth Lakes;
Town of Ross;
Truckee; Town of;
We are One, INC. - www.weareone.cc - Wao;
Windheim EMF Solutions;
Wire California;
Wireless Radiation Education & Defense;
Couple Hundred Individuals
Attachment 2
An act to amend Sections 9510, 9510.5, 9511, 9511.5, 9512, 9513, 9514, and 9515 of, to amend the heading of Part 2 (commencing with Section 9510) of Division 4.8 of, and to add Section 9514.5 to, add Division 2.6 (commencing with Section 5980) to the Public Utilities Code, relating to communications.

SB 556, as amended, Dodd. Street light poles, traffic signal poles, utility poles, and support structures: poles: small wireless facilities attachments.

Existing law requires a local publicly owned electric utility to make appropriate space and capacity on and in their utility poles, as defined, and support structures available for use by cable television corporations, video service providers, and telephone corporations. Under existing law, “utility poles” include electrical poles, except those electrical poles used solely for the transmission of electricity at 50 kilovolts or higher. Existing law requires fees adopted to cover the costs to provide this use, and terms and conditions of access, to meet specified requirements, and specifies the manner in which these fees and terms and conditions of access could be challenged.

This bill would revise the definition of a utility pole to include an electrical transmission tower, while continuing to exclude an electrical pole, but not an electrical transmission tower, used solely for the transmission of electricity at 50 kilovolts or higher. The bill would
require a local publicly owned electric utility to make available appropriate space and capacity for use by cable television corporations, video service providers, and telephone corporations on and in their street light poles, traffic signal poles, and supporting structures. The bill would require local governments to make appropriate space and capacity on and in their street light poles, traffic signal poles, and supporting structures in a similar manner as is required for a local publicly owned electric utility. Prohibit a local government or local publicly owned electric utility from unreasonably denying the leasing or licensing of its street light poles or traffic signal poles to communications service providers for the purpose of placing small wireless facilities on those poles. The bill would require that street light poles and traffic signal poles be made available for the placement of small wireless facilities under fair, reasonable, and nondiscriminatory fees, subject to specified requirements, consistent with a specified decision of the Federal Communications Commission. The bill would specify time periods for various actions relative to requests for placement of a small wireless facility by a communications service provider on a street light pole or traffic signal pole. By placing additional requirements upon local publicly owned electric utilities and local governments, the bill would impose a state-mandated local program.

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


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

1 SECTION 1. (a) This act shall be known, and may be cited as, the California Connectivity Act.
2 (b) The Legislature finds and declares all of the following:
3 (1) Communities across California face a multitude of barriers to the deployment of resilient and accessible broadband networks. Broadband internet access service in urban communities varies by neighborhood, with great discrepancies in infrastructure technology. Communities in rural areas often lack sufficient
broadband internet access service, as well as the backhaul infrastructure, to provide broadband services.

(2) The COVID-19 pandemic has highlighted the extent to which broadband access is essential for education, telehealth, remote working, public safety, public health and welfare, and economic resilience. The pandemic adds greater urgency to develop new strategies and expand on existing successful measures to deploy reliable networks. Connection to the internet at reliable speeds is also crucial to California’s economic recovery from the impact of COVID-19. Millions of children are attending classes remotely, telehealth visits have skyrocketed, and many more Californians are telecommuting from their places of residence. Additionally, with unprecedented growth in unemployment caused by COVID-19 and the need to participate in all aspects of society from home, the demand for reliable broadband internet access service has significantly increased as millions of additional Californians need access to successfully weather the pandemic and to recover.

(3) Mobile—Wireless broadband internet access is critical to distance learning. Just as important, mobile wireless broadband internet access is needed to address the digital divide. In 2017, for example, 73 percent of households accessed the internet using a cellular—telephone. The Federal Communications Commission reports that nearly 70 percent of teachers assign homework that requires broadband access. Although California has made progress closing the digital divide at schools, internet access at home is still a challenge. Almost 16 percent of schoolage children, about 945,000, had no internet connection at home in 2017 and 27 percent, about 1.7 million, did not have broadband connections. Access varies significantly by family income, parental education, race or ethnicity, and geography. For example, 22 percent of low-income households with schoolage children did not have any internet connection at home and 48 percent reported no broadband subscription at home.

(4) Over 2,000,000 Californians lack access to high-speed broadband at benchmark speeds of 100 megabits per second download, including 50 percent of rural housing units. More than 14,000,000 Californians, over one-third of the population, do not subscribe to broadband at the minimum benchmark speed to support distance learning and technologies that depend on upload speed. Only 34 percent of adults over 60 years of age use the
internet, excluding older adults from access to telemedicine, social services, and other support.

(5) The Centers for Medicare and Medicaid Services define telehealth as “a two-way, real-time interactive communication between a patient and a physician or practitioner at a distant site through telecommunications equipment that includes, at a minimum, audio and visual equipment.” Telemedicine encompasses a growing number of applications and technologies, including two-way live or streaming video, videoconferencing, store-and-forward imaging along with the internet, email, smartphones, wireless tools, and other forms of telecommunication. These technologies facilitate and leverage the latest innovations in computer, network, and peripheral equipment to promote the health of patients around the world. Critical to its success is reliable broadband internet access.

(6) Telehealth technology permits health care services to be delivered without in-person contact, reducing the risk of disease transmission to both patients and health care workers, and frees up in-person resources for COVID-19 patients. Telehealth allows patients to receive health services away from settings where the potential for contracting COVID-19 is high, such as hospitals, health clinic waiting rooms, private practices, and other medical facilities. Telehealth can also expand the reach of resources to communities that have limited access to needed services.

(7) Due to widespread restrictions, and with fewer elective procedures occurring in California and around the country to reserve beds for COVID-19 patients, the telehealth share of total medical claim lines, which is the individual service or procedure listed on an insurance claim, increased 8,336 percent nationally from April 2019 to April 2020. Similar percentage increases have occurred in California.

(8) Millions of Californians are working from home while sheltering in place. Even employers that had not previously permitted remote-work arrangements have changed their policies during the pandemic. The Department of General Services reports that 83.9 percent of state workers are working from home. Survey data indicates that nearly two-thirds of those who still had jobs during the pandemic were almost exclusively working from home. That compares with just 13 percent of workers who said they did
so even a few times a week prior to the COVID-19 pandemic. Telework is expected to continue at rates much higher than before COVID-19 even after the pandemic is over. Among those workers surveyed who had previously not regularly worked from home, 62 percent said they were enjoying the change, and 75 percent expect their employers to continue to provide flexibility in where they work after the pandemic has passed. Indeed, the State of California, one of California’s largest employers, has stated the desire for 75 percent of the state’s workforce to remain home, at least part time, for the foreseeable future. The Metropolitan Transportation Commission in the San Francisco Bay Area voted to adopt a strategy to have large, office-based companies require people to work from home three days a week as a way to slash emissions of greenhouse gases from car commutes. Critical to the success of telework is reliable broadband internet access.

(9) The enormous increases in distance learning, telehealth, and telework require a significant boost in broadband infrastructure, especially near the homes where these activities take place. To promote wireless broadband internet access near homes, it is in the interest of the state to ensure the deployment of wireless facilities on utility poles, street light poles, street light poles and traffic signal poles. It is in the interest of the state to ensure that local publicly owned electric utilities and local governments that own or control utility poles, traffic signal poles, traffic signal poles or street light poles make available appropriate space and capacity on and in those structures to communications service providers, them available to communications service providers for the placement of small wireless facilities, under reasonable rates, terms, and conditions.

(10) The state has a compelling interest in ensuring that local publicly owned electric utilities and local governments provide access to utility poles, traffic signal poles, traffic signal poles and street light poles, with nondiscriminatory fees that recover reasonable actual costs, costs, consistent with applicable federal regulations barring localities from denying reasonable, nondiscriminatory access to their pole infrastructure for small wireless facility attachments at reasonable and cost-based rates. Therefore, it is the intent of the Legislature that this part act supersedes all conflicting local laws and this part act shall apply in charter cities.
(11) Time is of the essence to approve small wireless facility siting applications given the immediate need for broadband internet access, as amplified by the COVID-19 pandemic.

(c) It is the intent of the Legislature to facilitate the deployment of wireless broadband internet access and to bridge the digital divide by connecting students, families, and communities with reliable internet connectivity that will remain a necessity after the COVID-19 pandemic has abated.

SEC. 2. Division 2.6 (commencing with Section 5980) is added to the Public Utilities Code, to read:

DIVISION 2.6. CALIFORNIA CONNECTIVITY ACT

5980. For purposes of this division, the following terms have the following meanings:

(a) “Annual costs of ownership” means the annual capital costs and annual operating costs of a street light pole or traffic signal pole, which shall be the average costs of all similar street light poles and traffic signal poles owned or controlled by the local government or publicly owned electric utility. The basis for the computation of annual capital costs shall be historical capital costs less depreciation. The accounting upon which the historical capital costs are determined shall include a credit for all reimbursed capital costs. Depreciation shall be based upon the average service life of the street light pole or traffic signal pole. Annual cost of ownership does not include costs for any property not necessary for use by the small wireless facility.

(b) “Communications service provider” means a cable television corporation, video service provider, or telephone corporation.

(c) “Governing body” means the governing body of a local government or local publicly owned electric utility, including, where applicable, a board appointed by a city council.

(d) “Local government” means a city, including a charter city, county, or city and county.

(e) “Small wireless facility” has the same definition as defined in subsection (l) of Section 1.6002 of Title 47 of the Code of Federal Regulations.

(f) “Street light pole” means a pole, arm, or fixture used primarily for street, pedestrian, or security lighting.
(g) “Traffic signal pole” means a pole, arm, or fixture used primarily for signaling traffic flow.

(h) “Usable space” means the space above the minimum grade that can be used for the attachment of antennas and associated ancillary equipment.

5981. (a) A local government or local publicly owned electric utility shall not unreasonably deny the leasing or licensing of its street light poles or traffic signal poles to communications service providers for the purpose of placing small wireless facilities. Street light poles and traffic signal poles shall be made available for the placement of small wireless facilities under fair, reasonable, and nondiscriminatory fees, subject to the requirements in Section 5982. Access to street light poles or traffic signal poles may also be subject to other reasonable terms and conditions, which may include reasonable aesthetic and safety standards, consistent with the Federal Communications Commission’s Declaratory Ruling and Third Report and Order (September 26, 2018) FCC 18-133, In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79 and WC Docket No. 17-84.

(b) (1) A local publicly owned electric utility or local government shall respond to a request for placement of a small wireless facility by a communications service provider on a street light pole or traffic signal pole, or multiple poles, owned or controlled by the local publicly owned electric utility or local government within 45 days of the date of receipt of the request, or within 60 days if the request is to attach to over 300 poles. If the request is denied, the local publicly owned electric utility or local government shall provide in the response the reason for the denial and the remedy to gain access to the street light poles or traffic signal poles. If a request to attach is accepted, the local publicly owned electric utility or local government, within 14 days after acceptance of the request, shall provide a cost estimate, based on actual cost, for any necessary make-ready work required to accommodate the small wireless facility. The requesting party shall accept or reject the make-ready cost estimate within 14 days. Within 60 days of acceptance of the cost estimate, the local publicly owned electric utility or local government shall notify any existing third-party attachers that make-ready work for a new attacher needs to be performed. The requesting party shall have the
responsibility to coordinate with third-party existing attachers for make-ready work to be completed. All parties shall complete all make-ready work within 60 days of the notice, or within 105 days in the case of a request to attach to over 300 poles. The local publicly owned electric utility or local government may complete make-ready work without the consent of the existing attachers, if the existing attachers fail to move their attachments by the end of the make-ready timeline requirements specified in this paragraph.

(2) The timelines described in paragraph (1) may be extended under special circumstances upon agreement of the local publicly owned electric utility or local government and the communications service provider.

(c) Unless the communication service provider agrees to replace the street light pole or traffic signal pole, a local publicly owned electric utility or local government may deny an application for use of a street light pole or traffic signal pole, as applicable, because of insufficient capacity or safety, reliability, or engineering concerns. In denying an application, a local publicly owned electric utility or local government may also take into account the manner in which a request from a communications service provider under this division could impact an approved project for future use by the local publicly owned electric utility or the local government of its street light poles or traffic signal poles for delivery of the core service related to a street light pole or traffic signal pole, as applicable.

(d) This division does not limit the authority of a local publicly owned electric utility or local government to ensure compliance with all applicable law in determining whether to approve or disapprove use of a street light pole or traffic signal pole, as applicable.

5982. (a) A local government or local publicly owned electric utility is entitled to fair and reasonable compensation that recovers a reasonable approximation of the direct and actual costs related to the communication service provider’s placement of small wireless facilities on street light poles or traffic signal poles, consistent with the Federal Communications Commission’s Declaratory Ruling and Third Report and Order (September 26, 2018) FCC 18-133, In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure
Investment, WT Docket No. 17-79 and WC Docket No. 17-84. The compensation may include both of the following:

1. The local government or local publicly owned electric utility may assess an annual attachment rate per pole that is a reasonable approximation of the direct and actual costs and does not exceed an amount resulting from both of the following requirements:
   A. The local government or local publicly owned electric utility shall calculate the rate by multiplying the percentage of the total usable space that would be occupied by the small wireless facility attachment by the annual costs of ownership of the street light pole or traffic signal pole.
   B. The local government or local publicly owned electric utility shall not levy a rate that exceeds the estimated amount required to provide use of the street light pole or traffic signal pole for which the annual recurring rate is levied. If the rate creates revenues in excess of actual costs, the local government or local publicly owned electric utility shall use those revenues to reduce the rate.

2. The local government or local publicly owned electric utility may assess a one-time reimbursement fee for actual costs incurred by the local government or publicly owned electric utility for rearrangements performed at the request of the communications service provider.

(b) A local publicly owned electric utility or local government establishes a rebuttable presumption that its attachment fees comply with subdivision (a) if the attachment fees are equal to or less than the presumptively reasonable attachment fee set forth in paragraph 79(b) of the Federal Communications Commission’s Declaratory Ruling and Third Report and Order (September 26, 2018) FCC 18-133, In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79 and WC Docket No. 17-84. This presumptively reasonable attachment fee shall be offered, and if accepted, applied for small wireless attachments by communications service providers pending the adoption of a rate pursuant to this section.

(c) Unless the communications service provider and local government otherwise agree, if existing contractual attachment rates exceed the presumptively reasonable attachment fee set forth in paragraph 79(b) of the Federal Communications Commission’s
Declaratory Ruling and Third Report and Order (September 26, 2018) FCC 18-133, In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79 and WC Docket No. 17-84, the rates, terms, and conditions that are specified in a contract executed before January 14, 2019, shall remain valid only for small wireless facilities already attached to a street light pole or traffic signal pole by a communications service provider before January 1, 2022, and only until the contract, rate, term, or condition expires or is terminated according to its terms by one of the parties.

5983. This division does not prohibit a local publicly owned electric utility or local government from requiring a one-time fee to process a request for attachment, if the one-time fee does not exceed the actual cost of processing the request.

5984. This division does not prohibit a communications service provider and a local government from mutually agreeing to a rate, charge, term, or condition that is different from that provided in this division. Either party may withdraw from a negotiation for an agreement upon written notice to the other party.

5985. If the communication service provider requests a rearrangement of a street light pole or traffic signal pole, owned and controlled by a local government or local publicly owned electric utility, the local government or local publicly owned electric utility may charge a one-time reimbursement fee for the actual costs incurred for the rearrangement.

5986. A local publicly owned electric utility shall use the procedures established in Section 9516 for the adoption of the attachment fee described in subdivision (a) of Section 5982, except that the local publicly owned electric utility may avoid the procedure of Section 9516 by applying the provision of subdivision (b) of Section 5982. Any person or entity may follow the procedures of Section 9517 to protest the adoption of a fee adopted by a local publicly owned electric utility pursuant to Section 5982 and not adopted pursuant to subdivision (b) of that section. The procedures for judicial action or proceeding to attack, review, set aside, void, or annul a fee pursuant to Section 9518 and requests for audits of fees in Section 9519 apply to attachment fees adopted by a local publicly owned electric utility pursuant to Section 5982 and not adopted pursuant to subdivision (b) of that section.
SEC. 2. The heading of Part 2 (commencing with Section 9510) of Division 4.8 of the Public Utilities Code is amended to read:

PART 2. STREET LIGHT POLES, TRAFFIC SIGNAL POLES, UTILITY POLES, AND SUPPORT STRUCTURES

SEC. 3. Section 9510 of the Public Utilities Code is amended to read:

9510. (a) The Legislature finds and declares that, to promote wireline and wireless broadband access and adoption, it is in the interest of the state to ensure that local governments and local publicly owned electric utilities, including irrigation districts, that own or control street light poles, traffic signal poles, utility poles, and support structures, including ducts and conduits, as applicable, make available appropriate space and capacity on and in those structures to cable television corporations, video service providers, and telephone corporations, under reasonable rates, terms, and conditions.

(b) The Legislature further finds and declares that the oversight of fees and other requirements imposed by local publicly owned electric utilities or local governments as a condition of providing the space or capacity described in subdivision (a) is a matter of statewide interest and concern. Therefore, it is the intent of the Legislature that this part supersedes all conflicting local laws and this part shall apply in charter cities.

(c) The Legislature further finds and declares that local publicly owned electric utilities and local governments should provide access to street light poles, traffic signal poles, utility poles, and support structures, as applicable, with nondiscriminatory fees that allow for the recovery of reasonable actual costs without subsidizing for-profit cable television corporations, video service providers, and telephone corporations.

SEC. 4. Section 9510.5 of the Public Utilities Code is amended to read:

9510.5. As used in this part, the following terms have the following meanings:

(a) "Communications service provider" means a cable television corporation, video service provider, or telephone corporation.
(b) “Governing body” means the governing body of a local government or local publicly owned electric utility, including, where applicable, a board appointed by a city council.

c (e) “Local government” means a city, including a charter city, county, or city and county.

(d) “Street light pole” means a pole, arm, or fixture used primarily for street, pedestrian, or security lighting.

(e) “Traffic signal pole” means a pole, arm, or fixture used primarily for signaling traffic flow.

(f) “Utility pole” means an electrical pole, electrical transmission tower, or telephone pole, but does not include a street light pole or an electrical pole used solely for the transmission of electricity at 50 kilovolts or higher and not intended for distribution of communications signals or electricity at lower voltages.

SEC. 5. Section 9511 of the Public Utilities Code is amended to read:

9511. (a) (1) (A) A local publicly owned electric utility shall make appropriate space and capacity on and in a street light pole, traffic signal pole, utility pole, and support structure owned or controlled by the local publicly owned electric utility available for use by a communications service provider pursuant to reasonable terms and conditions.

(B) Rates, terms, and conditions that are specified in a contract executed with a local publicly owned electric utility before January 1, 2012, shall remain valid until the contract, rate, term, or condition expires or is terminated according to its terms by one of the parties. If an annual fee is included in a contract executed before January 1, 2012, but the amount of the fee is left unspecified, the requirements of Section 9512 apply.

(2) (A) A local government shall make appropriate space and capacity on and in a street light pole, traffic signal pole, and support structure owned or controlled by the local government available for use by a communications service provider pursuant to reasonable terms and conditions.

(B) Unless the communications service provider and local government otherwise agree, if the contractual rates exceed two hundred seventy dollars ($270) per year per pole, the rates, terms, and conditions that are specified in a contract executed before January 14, 2019, shall remain valid only for wireless equipment that has already been attached to a pole by a communications
service provider before January 1, 2022, and only until the contract, rate, term, or condition expires or is terminated according to its terms by one of the parties.

(b) (1) A local publicly-owned electric utility or a local government shall respond to a request for use by a communications service provider of a street light pole, traffic signal pole, utility pole, or support structure, as applicable, owned or controlled by the local publicly owned electric utility or local government within 45 days of the date of receipt of the request, or 60 days if the request is to attach to over 300 poles. If the request is denied, the local publicly-owned electric utility or local government shall provide in the response the reason for the denial and the remedy to gain access to the street light pole, traffic signal pole, utility pole, or support structure. If a request to attach is accepted, the local publicly-owned electric utility or local government, within 14 days after acceptance of the request, shall provide a nondiscriminatory cost estimate, based on reasonable actual cost, as described in the Federal Communications Commission’s Declaratory Ruling on Wireless Broadband Deployment (FCC 18-133, 33 FCC Rcd 9088 (2018)), for any necessary make-ready work required to accommodate the attachment. The requesting party shall accept or reject the make-ready cost estimate within 14 days. Within 60 days of acceptance of the cost estimate, the local publicly owned electric utility or local government shall notify any existing third-party attachers that make-ready work for a new attacher needs to be performed. The requesting party shall have the responsibility to coordinate with third-party existing attachers for make-ready work to be completed. All parties shall complete all make-ready work within 60 days of the notice, or within 105 days in the case of a request to attach to over 300 poles. The local publicly owned electric utility or local government may complete make-ready work without the consent of the existing attachers, if the existing attachers fail to move their attachments by the end of the make-ready timeline requirements specified in this paragraph.

(2) The timelines described in paragraph (1) may be extended under special circumstances upon agreement of the local publicly owned electric utility or local government and the communications service provider.

(c) Unless the communication service provider agrees to replace the street light pole, traffic signal pole, utility pole, or support
structure, a local publicly owned electric utility or local government
may deny an application for use of a street light pole, traffic signal
pole, utility pole, or support structure, as applicable, because of
insufficient capacity or safety, reliability, or engineering concerns.
In denying an application, a local publicly owned electric utility
or local government may also take into account the manner in
which a request from a communications service provider under
this part could impact an approved project for future use by the
local publicly owned electric utility or the local government of its
street light poles, traffic signal poles, utility poles or support
structures for delivery of its core utility or municipal service.
(d) This part does not limit the authority of a local publicly
owned electric utility or local government to ensure compliance
with all applicable provisions of law in determining whether to
approve or disapprove use of a street light pole, traffic signal pole,
utility pole, or support structure, as applicable.
SEC. 6. Section 9511.5 of the Public Utilities Code is amended
to read:
9511.5. (a) A local publicly owned electric utility or local
government that has the authority pursuant to other law to impose
a fee to provide the use described in Section 9511 shall adopt and
levy only the fee described in Section 9511, consistent with the
requirements of this part.
(b) The governing body of the local publicly owned electric
utility or a local government shall determine the fee pursuant to
Section 9512.
(c) This part does not grant additional authority to a local
publicly owned electric utility or local government to impose a
fee that is not otherwise authorized by law.
SEC. 7. Section 9512 of the Public Utilities Code is amended
to read:
9512. (a) (1) An annual fee charged by a local publicly owned
electric utility or a local government for the use of a street light
pole, traffic signal pole, or utility pole, as applicable, by a
communications service provider for an attachment shall be
imposed pursuant to reasonable terms and conditions, and shall
not exceed an amount determined by multiplying the percentage
of the total usable space that would be occupied by the attachment
by the annual costs of ownership of the pole and its supporting
anchor. As used in this paragraph and paragraph (2), "usable space"
means the space above the minimum grade level that can be used for the attachment of wires, cables, and associated equipment. It shall be presumed, subject to factual rebuttal, that a single attachment occupies one foot of usable space and that an average street light pole, traffic signal pole, or utility pole contains 13.5 feet of usable space.

(2) An annual fee charged by a local publicly owned electric utility or local government for use of a support structure by a communications service provider shall not exceed the local publicly owned electric utility’s or local government’s annual costs of ownership of the percentage of the volume of the capacity of the structure rendered unusable by the equipment of the communications service provider.

(3) As used in this subdivision, the “annual costs of ownership” is the sum of the annual capital costs and annual operation costs of the street light pole, traffic signal pole, utility pole, or support structure, which shall be the average costs of all similar street light poles, traffic signal poles, utility poles, or structures owned or controlled by the local publicly owned electric utility or local government. The basis for the computation of annual capital costs shall be historical capital costs less depreciation. The accounting upon which the historical capital costs are determined shall include a credit for all reimbursed capital costs. Depreciation shall be based upon the average service life of the street light pole, traffic signal pole, utility pole, or support structure. “Annual cost of ownership” does not include costs for any property not necessary for use by the communications service provider.

(b) (1) A local publicly owned electric utility or local government shall not levy a fee that exceeds the estimated amount required to provide use of the street light pole, traffic signal pole, utility pole, or support structure, as applicable, for which the annual recurring fee is levied. If the fee creates revenues in excess of actual costs, those revenues shall be used to reduce the fee.

(2) A local publicly owned electric utility or local government establishes a rebuttable presumption that its fees are based on reasonable actual costs if they conform to the presumptively reasonable fees set forth in the Federal Communications Commission’s Declaratory Ruling on Wireless Broadband Deployment (FCC 18-133, 33 FCC Red 9088 (2018)).
(c) A jointly owned pole is not included within the requirements of this section, if a joint owner other than the local publicly owned electric utility or local government has control of access to the space that would be used by the communications service provider.

SEC. 8. Section 9513 of the Public Utilities Code is amended to read:

9513. (a) A local publicly owned electric utility or local government may require an additional one-time charge equal to three years of the annual fee described in Section 9512, for attachments reasonably shown to have been made without authorization that are discovered on or after January 1, 2012.

(b) A local publicly owned electric utility or local government may remove an attachment made without authorization, if all of the following conditions are met:

(1) The owner of the attachment fails to pay the charge described in subdivision (a), if that charge is applicable.

(2) The owner of the attachment does not seek approval to attach pursuant to this part within a reasonable period of time.

(3) The owner of the attachment does not contest that the attachment was made without authorization.

(e) An attachment of a service drop wire is not made without authorization for the purposes of this section, if the owner of the attachment seeks approval to attach pursuant to this part within 45 days of the attachment.

SEC. 9. Section 9514 of the Public Utilities Code is amended to read:

9514. This part shall not be construed to prohibit a local publicly owned electric utility or local government from requiring a one-time fee to process a request for attachment, if the one-time fee does not exceed the actual cost of processing the request.

SEC. 10. Section 9514.5 is added to the Public Utilities Code, to read:

9514.5. This part does not prohibit a wireless service provider and a local government from mutually agreeing to a rate, charge, term, or condition that is different from that provided in this part. Either party may withdraw from a negotiation for an agreement upon written notice to the other party.

SEC. 11. Section 9515 of the Public Utilities Code is amended to read:
9515. (a) In the event that it becomes necessary for the local publicly owned electric utility or local government to use space or capacity on or in a support structure occupied by the communications service provider’s equipment, the communications service provider shall either pay all costs for rearrangements necessary to maintain the pole attachment or remove its equipment at its own expense.

(b) (1) If the communications service provider requests a rearrangement of a street light pole, traffic signal pole, utility pole, or support structure of a local publicly owned electric utility, and the local publicly owned electric utility has the authority to levy fees as described in Section 9511.5, the local publicly owned electric utility may charge a one-time reimbursement fee for the actual costs incurred for the rearrangement.

(2) If the communication service provider requests a rearrangement of a street light pole, traffic signal pole, or supporting structure of a local government, the local government may charge a one-time reimbursement fee for the actual costs incurred for the rearrangement.

SEC. 12.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Item B-14
Verbal updates on legislative issues will be presented by the City’s lobbyists.